DATE: November 15, 2023

TO: Honorable Mayor Paulson and the Larkspur City Council

FROM: Dan Schwarz, City Manager
Sky Woodruff, City Attorney

SUBJECT: RESOLUTION CALLING AND GIVING NOTICE OF A SPECIAL ELECTION ON MARCH 5, 2024, FOR THE PURPOSE OF SUBMITTING ORDINANCE NO. 1067, REGARDING ESTABLISHING RENT STABILIZATION REGULATIONS, TO THE VOTERS OF THE CITY OF LARKSPUR IN RESPONSE TO A QUALIFIED REFERENDUM PETITION

ACTION REQUESTED
City Council to adopt a resolution calling and giving notice of a special election on March 5, 2024, for the purpose of submitting ordinance No. 1067, regarding establishing rent stabilization regulations, to the voters of the City of Larkspur in response to a qualified referendum petition.

BACKGROUND
On September 6, 2023, the City Council adopted Ordinance No. 1067 titled, “Amending the Larkspur Municipal Code to Add Chapter 6.20, Establishing Rent Stabilization Regulations Including Prohibiting Residential Real Property Rental Rate Increases that Exceed Five Percent Plus a Consumer Price Index or Seven Percent, Whichever is Lower, in a Twelve-Month Period Annually, and Defining a Base Rent as the Rent in Effect on May 8, 2023.”

A petition titled, "Referendum Against Amendments to Larkspur Municipal Code Relating to Residential Real Property Rental Rates," was filed with the City Clerk for the City of Larkspur on September 28, 2023.

DISCUSSION
On September 28, 2023, a referendum proponent filed a referendum petition titled, “Referendum Against Amendments to Larkspur Municipal Code Relating to Residential Real Property Rental Rates” (“Referendum”). The Referendum petition was accepted for filing following the City Clerk’s prima facie review and determination that the number of signatures on the Referendum petition exceeded 910, the minimum number of signatures required.
The prima facie process reviews the format of all pages and sections of the petition for substantial compliance with the Elections Code, and examines the information provided by all signers of the petition for completeness. On September 28, 2023, the City Clerk submitted the Referendum petition to the Marin County Registrar of Voters for examination and a determination, from the records of registration, as to whether or not the Referendum petition was signed by the requisite number of voters.

On October 26, 2023, the Marin County Registrar of Voters submitted to the City Clerk a Certificate to Petition dated October 25, 2023 determining that the Referendum petition contains 1,075 valid signatures of qualified registered voters in the City of Larkspur and that the Referendum petition is therefore sufficient.

On November 1, 2023, the City Council received the City Clerk’s Certificate of Petition, certifying the results of the examination and sufficiency of the Referendum petition filed. Pursuant to Elections Code section 9241, the City Council is required to submit an ordinance to the voters if it does not entirely repeal the ordinance against which a sufficient referendum petition is filed. At the regular City Council meeting on November 1, 2023, the City Council directed staff to prepare a resolution for consideration to call an election to ask the voters of the City of Larkspur to adopt Ordinance No. 1067 regarding establishing rent stabilization regulations.

If the resolution to call an election is adopted, Ordinance No. 1067 would remain suspended and would not become effective until a majority of the voters voting on the ordinance vote in favor of it. If a majority of the voters do not vote in favor of it, the ordinance shall not go into effect, and shall not be again enacted by the legislative body for a period of one year from the date of disapproval by the voters.

This one-year period would begin upon certification of the results of the election, the canvass for which is required to be completed by the fourth Friday following the election date, and then results must be certified by the City Council.

FISCAL IMPACT
Staff has not yet received an estimated cost for this election from the Registrar’s Office. Once it is received, staff will include it in a mid-year budget adjustment. Staff believes the General Fund can absorb the impact. If necessary, the General Fund Reserve can cover the cost.

ENVIRONMENTAL STATUS
The proposed action is exempt from the California Environmental Quality Act (CEQA) as it is not a project as defined by Section 15378.

STAFF RECOMMENDATIONS
Adopt a resolution calling and giving notice of a special election on March 5, 2024, for the purpose of submitting ordinance No. 1067, regarding establishing rent stabilization regulations, to the voters of the City of Larkspur in response to a qualified referendum petition.

Respectfully submitted,

Sky Woodruff, City Attorney

Attachments
1. Resolution – Calling and Giving Notice of Special Election for Ord. No. 1067
RESOLUTION NO. 60/23

RESOLUTION CALLING AND GIVING NOTICE OF A SPECIAL ELECTION ON MARCH 5, 2024, FOR THE PURPOSE OF SUBMITTING ORDINANCE NO. 1067, REGARDING ESTABLISHING RENT STABILIZATION REGULATIONS, TO THE VOTERS OF THE CITY OF LARKSPUR IN RESPONSE TO A QUALIFIED REFERENDUM PETITION

WHEREAS, on September 6, 2023, the City Council adopted Ordinance No. 1067 regarding establishing rent stabilization regulations; and

WHEREAS, on September 28, 2023, a referendum proponent filed a referendum petition titled, “Referendum Against Amendments to Larkspur Municipal Code Relating to Residential Real Property Rental Rates” (“Referendum”). The Referendum petition was accepted for filing following the City Clerk’s prima facie review and determination that the number of signatures on the Referendum petition exceeded 910, the minimum number of signatures required; and

WHEREAS, on September 28, 2023, the City Clerk submitted the Referendum petition to the Marin County Registrar of Voters for examination and a determination, from the records of registration, as to whether or not the Referendum petition was signed by the requisite number of voters; and

WHEREAS, on October 26, 2023, the Marin County Registrar of Voters submitted to the City Clerk a Certificate to Petition dated October 25, 2023 determining that the Referendum petition contains 1,075 valid signatures of qualified registered voters in the City of Larkspur and that the Referendum petition is therefore sufficient; and

WHEREAS, on November 1, 2023 the City Council received the City Clerk’s Certificate of Petition, certifying the results of the examination and sufficiency of the Referendum petition filed; and

WHEREAS, pursuant to Elections Code section 9241, the City Council is required to submit an ordinance to the voters if it does not entirely repeal the ordinance against which a sufficient referendum petition is filed; and

WHEREAS, the City Council has concluded that it should call an election to ask the voters of the City of Larkspur to adopt Ordinance No. 1067 regarding establishing rent stabilization regulations; and

WHEREAS, the City Council desires that the proposed measure be consolidated with the March 5, 2024 special election, to be held on the same date, and that within the City, the polling places and election officers of the two elections be the same, and that the Marin County Election Department canvass the returns of the special election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, the City Council of the City of Larkspur does resolve as follows:

SECTION 1. The foregoing recitals are true and correct and are hereby incorporated by reference.

SECTION 2. Pursuant to Elections Code Section 9241, the City Council of the City of
Larkspur hereby calls an election at which it shall submit to the qualified voters of the City, Ordinance No. 1067, Amending the Larkspur Municipal Code to Add Chapter 6.20, Establishing Rent Stabilization Regulations (“Ordinance”), which if approved, would include the prohibition of residential real property rental rate increases that exceed five percent plus Consumer Price Index or seven percent, whichever is lower, in a twelve-month period annually, and defining a base rent as the rent in effect on May 8, 2023. This referendum shall be designated by letter by the Marin County Registrar of Voters. Pursuant to Election Code Section 10400 et.seq., the election for this ordinance shall be consolidated with the special election to be conducted on March 5, 2024.

SECTION 3. The Ordinance to be submitted to the voters pursuant to Section 2 is set forth in Exhibit A hereto. The Board of Supervisors of the County of Marin is requested to order the County Registrar of Voters to set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the primary arguments and rebuttal arguments (if any) for and against the Ordinance, and to provide voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law.

SECTION 4. The proposed Ordinance shall be submitted to the voters on the ballot in the form of the following question, which questions shall require the approval of a majority of qualified electors casting votes:

<table>
<thead>
<tr>
<th>Referendum of Ordinance Regarding Rent Stabilization.</th>
<th>YES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall Ordinance No. 1067, establishing a prohibition on residential real property rental rate increases that exceed five percent plus Consumer Price Index or seven percent, whichever is lower, in a twelve-month period annually, and defining a base rent as the rent in effect on May 8, 2023, be adopted?</td>
<td>NO</td>
</tr>
</tbody>
</table>

SECTION 5. The City Clerk is authorized, instructed and directed to work with the Marin County Registrar of Voters as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. The Marin County Registrar of Voters is authorized to canvass the returns of the special municipal election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. The Board of Supervisors is requested to instruct the Marin County Registrar of Voters to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The City of Larkspur acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418. The City of Larkspur recognizes that the County will incur additional costs because of this consolidation and agrees to reimburse the County for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City’s cost of placing the measure on the election ballot.

SECTION 7. The polls for the election shall be open at 7:00 a.m. on the day of the election and shall remain open continuously from that time until 8:00 p.m. that same day,
when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California. The notice of the time and place of holding the election is hereby given, and the City Clerk is authorized to give further notice of the election, as required by law.

SECTION 8.

(a) The last day for submission of primary arguments for or against the measure shall be by 5:00 p.m. on December 15, 2023.

(b) The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on December 22, 2023.

(c) Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.

(e) Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the measure on the existing law and the operation of the measure, and file the impartial analysis with the City Clerk by December 18, 2023.

(f) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut.

SECTION 9. The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors and the Registrar of Voters of the County of Marin, together with the attached ballot measure.

SECTION 10. The jurisdictional boundaries of the City of Larkspur have not changed since the last general municipal election.

SECTION 11. The adoption of this resolution is not a “project” within the meaning of Section 15378 of the State of California Environmental Quality Act (CEQA) Guidelines. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

SECTION 12. This Resolution shall become effective immediately upon its passage and adoption.
INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

Dan Schwarz, Acting City Clerk  Gabe Paulson, Mayor

APPROVED AS TO FORM:

City Attorney
CITY OF LARKSPUR
ORDINANCE 1067

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LARKSPUR
AMENDING THE LARKSPUR MUNICIPAL CODE TO ADD CHAPTER 6.20,
ESTABLISHING RENT STABILIZATION REGULATIONS INCLUDING
PROHIBITING RESIDENTIAL REAL PROPERTY RENTAL RATE INCREASES THAT
EXCEED FIVE PERCENT PLUS A CONSUMER PRICE INDEX OR SEVEN PERCENT,
WHICHEVER IS LOWER, IN A TWELVE-MONTH PERIOD ANNUALLY, AND
DEFINING A BASE RENT AS THE RENT IN EFFECT ON MAY 8, 2023

WHEREAS, beginning in the summer of 2022, the City Council began to explore the
concepts of rent stabilization and eviction protections. At its meeting on March 15, 2023, the City
Council decided to transition from exploring these topics to specific terms and regulations. The
City Council held public hearings on May 8, 2023, and May 22, 2023, at which Council discussed
specific proposals to address rent increases on residential real property and displacement. Throughout the workshops and public hearings, the City Council heard testimony from tenants
and property owners regarding the scope of rent increases and resident displacement, both as a
result of rent increases and aspects of eviction protections in State law;

WHEREAS, the housing shortage and rising costs of living in Marin County has
detrimentally impacted a substantial number of residents in Larkspur;

WHEREAS, the housing shortage, rise in cost of living expenses including rent, and
displacement of residents constitutes a threat to public health, safety and welfare, and imposes a
particular hardship on senior citizens, persons living on fixed incomes, and other vulnerable
persons living in the City of Larkspur ("City");

WHEREAS, the average household in the City has a median annual income of $135,260,
slightly above the Marin median annual income of $131,008, and well-above the California median
annual income of $84,087;

WHEREAS, Marin County Assessor Data shows that the median home price in the City in
2022 was $2.4 million for a single-family home and $805,000 for a condominium, which are
prices that are extremely difficult for households at or below the median income to finance;

WHEREAS, the average monthly rents in the City range from $2,436 for a studio
apartment to $4,721 for a three bedroom apartment, and the median gross rent in Larkspur over
the five years ending in 2021 was $2,610;

WHEREAS, U.S. Census Bureau data shows that 23.0% of renters in the City spend 30-
50% of their income on housing and 26.3% of renters spend 50% or more of their income on
housing and are considered "severely cost burdened";

WHEREAS, the cost burden rate in the City is sufficiently high to create anxiety about rent
increases as the increasing housing rent burden and poverty faced by many residents in the City
threatens the health, safety, and welfare of its residents by forcing them to choose between paying
rent and providing food, clothing, and medical care for themselves and their families;
WHEREAS, the Tenant Protection Act of 2019 is a statewide law that limits annual rent increases to no more than five percent (5%) plus local Consumer Price Index, or ten percent (10%), whichever is lower, is not applicable to units that are more than fifteen (15) years old on a rolling basis, applies to single family homes and condominiums if those units are owned by a real estate trust or a corporation, and is set to sunset on January 1, 2030;

WHEREAS, the recent and ongoing spike in the inflation rate has resulted in permissible rent increases of up to 10% under the Tenant Protection Act, which caused some residents to relocate or become fearful of needing to relocate for financial reasons;

WHEREAS, this fear of displacement has been determined to be a threat to the City's health and well-being;

WHEREAS, it is in the interest of the City, owners, residents, and the community as a whole that the City adopt rent stabilizations regulations that establish a ceiling for how much rent may increase in a given period for residential real property in order to ensure a rental rate that tenants can still afford while still allowing for the landlord to still realize a fair rate of return;

WHEREAS, pursuant to the City’s police power, as granted broadly under Article XI, section 7 of the California Constitution, the City Council has the authority to enact and enforce ordinances and regulations for the public peace, health and safety of the City and its residents; and

WHEREAS, for the preservation of the public peace, health and safety, the City Council finds that it is necessary to adopt an ordinance stabilizing rents for the reasons set forth above, which are hereby incorporated by reference.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LARKSPUR DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by reference.

Section 2. Amendment of Larkspur Municipal Code to Add Chapter 6.20. The Larkspur Municipal Code is hereby amended by adding a new Chapter 6.20 to Title 6, which shall read as follows:

6.20.010 Title.

This ordinance shall be known as the Larkspur Rent Stabilization Ordinance.

6.20.020 Purpose and Intent.

A. It is the purpose and intent of this chapter to adopt a rent stabilization ordinance for the City that ensures affordable rental rates for tenants while still allowing for landlords to realize a fair and reasonable rate of return as defined herein.

B. The City Council finds that the prohibitions herein are necessary for the preservation and protection of the public health, safety and/or welfare. These prohibitions are within the authority conferred upon the City Council by state law and are an exercise of its police powers to enact and enforce regulations for the public health, safety and/or welfare.
6.20.030 Definitions.

A. “Base Rent” shall mean the reference point from which the lawful Rent shall be determined and adjusted in accordance with this Chapter.

1) The Base Rent for tenancies that commenced before May 8, 2023, shall be the rent in effect on May 8, 2023.

2) The Base Rent for tenancies that commenced on or after May 8, 2023, shall be the initial rental rate charged upon initial occupancy, provided that amount is not a violation of this Chapter or any provision of state law. The term "initial rental rate" means only the amount of Rent actually paid by the Tenant for the initial term of the tenancy.

B. “Fair return petition” shall mean a petition made by an owner of residential real property for a rent increase in excess of that provided in Section 6.20.040 in order to obtain a fair and reasonable return on their property.

C. “Reasonable rate of return” shall have the meaning assigned the term by California and Federal courts in precedential published opinions regarding rent stabilization ordinances for residential tenancies. Generally, within the context of a rent stabilization ordinance, the term refers to a rate of just and reasonable return on an owner’s property that is high enough to encourage and reward efficient management, discourage the flight of capital, maintain adequate services, and enable operators to maintain and support an owner’s credit status, but not so high as to defeat the purpose of curtailing excessive rents and rental increases.

D. “Rent” shall mean all periodic payments and all nonmonetary consideration, including, but not limited to, the fair market value of goods and services rendered to or for the benefit of the owner under an agreement concerning the use or occupancy of residential real property, including, but not limited to, all payment and consideration demanded or paid for parking, pets, furniture and subletting.

6.20.040 Stabilization of Rent and Prohibited Increases.

A. Upon the effective date of this Chapter, no owner of residential real property shall charge Rent in an amount that exceeds the sum of the Base Rent plus any lawful Rent increases actually implemented pursuant to this Chapter.

B. Increases in rent on residential real property in the City in excess of five percent (5%) plus the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-Hayward or seven percent (7%), whichever is lower, and more than one rent increase in any 12 month period, are prohibited, unless approved pursuant to a fair return petition pursuant to this Chapter or expressly exempt under the Costa Hawkins Rental Housing Act codified in Cal. Civil Code, Section 1954.50 et seq.

6.20.050 Reasonable Rate of Return.

The adjustment of residential real property rent of up to five percent (5%) plus the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-Hayward or seven percent (7%), whichever is lower, is found and determined to provide a just and
reasonable return on an owner’s property. Notwithstanding the foregoing, however, any owner of residential real property who contends that the limit on rental increases set forth in Section 6.20.040 above will prevent the owner from receiving a fair and reasonable return on their property may petition for relief from the cap set forth in Section 6.20.040 pursuant to the procedures set forth in Section 6.20.060 below.

6.20.060 Fair Return Petition for Rent Increase.

A. An owner of residential property may petition for a rent increase in excess of that provided in Section 6.20.040 in order to obtain a fair and reasonable return on their property. Such a fair return petition shall be on an application form prescribed by the City Manager and shall be decided by the City Manager, or their designee. The owner shall provide a copy of any fair return petition submitted to the City to the applicable tenant(s) and provide the City with proof of completing such service to the applicable tenant(s). The owner shall be responsible for accurately translating the return petition into the primary language(s) spoken by the applicable tenant(s). The tenant(s) will then have 30 days from the date of receiving the fair return petition to reply or provide additional materials to the City in response to the fair return petition. The owner shall bear the burden of establishing that a rate increase in excess of that provided in Section 6.20.040 is necessary to provide the owner with a fair and reasonable rate of return on their property, including by providing an independent financial report and verified financial data demonstrating that without such an increase the owner will not realize a fair and reasonable rate of return on their property.

B. The owner shall be responsible for all costs associated with the City’s review of the fair return petition. Upon receipt of a fair return petition, the City Manager shall determine the anticipated costs of review and whether the employment of expert(s) will be necessary or appropriate for a proper analysis of the owner’s request. If the City Manager so determines, the City Manager shall also determine the anticipated costs of employing such expert(s). The resulting figure shall be communicated to the owner, and the fair return shall not be further processed until the owner has paid to the City the estimated cost of the complete analysis. The City shall provide owner with an invoice of all costs incurred after the review of the fair return petition. Any unused portion of this advance payment for analysis shall be refunded to the owner. If additional funds are required, payment of such funds shall be required before owner receives the determination on the fair return petition from the City.

C. The factors the City Manager may consider in deciding a fair return petition may include, but not be limited to:


2. The length of time since the last determination by the City Manager on a rent increase application, or the last rent increase if no previous rent increase application has been made.

3. The completion of any capital improvements or rehabilitation work related to the residential real property specified in the fair return petition, and the cost thereof, including materials, labor, construction interest, permit fees, and other items the City Manager deems appropriate.
4) Changes in property taxes or other taxes related to the subject residential real property.

5) Changes in the rent paid by the owner for the lease of the residential real property.

6) Changes in the utility charges for the subject residential property paid by the owner, and the extent, if any, of reimbursement from the tenants.

7) Changes in reasonable operating and maintenance expenses.

8) The need for repairs caused by circumstances other than ordinary wear and tear.

9) The amount and quality of services provided by the owner to the affected tenant(s).

D. A fair return petition shall be decided by the City Manager within 60 calendar days of the date that the application has been deemed complete, including proof of service of the fair return petition on the applicable tenant(s). The decision shall be emailed and sent by mail, with proof of mailing to the subject property owner, the owner’s designated representative(s) for the fair return petition, the applicable tenant(s), and the designated representative of the tenant(s), if any. The decision shall be translated into the primary language(s) spoken by the applicable tenant(s).

E. The City Council shall appoint a five-member rent review board consisting of two owners of residential property in Larkspur who actively rent property to residential tenants, two tenants of residential real property who reside in Larkspur, and one resident who is neither an owner of residential rental property nor a tenant of residential property. Members of the rent review board shall serve four-year terms and may be reappointed by the City Council.

1) Within 30 calendars days of the City Manager’s decision on a fair return petition, the applicant or the affected tenants may file an appeal of the decision with the rent review board. A hearing on an appeal shall be held within 30 days of filing. The board may continue a hearing to obtain additional information relevant to the appeal. The board shall issue a written decision on an appeal within 30 days of closing the hearing. The decision of the City Manager shall be the final decision in the event of no appeal to the rent review board.

2) By resolution, the City Council shall enact rules and regulations governing such appeal hearings.

3) In deciding an appeal, the rent review board shall consider the factors listed in subsection (C) above, in addition to any others stated in the City Council resolution enacting rules and regulations for appeal hearings.

4) On appeal, the rent review board may affirm, reverse, or modify the decision of the City Manager.

6.20.070 Exemptions.
A. Pursuant to the Costa-Hawkins Rental Housing Act, the provisions of this chapter regulating the amount of rent that a residential real property owner may charge shall not apply to the following: any residential real property that has a certificate of occupancy issued after February 1, 1995 (Cal. Civil Code, Section 1954.52(a)(1)), and any other provisions of the Costa-Hawkins Rental Housing Act addressing exemptions, as applicable.

B. Pursuant to the Tenant Protection Act of 2019, Cal. Civil Code, Section 1947.12(d), the provisions of this chapter regulating the amount of rent that a residential real property owner may charge shall not apply to the following:

1. Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low or moderate income, as defined in Cal. Health and Safety Code, Section 50093 or comparable federal statutes.

2. Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

3. Residential real property that is alienable, separate from the title to any other dwelling unit, provided that both of the following apply:

   a) The owner is not any of the following:

      1. A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.


      3. A limited liability company in which at least one member is a corporation.

   b) At the time the tenancy is created:

      1. The tenants have been provided written notice that the residential real property is exempt from this section using the following statement:

         “This property is not subject to the rent limits imposed by Larkspur Municipal Code Chapter 6.20, and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

      2. For a tenancy existing before the effective date of this chapter, the notice required under Subsection (1) above may, but is not required to, be provided in the rental agreement.

      3. For a tenancy commenced or renewed on or after the effective date of this chapter, the notice required under Subsection (1) above must be provided in the rental agreement.
(4) A property containing two separate dwelling units within a single structure in which the owner occupied one of the units as the owner’s principal place of residence at the beginning of the tenancy so long as the owner continues in occupancy, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit.

C. The provisions of this chapter regulating the amount of rent that a residential real property owner may charge shall not apply to the following:

(1) A unit in a hotel, motel, inn, tourist home, or rooming and boarding house which is rented primarily to transient guests for a period of less than 30 days, and other transient occupancies as defined in Cal. Civil Code, Section 1940(b).

(2) A unit in an institutional facility, including a hospital, medical care facility, residential care facility, asylum, group home for seniors or the disabled; a rental unit in a transitional housing program that assists homeless persons as defined in Cal. Civil Code, Section 1954.12; a convent or monastery owned and operated by a religious organization; and a fraternity or sorority house affiliated with a college or university.

(3) A unit that the owner or the owner’s immediate family occupied as their principal place of residence at the beginning of the tenancy so long as the owner or the owner’s immediate family continues in occupancy.

(4) A unit permitted as an Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU).

6.20.080 Rent Increase Ineffective.

No rent increase shall be effective if the owner:

A. Fails to substantially comply with all provisions of this chapter, including but not limited to the failure to provide notices as required; or

B. Fails to maintain the residential real property in compliance with Cal. Civil Code, Sections 1941.1 et seq. and Cal. Health and Safety Code, Sections 17920.3 and 17920.10; or

C. Fails to make repairs ordered by the City or court of competent jurisdiction.

6.20.090 Notice Requirements.

A. An owner of any residential real property subject to this chapter shall, on or before the date of commencement of a tenancy, give the tenant a written notice in a form prescribed by the City which must include the following information:

(1) The existence and scope of this Chapter 6.20 of the City Code; and

(2) The tenant’s right to respond to any fair return petition filed with the City by the owner pursuant to Section 6.20.060.

B. As part of any notice to increase rent, an owner must include:
(1) Notice of the existence of this Chapter 6.20 of the City Code; and

(2) The tenant’s right to respond to any fair return petition filed with the City by the owner and right to appeal a City Manager decision on a reasonable fair return petition pursuant to Section 6.20.060.

(3) No rent increase shall take effect until the requirements of this chapter have been met.

C. When the owner and tenant have entered into a written lease, the owner must give notices to the tenant in the language used in the lease. When the owner and tenant have not entered into a written lease, the owner must give notices to the tenant in the language that the owner and tenant used to negotiate the terms of the tenancy. Notwithstanding the foregoing, the owner must give notices to the tenant in the primary language spoken by the tenant, if known to the owner.

6.20.100 Violations.

A. It shall be unlawful and a public nuisance for any person to violate or fail to comply with any provision of this chapter. The City may enforce and seek compliance with the provisions of this chapter using the criminal, civil, and administrative remedies set forth in Chapter 9.24 of this Code in addition to any other legal remedy available to the City. Any violation of any provision of this chapter may be subject to the criminal, civil, and administrative penalties set forth in Chapter 9.24 of this Code.

B. Any owner who intentionally demands, accepts or retains any payment in violation of the provisions of this chapter shall be liable in a civil action to the tenant from whom such payment is demanded, accepted or retained for damages in the sum of three times the amount by which the payment demanded, accepted or retained exceeds the maximum amount which could be lawfully demanded, accepted or retained together with reasonable attorneys’ fees and costs as determined by the court.

6.20.110 Fees Established.

Owners subject to this chapter shall pay a rent stabilization program fee annually as established by City Council resolution. The rent stabilization program fee is to fund the City’s cost to implement and enforce the provisions of this Chapter.

Section 3. Compliance with the California Environmental Quality Act. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). The rent stabilization regulations imposed by the adoption of this Ordinance are to prohibit increases in excess of a certain amount of rent on an annual basis; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the regulations are not a project within the meaning of CEQA because it creates a regulatory mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.
Section 4. **Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. **Effective Date and Publication.** This Ordinance shall become effective thirty (30) days after it is adopted and shall be posted or published as required by State law.

IT IS HEREBY CERTIFIED that the foregoing ordinance was duly introduced at a regular meeting of the Larkspur City Council held on September 6, 2023 and thereafter passed and adopted by the Larkspur City Council.

AYES: COUNCILMEMBER: Candell, Caroll, Mayor Paulson

NOES: COUNCILMEMBER: Way

ABSENT: COUNCILMEMBER:

ABSTAIN: COUNCILMEMBER

ATTEST:

Gabe Paulson, Mayor

Shannon O'Hare, Interim City Clerk