



Fremont City Council

3300 Capitol Avenue
Fremont, CA 94538

SCHEDULED

Meeting: 04/02/19 07:00 PM
Div/Dept: Human Services Department
Category: Code Adoptions & Amendments

STAFF REPORT (ID # 3688)

Sponsors:
DOC ID: 3688

RENT REVIEW ORDINANCE - Introduce and Waive First Reading of an Ordinance Amending the Rent Review Ordinance

Contact Persons:

Name:	Nancy Sa	Suzanne Shenfil
Title:	Management Analyst I	Director
Div/Dept:	Human Services Department	Human Services Department
Phone:	510-574-2082	510-574-2051
E-Mail:	nsa@fremont.gov	sshensif@fremont.gov

Executive Summary: The purpose of this staff report is to seek Council adoption on the five amendments to the Rent Review Ordinance (RRO) as directed by the Council at the February 5, 2019 meeting. Staff is also presenting for Council to reconsider the approval of an amendment to prohibit source of income discrimination that was also presented at the meeting.

BACKGROUND: On February 5, 2019 staff presented the Rent Review Ordinance Annual Report, which provided an update on the status of the RRO implementation and operation since its inception, and an evaluation of the effectiveness of the rent review program. Staff also identified eight ordinance limitations and provided potential solutions for Council consideration. The Council voted to move forward with five of the eight potential solutions.

The proposed amendment to prohibit Source of Income Discrimination was one of the three solutions that Council discussed but did not direct staff to move forward to be included in the RRO amendment. Subsequent to the February 5th meeting, staff received communication from the Rental Housing Association (RHA) of Southern Alameda County informing staff that additional input received from its membership led to support of the inclusion of the Prohibition Against Source of Income provision. The RHA has a membership base of 560 housing providers that offer over 33,000 units of rental housing. As a result of this support from the RHA, staff is seeking Council's reconsideration to include a Prohibition Against Source of Income Discrimination amendment.

DISCUSSION/ANALYSIS: Staff has prepared two versions of an amended RRO: one that includes the five potential solutions that Council approved, found in Exhibit A, and one that also includes a Prohibition Against Source of Income Discrimination amendment, found in Exhibit B.

The five potential solutions that Council approved are as follows:

1. Responsible Party (FMC § 9.60.020)

Add language to the ordinance to strengthen the definition and role of the responsible party to require the person negotiating the rent increase to have final legal authority to adjust the rent without limitations.

2. Exempt Units (FMC § 9.60.050)

Change the ordinance so that rental units owned or operated by any government agency and rental units subsidized by a government agency and subject to a regulatory agreement are no longer exempt from the ordinance. However, the Ordinance should clarify that shared housing units and junior accessory dwelling are exempt units. Shared housing units and junior accessory dwelling units often have other agreements in place, such as service in lieu of payment. Due to the nature of shared housing agreements, staff recommends that these rental units be exempt from the RRO.

3. Clarification on Rent Increase Notice Delivery Requirement (FMC § 9.60.030(b) and FMC § 9.60.040(a))

Revise ordinance so that rent increase notices shall be personally delivered to the tenant or mailed to the tenant. This would align with California State noticing and mailing requirements.

4. Clarification on Rent Increase Notice Applicability to Rent Terms (FMC § 9.60.030(a))

Clarify that the notice of availability of rent review shall be provided to any tenant that receives an increase from their base rent, regardless of the length of tenancy.

5. Rent Review Board Terms (FMC § 2.20.650)

Revise the ordinance so that the Rent Review Board member terms are staggered.

Based on the feedback from the RHA, staff is seeking Council's reconsideration on a Prohibition Against Source of Income Discrimination amendment.

6. Prohibition Against Source of Income Discrimination (FMC § 9.60.070)

A Prohibition Against Source of Income Discrimination amendment would prohibit landlords from discriminating against applicants based on source of income. California law currently prohibits discrimination based on source of income, which is defined as legal, verifiable income paid directly to the tenant or their representative. Some examples of source of income include Social Security, Supplemental Security Income (SSI), CalWorks, and General Assistance. However, Section 8 Housing Choice Vouchers and other rental subsidies are not included as source of income.

Landlords today are not prohibited by state or federal law from rejecting a tenant application based solely on the fact that they possess a Section 8 housing choice voucher or other rental subsidies, because rental subsidies do not have to be considered as income. This puts tenants who rely on rental subsidies at a disadvantage when looking for housing because many landlords do not want to rent their units to a tenant with a voucher or subsidy.

A Prohibition Against Source of Income Discrimination amendment would redefine the definition of "source of income" to include all lawful sources of income or rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program. The amendment would prohibit landlords from rejecting a tenant based solely on the fact that they have a rental subsidy voucher. For example, landlords would no longer be able to advertise that "Section 8 is not allowed." There are currently nine other cities and counties in California that have passed ordinances that prohibit discrimination against a tenant based on source of income.

FISCAL IMPACT: There is no fiscal impact at this time

ENVIRONMENTAL REVIEW: The proposed action is not subject to the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment under Title 14 of the California Code of Regulations, Section 15061(b)(3). No further environmental review is necessary.

ATTACHMENTS:

- Draft Ordinance- Rent Review Exhibit A
- Draft Ordinance- Rent Review Exhibit B
- Statement of Support_HACA

RECOMMENDATIONS:

1. Find that the ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to Guideline 15061(b)(3) in that adoption of the ordinance does not have the potential for causing a significant effect on the environment.
2. Waive the first reading of Exhibit A, and introduce the proposed ordinance amending Chapter 9.60 Rent Review, Sections 9.60.020, 9.60.030, 9.60.040, and 9.60.050 and Chapter 2.20, Departments, Boards, and Commissions, Section 2.20.650.

or

3. Waive full reading of Exhibit B and introduce the proposed ordinance amending Chapter 9.60 Rent Review, Sections 9.60.020, 9.60.030, 9.60.040, 9.60.050, and 9.60.070 and Chapter 2.20, Departments, Boards, and Commissions, Section 2.20.650.