



City of Culver City

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Staff Report Details (With Text)

File #: 21-174 **Version:** 1 **Name:** Rent Control and Tenant Protection Ordinances
Type: Ordinance **Status:** Action Item
File created: 8/12/2020 **In control:** City Council Meeting Agenda
On agenda: 9/21/2020 **Final action:**
Title: CC - (1) Introduction of an Ordinance Amending Chapter 15.09, Rental Housing, of the Culver City Municipal Code to Add a New Subchapter 15.09.200, et seq., Rent Control; (2) Introduction of an Ordinance Amending Chapter 15.09, Rental Housing, of the Culver City Municipal Code to Add a New Subchapter 15.09.300, et seq., Tenant Protections; (3) Consideration of City's Role, if any, in Ellis Act Procedures for Removal of Rental Units from Rental Housing Use; and (4) Direction to the City Manager as Deemed Appropriate.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2020-09-21_ATT 1_Proposed Tenant Protection Ordinance.pdf, 2. 2020-09-21_ATT 2_Proposed Rent Control Ordinance.pdf, 3. 2020-09-21_ATT 3_Interim Rent Control Ordinance.pdf, 4. 2020-09-21_ATT 4_BAE Urban Economics Study.pdf

Date	Ver.	Action By	Action	Result
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CC - (1) Introduction of an Ordinance Amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to Add a New Subchapter 15.09.200, et seq., *Rent Control*; (2) Introduction of an Ordinance Amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to Add a New Subchapter 15.09.300, et seq., *Tenant Protections*; (3) Consideration of City's Role, if any, in *Ellis Act* Procedures for Removal of Rental Units from Rental Housing Use; and (4) Direction to the City Manager as Deemed Appropriate.

Meeting Date: September 21, 2020

Contact Person/Dept: Jesse Mays/City Manager's Office
Tevis Barnes/CDD/Housing Division
Heather Baker/City Attorney's Office

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Fiscal Impact: Yes ☒ No ☐

General Fund: Yes ☒ No ☐

Public Hearing: ☐ **Action Item:** ☒ **Attachments:** ☐

Commission Action Required: Yes ☐ No ☒ **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council, Culver City News and Events,

Housing Issues, Media Organizations, Press Organizations, Public Notifications (09/04/2020 and 09/14/2020); Landlord Tenant Mediation Board (09/04/2020 and 09/15/2020), Committee on Homelessness (09/04/2020 and 09/15/2020), Apartment Association of Greater Los Angeles, California Apartment Association, Protect Culver City Renters, and Protect Culver City (09/04/2020 and 09/15/2020)

Department Approval: John Nachbar (09/15/2020)
Sol Blumenfeld (09/15/2020)

RECOMMENDATION

Staff recommends the City Council (1) introduce an Ordinance amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to add a new Subchapter 15.09.200, et seq., *Rent Control (Attachment 1)*; (2) introduce an Ordinance amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to add a new Subchapter 15.09.300, et seq., *Tenant Protections (Attachment 2)*; (3) consider the City's role, if any, in *Ellis Act* procedures for removal of rental units from rental housing use; and (4) provide direction to the City Manager as deemed appropriate.

BACKGROUND / DISCUSSION

At its August 12, 2019 meeting, the City Council adopted an urgency ordinance (Ordinance No. 2019-011) establishing interim rent control and tenant protection measures for a 12-month period ("Interim Rent Control Ordinance" or "IRCO") through August 11, 2020. On July 16, Ordinance No. 2019-011 was extended in its entirety, without amendment or modification of its terms, through October 31, 2020 (**Attachment 3**). The IRCO is included as Exhibit A to Attachment 3 of this report.

In conjunction with the preparation of the Interim Rent Control Ordinance, the City retained a qualified consultant, BAE Urban Economics ("BAE"), to conduct a rental housing market study, research rent cap urgency ordinances and prepare financial models of Culver City multifamily rental properties. BAE prepared a *Temporary Rent Cap and Relocation Assistance Policies Study* which was presented at the August 12, 2019 City Council meeting and helped to inform the City Council's decision, as it considered adoption of the IRCO.

As directed by the City Council on August 12, 2019, the City continued its engagement with BAE to develop a *Long-Term Rent Control Study* ("BAE Study") (**Attachment 4**). BAE built upon its prior *Temporary Rent Cap and Relocation Assistance Policies Study* in order to help the City better understand the Culver City rental market, the impacts of the IRCO, and options for and possible impacts of a future permanent rent control and tenant protections program (collectively, "Permanent Program").

On June 11, 2020, the City Council received a presentation of the BAE Study and commenced a policy discussion regarding a potential Permanent Program and what regulations and protections might be included. At that meeting, City Council expressed a desire to establish local rent control and tenant protection policies, which should include, at a minimum, the provisions of the IRCO, and directed staff to return with a menu of policy options for City Council's consideration.

At the July 16 and August 17, 2020 special meetings, the City Council continued its discussion by going through Ordinance Checklists for both rent control and tenant protection measures for potential inclusion in a Permanent Program. The City Council provided direction to include the elements listed below in a Permanent Program.

Tenant Protection Program:

- Current IRCO tenant protections as a baseline, except where noted;
- Six-month vesting period (eviction protections would not vest until six months after commencement of tenancy);
- Additional For Cause Termination grounds for recovery of manager unit because of termination of manager;
- Additional “protected tenant” category for low-income tenants;
- Reduced relocation assistance payment for “mom and pop” landlords (“Small Landlord”) where No Fault Termination is based on Landlord or Landlord’s relative occupying the Rental Unit;
- Definition of Small Landlord;
- Tenant Protections During Untenantable Conditions;
- Rehabilitation of rental unit is not a valid cause for No Fault Termination;
- Tenant buyout agreements; and
- Local anti-harassment provisions.

Staff is also seeking clarification with regard to relocation provisions, specifically Section 15.09.335.B.3 of the proposed Tenant Protection Ordinance. As currently drafted, a landlord would be able to deduct from the relocation fee some of back rent that accrued during the eviction moratorium period. If that is not City Council’s intent, then the language of this section will need to be clarified.

Rent Control Program:

- Rent cap of change in annual average CPI;
- Guaranteed maximum allowable annual rent increase of 6%;
- No requirement to decrease rent when CPI is negative;
- Vacancy decontrol only for voluntary vacations, For Cause Terminations, No Fault Evictions, with certain restrictions;
- Evaluation of “Fair and Reasonable Return” based on Maintenance of Net Operating Income;
- Cost recovery method for capital improvement expense tenant pass-throughs;
- Capital improvements exclude general maintenance and repair;
- Rent Registry updated annually, at change of tenancy and at change in housing services; and
- Rent Registration fee - 50% pass-through of initial fee to current tenants occupying units during IRCO.

Also, at the August 17th City Council meeting, the City Council requested additional information regarding whether there was any benefit or incentive to building affordable housing by providing an exemption from rent control to non-government subsidized affordable housing units. Staff has further evaluated this issue and determined that any affordable units built after February 1, 1995 would be exempt from rent control in any event. Also, affordable units built prior to that time would be rent-restricted by affordability covenants, which are annually monitored by Housing Division staff to

ensure compliance. Therefore, it is unlikely there would be much utility in exempting these types of units.

Proposed Ordinances

The proposed Tenant Protection Ordinance and Rent Control Ordinance were prepared based on City Council's direction, as discussed above. While the Ordinances contain the key provisions regarding the Permanent Program, other details and procedures will be further refined in Housing Division Guidelines, per the authority provided in the Ordinances. Such Housing Division Guidelines will have the force and effect of law and may be relied upon by parties to determine their rights and responsibilities under the Permanent Program.

Staff recommends the City Council consider each of the proposed Ordinances. If the City Council introduces the Ordinances, staff will return on September 29, 2020 for City Council to consider adoption. If adopted on September 29th, the Ordinances will take effect on October 29, 2020; and, per Section 5 of the Ordinances, the Interim Rent Control Ordinance will terminate and have no further force and effect as of October 29, 2020.

Ellis Act Procedures

The *Ellis Act* (Government Code Sections 7060 - 7060.7) provides that landlords have the unconditional right to evict tenants to "go out of business" and specifically prohibits a public entity from compelling a landlord to offer, or continue to offer, housing accommodations in the property for rent or lease. The *Ellis Act* provides the following tenant protections:

- tenants must receive 120 days' notice before being evicted;
- if the property is returned to the rental market within 5 years, the rental units must be offered to the evicted tenants at the rent that was in effect at the time of eviction plus annual adjustments; and
- if the property is returned to the rental market within 2 years, then in addition to the tenants' right to reoccupy, the landlord is liable to the tenants for actual and exemplary damages and the City may bring an action for exemplary damages.

In addition, the *Ellis Act* authorizes local jurisdictions that have instituted rent control to impose additional protections and procedural requirements on landlords who wish to withdraw their property from the rental market. These include:

- requiring the owner to file with the City a notice of intent to withdraw the property;
- extending the eviction notice period from 120 days to one year if the tenant is 62 years of age or older or is disabled;
- recording a notice with County Recorder that imposes the same requirements on a successor-in-interest to the owner; and
- imposing additional notice and procedural requirements to permit the City to track the withdrawal process and the status of the property after withdrawal and to keep tenants informed during the withdrawal process.

The *Ellis Act* does not prevent the City from imposing relocation assistance or other requirements

designed to mitigate the hardship imposed by eviction when property is withdrawn from the rental market, such as the protections in the IRCO and the proposed Tenant Protection Ordinance that is under consideration.

If the City Council wishes to impose the additional requirements authorized by the *Ellis Act*, staff will return with a proposed ordinance for City Council's consideration at a future City Council meeting. If such requirements are adopted, this would add another level of implementation and enforcement, which would increase the amount of staff resources involved with administering the Permanent Program.

FISCAL ANALYSIS

Cost is an important consideration when designing a permanent rent control and tenant protections program. The Permanent Program as proposed contains additional program features beyond those provided in IRCO, such as capital improvement cost recovery pass-throughs, tenant protections for temporary untenable conditions, tenant buyout agreements, and anti-harassment provisions. These additional program features will add additional costs to the existing approximately \$450,000 annual cost of IRCO. It is expected that some combination of one to two new staff members, utilization of additional consulting services, and/or expanded scope of services from existing consulting services, will be necessary to implement the Permanent Program. This is expected to cost an additional \$200,000 to \$500,000 annually. Therefore, the total annual cost of the Permanent Program is expected to range between \$650,000 and \$950,000. If landlords or tenants file a significant number of petitions and/or appeals, that cost could increase by an additional \$100,000.

The proposed Ordinances allow for new rental registration fees that could raise revenue to cover a significant portion or all of the cost of the Permanent Program through a per-unit cost-recovery fee charged annually to the landlord. Based on Census estimates, there are approximately 7,555 rental units in Culver City. Of those, 5,780 units have registered with the City during IRCO as part of the registration requirement as of August 31, 2020. A fee of \$113/unit in Culver City charged to each of the 5,780 registered units would raise approximately \$650,000 annually. A fee of \$165/unit would raise approximately \$950,000 annually. A fee of \$182/unit would raise approximately \$1,050,000 annually. These fees are within the range of unit registration fees charged in neighboring cities. For example, Santa Monica charges an annual fee of \$198/unit, and West Hollywood's annual fee is \$144/unit. City Council would have to consider the economic impact on a new fee that would result in additional costs to landlords. Any fee would be considered at a future City Council meeting.

As noted in the BAE report (p. 56), other nearby jurisdictions have significantly higher costs for their rent control programs. Santa Monica and West Hollywood have annual rent control budgets of \$4.75 million and \$2.2 million respectively. Both communities have more rental units than Culver City (27,445 in Santa Monica and 16,895 in West Hollywood compared to estimated 7,555 in Culver City).

ATTACHMENTS

1. 2020-09-21_ATT 1_Proposed Rent Control Ordinance
2. 2020-09-21_ATT 2_Proposed Tenant Protections Ordinance
3. 2020-09-21_ATT 3_Interim Rent Control Ordinance
4. 2020-09-21_ATT 4_BAE Urban Economics Study

MOTION

That the City Council:

1. Introduce an Ordinance amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to add a new Subchapter 15.09.200, et seq., *Rent Control*; and
2. Introduce an Ordinance amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to add a new Subchapter 15.09.300, et seq., *Tenant Protections*; and
3. Consider the City's role, if any, in Ellis Act procedures for removal of rental units from rental housing use; and
4. Provide direction to the City Manager as deemed appropriate.