



TOWN COUNCIL MEETING STAFF REPORT

MEETING DATE	March 6, 2024
PREPARED FOR	Mayor and Town Council
PREPARED BY	Jeffrey Beiswenger, Planning and Building Services Director
SUBJECT	Waive second reading, read by title only and adopt an ordinance to amend Chapter 5.55 "Rent Stabilization Program", Chapter 5.55.070 "Rent Stabilization" Subsection (D) "Collection of Rental Housing Fee" of Title 5 of the Fairfax Municipal Code.
CEQA STATUS	This Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines.

RECOMMENDATION

Waive second reading, read by title only and adopt an ordinance to amend Chapter 5.55 (Rent Stabilization Program) of the Town Code.

BACKGROUND

Under the current rent stabilization ordinance, a private right of action is available to both tenants and landlords to address rent issues. Recognizing that the court system may be more expensive than using a local hearing officer, Town staff recommended a partial implementation program that would activate a hearing examiner, prior to the establishment of a registration system, thus reducing costs for housing providers. This implementation strategy requires adoption of minor updates to the rent stabilization ordinance as proposed to accommodate a petition process and allow for the collection of \$1,000 fee.

An attorney with experience providing rental hearings has been identified, whose per hour fee is \$225, and who estimates the entire hearing process would take three to four hours, including documents needed to finalize the hearing. Under the ordinance amendments, the Town would limit the hearing cost to the housing provider to no more than \$1,000 per hearing, for those few cases that come to the hearing stage and would collect the funds from the landlord prior. In addition to the costs of the hearing examiner, staff time will be needed to communicate documents to the hearing examiner and schedule the hearing. Minor costs for copying and meeting room accommodation would be incurred.

The hearing examiner's decision would be final, unless appealed. In the case of an appeal, the Town Council would review the submitted documentation and make a final decision at a noticed public meeting. Limited staff time would be needed to redact and scan documents, and prepare a staff report, for Council review. Minimal copying and printing costs would be incurred along with costs for any legal advice needed by the Council provided by the Town Attorney.

ORDINANCE

The ordinance amendment provides for an interim petition fee of \$1000 to be paid by landlords if they need to request a rent increase above the allowed amount or if the tenant desires to object to

the rent increase. Should the actual cost of the hearing be less than \$1000 fee amount, the difference shall be refunded to the landlord.

FISCAL IMPACT

Housing providers who need a hearing would pay up to \$1,000 as a hearing examiner fee, which would pass-through the Town to pay the hearing examiner's \$225 per hour fee. Some General Fund expenses are expected to cover the costs of hearings beyond the \$1,000 deposit and to cover the staff costs to administer the program. Costs for the program will be coded to fund 01-311-821.

ATTACHMENT

Ordinance of the Town Council of the Town of Fairfax amending Chapter 5.55 "Rent Stabilization Program" of Title 5 of the Fairfax Municipal Code.

ORDINANCE NO. ____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 5.55 “RENT STABILIZATION PROGRAM” OF TITLE 5 OF THE
FAIRFAX MUNICIPAL CODE**

The Town Council of the Town of Fairfax finds and declares that:

WHEREAS, on November 2, 2022, the Town Council adopted Ordinance No. 871 establishing a rent stabilization program codified at Chapter 5.55 of the Town Municipal Code, to set maximum annual rent increases and a procedure for individual rent adjustments by landlords and tenants through a petition process; and

WHEREAS, though effective as of December 2, 2022, the uncodified Section 5 of Ordinance No. 871 provides that the program will not be implemented until such time as the Council approves agreements to support the implementation of the petition and hearing process; and

WHEREAS, on September 6, 2023, the Town Council adopted Ordinance No. 882 amending the rent stabilization program to, among other provisions, increase the annual maximum rent increase from 60% to 75% of the Consumer Price index (CPI); and

WHEREAS, under the rent stabilization program, landlords are required to pay a Rental Housing Fee to fund enforcement of the program, which fee will be set by Council resolution; and

WHEREAS, no fee study has yet been completed to establish the Rental Housing Fee and the Town Council is not yet in a position to approve all agreements necessary for full implementation of the program; and

WHEREAS, Town staff, based on quotes from a hearing examiner, has estimated that the maximum reasonable costs of a hearing on a rent increase petition is \$1000.00, and that such cost is significantly lower than a landlord’s attorney costs to defend a rent increase in a civil action; and

WHEREAS, the Town Council now desires to amend Chapter 5.55 to add a petition fee of \$1000 to be paid by landlords for rent increase adjustments until such time of the Rental Housing Fee is implemented.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals above are each incorporated by reference and adopted as findings of the Town Council.

SECTION 2. Amendment. Subsections (D) of Chapter 5.55.070 is hereby amended in its entirety to read as follows (where **underlined** text denotes additions):

“(D) **Collection of Rental Housing Fee.** All Landlords shall pay the business license fee required by the Town Code section 5.16.010, if applicable, in addition to the Rental Housing Fee. The Town may charge the Rental Housing Fee at the same time as the business license fee. The Rental Housing Fee will be set by resolution of the Town

Council. Enforcement of this Chapter shall be funded by the Rental Housing Fee. **Notwithstanding the foregoing, Landlords shall pay a fee of \$1000 to petition for a rent increase adjustment pursuant to section 5.55.080 (D) or if such petition is filed by a tenant. Landlords shall pay this fee until such time as the Rental Housing Fee is set. Should the actual costs on the hearing be less than \$1000, Landlords shall be refunded the difference between \$1000 and actual costs.**

SECTION 3. Compliance with CEQA. The Town Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of the Ordinance may have a significant effect on the environment, in that this ordinance applies residential tenant protection to existing residential units in the Town of Fairfax, which is solely an administrative process resulting in no physical changes to the environment.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The Town Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Effective Date and Posting. This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club.

The foregoing Ordinance was introduced at a special meeting of the Town Council on the 29th of February 2024, and duly adopted at the next regular meeting of the Town Council on the 6th day of March 2024, by the following vote, to wit:

AYES:
NOES:
ABSENT:

Barbara Coler, Mayor

Attest:

Christine Foster, Deputy Town Clerk