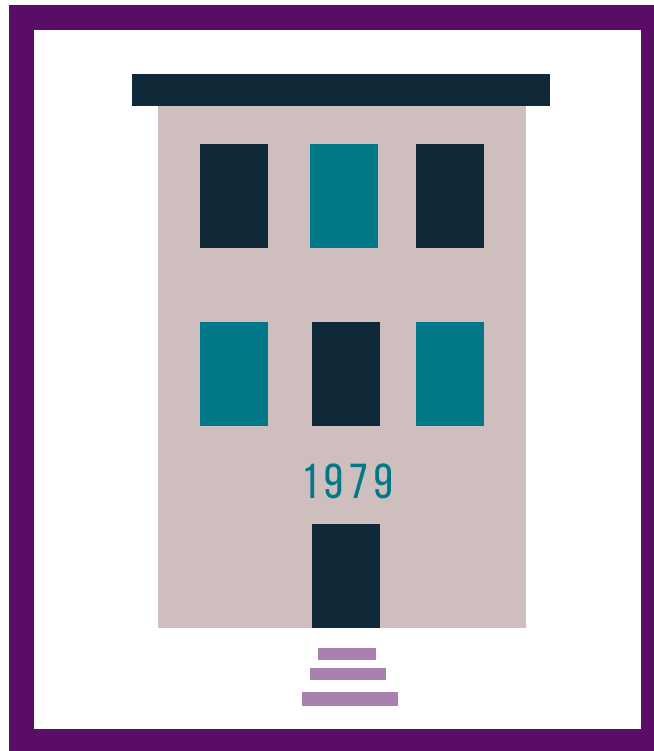


KNOW YOUR RIGHTS



RENTAL GUIDE FOR TENANTS & LANDLORDS

March 2018



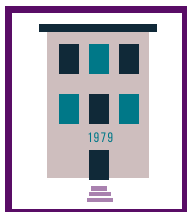
Rent Stabilization Program • Department of Housing
200 E. Santa Clara St, 12th Floor, San José, CA 95113
408-975-4480 • www.sanjoseca.gov/rent

About the Rent Stabilization Program

The Rent Stabilization Program's mission is to oversee the City of San José's apartment and mobilehome Ordinances through education, engagement, and collaboration to build and maintain safe, healthy, and sustainable communities.

This guide is for San José landlords and tenants whose properties are covered by the City's Apartment Rent Ordinance (ARO), Tenant Protection Ordinance (TPO), and Ellis Act Ordinance.

Disclaimer: This guide is for informational purposes only and is not intended to be legal advice or a substitute for the Ordinances. For more information, please visit our website www.sanjoseca.gov/rent or contact the Rent Stabilization Program at 408-975-4480. RSP staff can provide information on the program's ordinances and petition process. We are not attorneys and do not provide legal advice, but can make referrals as needed.



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**KNOW
THE
BASICS**



WHAT IS THE APARTMENT RENT ORDINANCE?

The Apartment Rent Ordinance (ARO) may be found in San José Municipal Code (SJMC) Chapter 17.23, Parts 1-9. The ARO covers most rental apartments built before September 7, 1979, limits rent increases, and allows landlords to receive a fair return.

Duplexes, condos, townhouses, granny/in-law units, and single-family homes **are not covered**.

This document is a brief summary of the ARO. Please visit our website www.sanjoseca.gov/rent for more details.

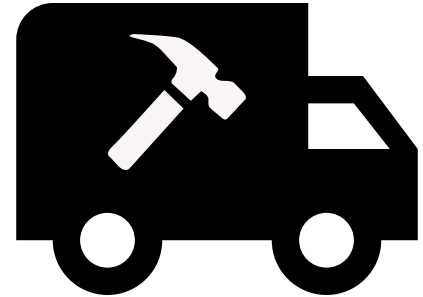
WHAT IS THE TENANT PROTECTION ORDINANCE?



The Tenant Protection Ordinance (TPO) may be found in San José Municipal Code (SJMC) Chapter 17.23, Part 12. The TPO specifies requirements for providing notices of termination of tenancy to tenants living in apartment buildings with 3 units or more, guesthouses, and unpermitted dwellings.

The Ordinance eliminates no-cause notices and requires a “Just Cause” for all notices to vacate.

WHAT IS THE ELLIS ACT ORDINANCE?

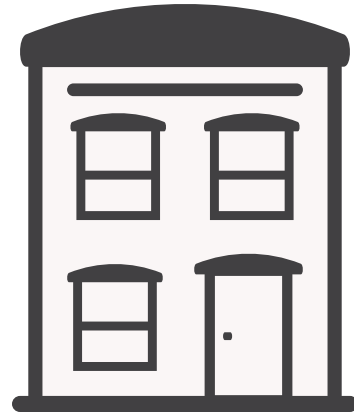


The Ellis Act Ordinance may be found in San José Municipal Code (SJMC) Chapter 17.23, Part 11 and only covers apartment buildings with four or more units built prior to September 7, 1979.

In May 2017, the City of San José enacted the Ellis Act Ordinance to, among other things, ensure relocation benefits for tenants if rental apartments are taken off the market.



KNOW IF YOUR BUILDING IS RENT STABILIZED.



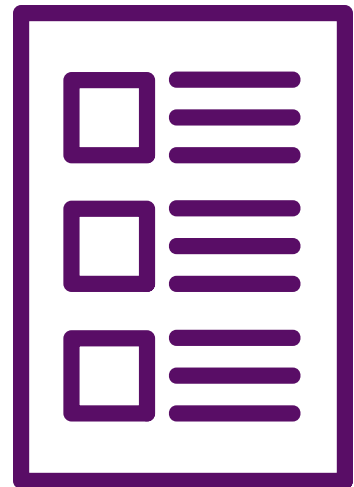
To find out if your building is covered under the ARO, look up your address in the online property map system at:

www.sanjoseca.gov/rent

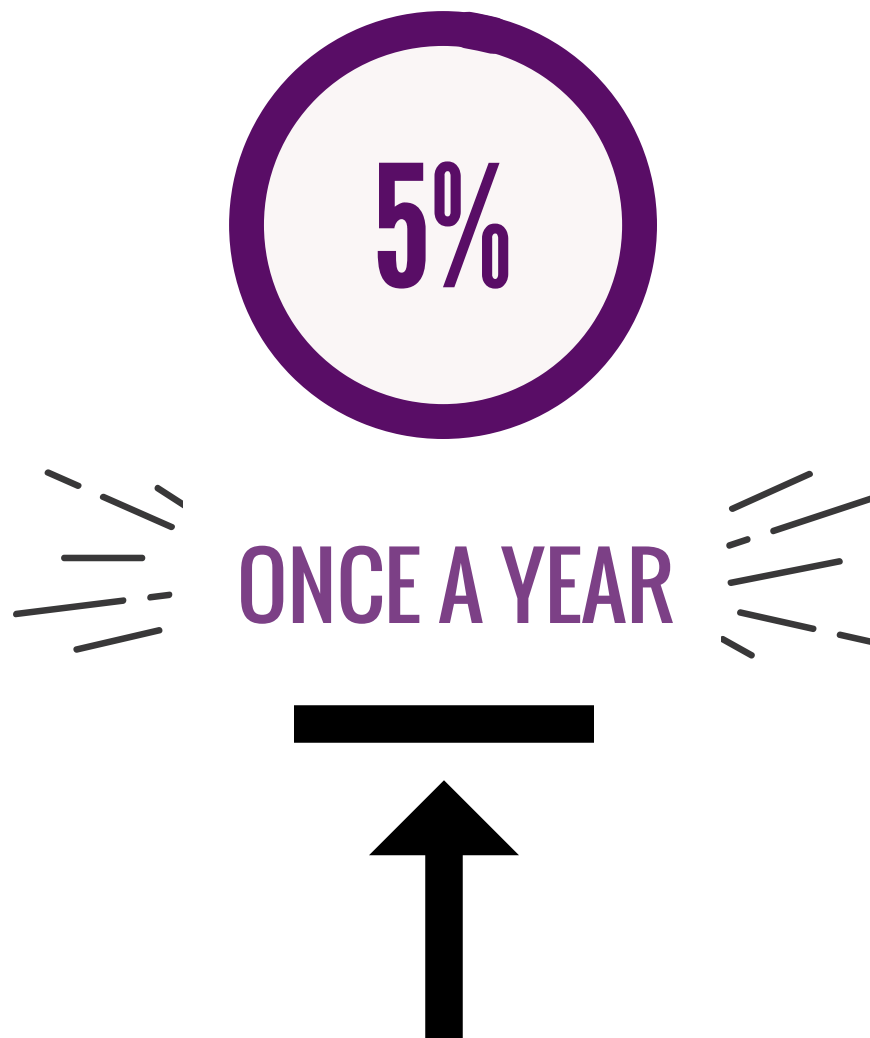
If you have any questions, call the Rent Stabilization Program at:

408-975-4480

KNOW YOUR RIGHTS



AN ALLOWABLE RENT INCREASE IS UP TO 5% ONCE EVERY 12 MONTHS, EXEMPTING VOUCHER HOLDERS.



A written notice in compliance with Civil Code Section 827 must be given before an increase may be collected.

AN ARO NOTIFICATION MUST BE POSTED IN YOUR BUILDING.



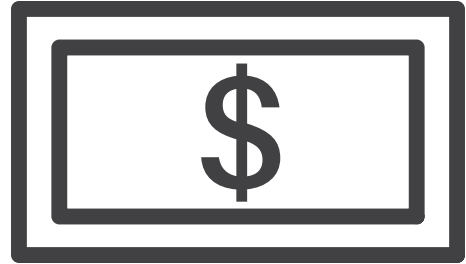
All ARO properties must post a City-approved notice indicating that the ARO applies to the property. This notice must be posted in a conspicuous location within each building that has one or more ARO apartments. Additionally, tenants must be provided a notice at initial rental.

ARO APARTMENTS MUST BE REGISTERED.



All ARO rental apartments must be registered yearly with the Rent Stabilization Program. A landlord cannot legally increase rent until they register their ARO apartment through the rent registry and provide their tenants with a copy of the ARO rights.

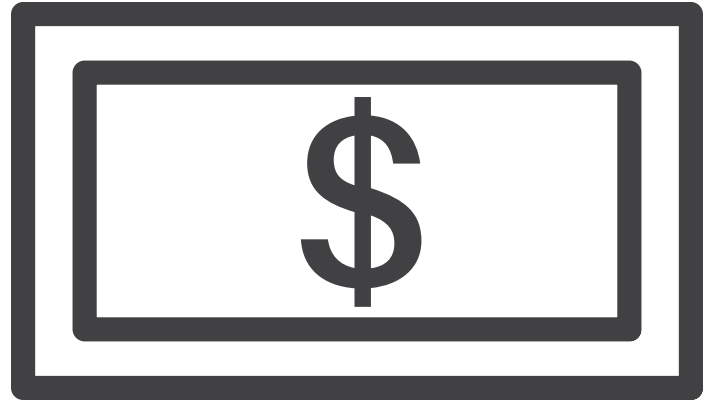
WHAT FEES CAN BE CHARGED?



The ARO allows the landlord to collect certain fees:

- **Replacement fees for key or security card:** Maximum charged is actual cost of replacement plus \$10
- **Bounced check service fees:** In compliance with California Civil Code Section 1719(a)(1)
- **Late payment of rent fees:** No more than 5% of monthly rent
- **Application screening fees:** In compliance with California Civil Code Section 1950.6(b)

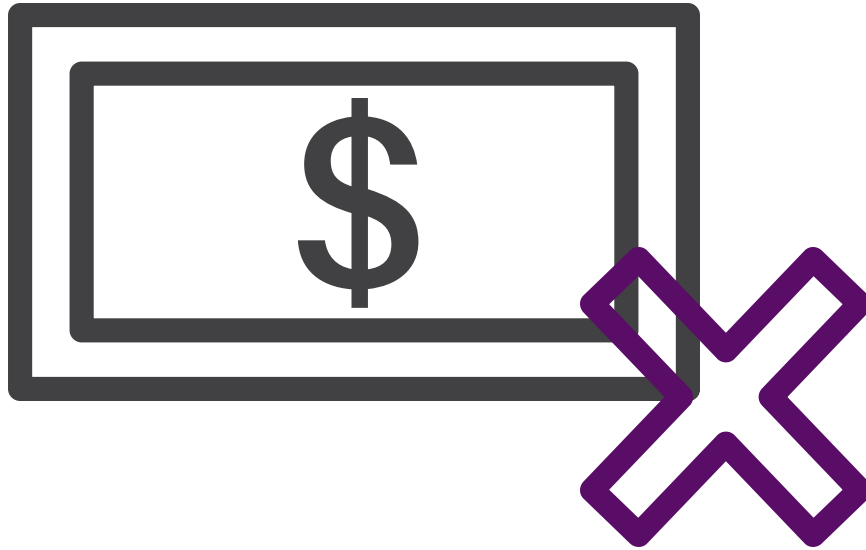
WHAT ARE THE OTHER ALLOWABLE CHARGES?



Additional charges may be allowed from filing a Joint Petition:

- **Parking space fee:** If the lease permits one parking space, then a second parking space can be no more than \$50 a month
- **Increase rent up to 5% for an additional tenant** (other than the tenant's spouse, domestic partner, parent, dependent or foster child or minor child in tenant's care): When an additional occupant leaves, such increase will terminate
- **New or additional housing services:** One-time payment for items including pets, storage and parking, or to increase the security deposit

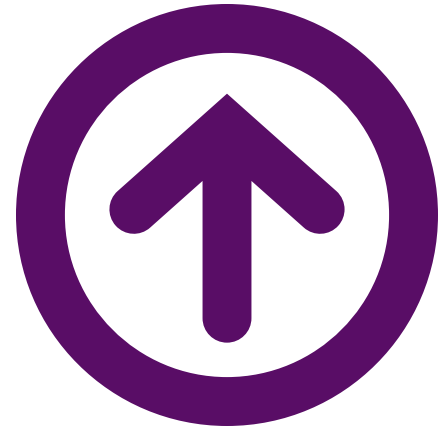
WHAT FEES CAN'T BE CHARGED?



The ARO does not allow the landlord to collect certain fees:

- **Additional rent increase** for tenant's dependent child, foster child, spouse, domestic partner, parent, or minor in tenant's care
- **Other monthly charges** such as storage and/or pet rent
- **Basic level of housing services** as described in ARO Regulations 7.03

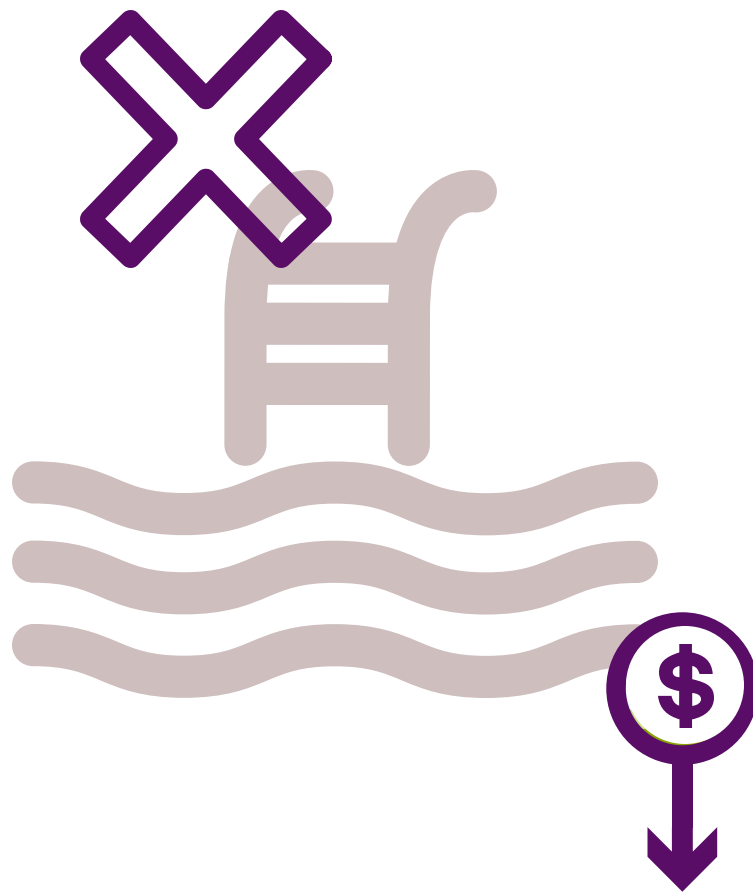
RENT CAN ONLY BE INCREASED FOR THE FOLLOWING REASONS:



- **Annual Allowable Rent Increase:** A 5% annual increase is allowed under the ARO, exempting voucher holders. A landlord may increase rent only once every 12 months provided that the tenant is given a written notice in accordance with Civil Code Section 827.
- **Vacancy decontrol:** When an apartment covered by the ARO is vacated as a result of a tenant voluntarily leaving or a Just Cause eviction, the landlord may set the new rent for a new tenant at their discretion.
- **Fair Return Process:** The City may authorize a special rent adjustment if the landlord is able to document that their current year net operating income was lower than their base year net operating income.

- **Specified Capital Improvement:** The City may authorize specific capital improvements to be charged to tenants. A list of these improvements can be found in Appendix B of the Regulations. The improvement must have been completed within the 12 months prior to the petition being filed.
- **One-time Payments for New or Additional Housing Services:** A tenant may file a petition with their landlord for a one-time payment for items including pets, storage and parking, or to increase the security deposit.
- **Joint Petitions:** Landlords and Tenants may submit a petition to the Rent Stabilization Program for the reasons listed on page 17.
- **Voucher Holders (i.e. Section 8):** Tenants with vouchers are covered by the ARO. However, rent increases are determined by voucher guidelines.

RENT SHOULD BE ADJUSTED IF HOUSING SERVICES ARE REMOVED



If a housing service (e.g. parking, pool, storage) included in the lease agreement is removed or no longer accessible, rent may be reduced as compensation. Otherwise a petition may be filed with the Rent Stabilization Program for a service reduction.

TENANT BUYOUT AGREEMENT OR "CASH FOR KEYS" AGREEMENT



A landlord may offer a Buyout Agreement or "cash for keys" agreement. A copy of the signed Buyout Agreement must be filed within 30 days to the Rent Stabilization Program. Tenants have the right to:

- **Accept** the buyout offer
- **Refuse** the buyout offer
- **Seek counsel** or speak to Rent Stabilization Program staff prior to signing
- **Cancel** any Buyout Agreement within 45 days of acceptance

PETITION PROCESS

Landlords and Tenants may submit a petition to the Rent Stabilization Program for the following reasons listed below. The petition must be completed with supporting documentation.

Tenant

- Rent increase beyond 5%, or more than one increase in 12 months (exempting voucher holders)
- Improper pass through of a charge
- Housing service reductions or housing code violations
- Other violation of the Apartment Rent Ordinance

Landlord

- Fair return
- Specified capital improvements

Joint

- New or additional housing services
- Increase rent up to 5% for an additional Tenant
- Parking space fee

A NOTICE TO VACATE MUST STATE 1 OF 12 JUST CAUSE REASONS



ARO apartments are also covered by the Tenant Protection Ordinance (TPO), which specifies 12 legal reasons, or Just Causes, for eviction. These reasons are listed on page 19.

TPO applies to apartments with 3 units or more built before and after 1979, as well as guest rooms and unpermitted dwellings.

JUST CAUSE REASONS

BASED ON TENANT ACTIONS

1. Nonpayment of rent
2. Material or habitual violation of the lease
3. Damage to the apartment
4. Refusal to agree to a similar or new rental agreement
5. Disorderly behavior disturbing the peace
6. Refusal of access to the apartment, requested in accordance to law
7. Unapproved holdover subtenants

BASED ON LANDLORD ACTIONS & REQUIRES RELOCATION ASSISTANCE

8. Substantial rehabilitation of the apartment
9. Removal of apartments from the rental market under the Ellis Act
10. Owner move-in
11. City code enforcement actions requiring a move out
12. Convert an unpermitted apartment for permitted use





A written notice to vacate must state at least one of the 12 reasons to be valid and must be filed by the landlord with the Rent Stabilization Program within 3 days of service to the tenant.

ELLIS ACT ORDINANCE

On April 18, 2017, the City Council recommended the approval of the Ellis Act Ordinance. This ordinance provides requirements for landlords removing these apartments from the rental housing market. The requirements include:

- **Noticing:** All households must be provided with a minimum of 120 days' notice. Special populations must be given up to one year's notice.
- **Relocation Benefits:** All tenants are eligible to receive relocation benefits.
- **Right to Return:** If the apartments return to the rental market within ten years, tenants have a right to return to their apartments. If the apartment is demolished and rebuilt, the right to return does not apply.
- **Subject to the Apartment Rent Ordinance:** If the landlord demolishes existing apartments, all new apartments built will be subject to the ARO.



In San José, the most frequent use of the Ellis Act Ordinance would be the demolition and redevelopment of an existing rent controlled building.

YOU CAN REACH OUT FOR HELP



CITY OF SAN JOSE

Department of Housing
Rent Stabilization Program
408-975-4480

www.sanjoseca.gov/rent

General information, referrals, and a mediation program for rent stabilized Tenants. Schedule a drop-in, call, or visit our office at 200 E. Santa Clara St. 12th Floor, San José, CA 95113.

Department of Code Enforcement
408-535-7770

www.sanjoseca.gov

Enforces City building codes and checks for health and safety violations.

COUNTY OF SANTA CLARA

Housing Authority of the County of Santa Clara

Housing Choice Vouchers (Section 8)
408-275-8770

www.scchousingauthority.org

Oversees the rental assistance program that includes the “housing choice voucher,” a 100% federally funded rental subsidy for low-income households living in privately owned rental units.

Santa Clara County Superior Court Self-Service Center

408-882-2926

www.scscourt.org/self_help

Provides assistance to Tenants and Landlords with eviction paperwork.

LEGAL QUESTIONS & CONCERNS

CAA Tri County Division

408-342-3500

www.caanet.org

Provide members with up-to-date information on new and pending legislation, keeping members abreast of California's laws and regulations.

Bay Area Legal Aid

Legal Advice Line

800-551-5554

www.baylegal.org

Provides free legal representation to low-income tenants with housing problems.

Law Foundation of Silicon Valley

- Fair Housing Law Project

408-280-2452

- Volunteer Eviction Assistance Clinic

408-280-2424

www.lawfoundation.org

Provides legal advice and representation through programs.

Project Sentinel

408-720-9888

www.housing.org

Provides services and advice regarding Landlord-Tenant problems. Investigates housing discrimination claims.

Department of Consumer Affairs

A Guide to Residential Tenants' and Landlords' Rights and Responsibilities

800-952-5210

www.dca.ca.gov

Booklet for both tenants and landlords with information about rental applications, unlawful discrimination, security deposits, repair responsibilities, rent increases, termination of leases, and eviction notices.

Santa Clara County Bar Association Lawyer Referral Service

408-971-6822

www.sccba.org

The Lawyer Referral Service of Santa Clara County, serving San José, Milpitas, Los Gatos, Campbell, Willow Glen, Cupertino, and Sunnyvale.

Santa Clara County Association of REALTORS (SCCAOR)

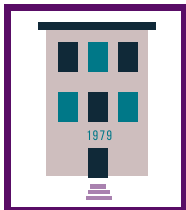
408-445-8500

www.sccaor.com

Offers leadership, educational, political and networking opportunities.

THANK YOU FOR BEING AN INFORMED SAN JOSE LANDLORD & TENANT

March 2018



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