

APARTMENT RENT ORDINANCE FACT SHEET

ABOUT THE 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 to 5% once every 12 months, and allows landlords to receive a fair return. All ARO properties must post a City-approved notice indicating that the ARO applies to the units contained within the property and posted in a conspicuous location within each building that has one or more ARO units.

Covered Buildings Include (SJMC Section 17.23.167 (A)):	Buildings Not Covered Include:
<ul style="list-style-type: none"> ▪ Apartments, with three or more units, built or rented on or before September 7, 1979 ▪ Units with rent that is fully or partially paid for by a government subsidy (including Section 8), where the unit was built or rented on or before September 7, 1979 	<ul style="list-style-type: none"> ▪ Units built after September 7, 1979 ▪ Duplexes ▪ Single-family Condominiums ▪ Townhouses ▪ Single-family homes

The above is not a complete list of ARO covered and uncovered units. To see if your building is covered under the ARO, call 408-975-4480.

ARO SUMMARY

The actual amount paid by the tenant at the commencement of tenancy is the “Initial Rent Rate.” Rent can be increased **ONLY** for the following reasons:

1. **Annual Allowable Rent Increase**
A 5% annual increase is allowed under the ARO. 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 (SJMC Section 17.23.310).
2. **Vacancy Decontrol**
When a unit covered by the ARO is vacated as a result of a tenant voluntarily leaving or a for cause termination (See FAQ on the City’s just cause eviction ordinance), the landlord may set the new initial rent for a new tenant at her/his discretion. (SJMC Section 17.23.300(A))
3. **Fair Return Rent Adjustment**
The City may authorize a special fair return rent adjustment if the landlord demonstrates that their current year net operating income was lower than their base year net operating income adjusted for inflation. (SJMC Section 17.23.320(A))
4. **Specified Capital Improvement Adjustment (in addition to Rent)**
The City may authorize a specific capital improvement pass through 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. These pass throughs are capped at 3% of rent. (SJMC Section 17.23.320(B))
5. **One-time Payments for New Additional Housing Services**
A tenant may file a petition with their landlord’ for a one-time payment or increase in security deposit for providing a new service or a service that was expressly prohibited by a written rental agreement. (SJMC Section 17.23.320(C))
6. **Voucher Holders (Section 8)**
Tenants with vouchers are covered by the ARO. However, rent increases are determined by program guidelines. (SJMC Section 17.23.310(D))

The ARO allows the Landlord to collect certain fees. The charges must be listed as a separate line item and are not rent:

Fees Allowed	Fees Not Allowed
<ul style="list-style-type: none"> ▪ Replacement fees for key or security card: Maximum charge is actual cost of replacement plus \$10. (SJMC Section 17.23.315(B)(1)) ▪ Bounced check service fees: Fee must comply with California Civil Code Section 1719(a)(1). (SJMC Section 17.23.315(B)(2)) ▪ Late payment of rent fees: No more than 5% of monthly rent. (SJMC Section 17.23.315(B)(3)) ▪ Application screening fees: Fee must comply with California Civil Code Section 1950.6(b). (SJMC Section 17.23.315(B)(4)) 	<ul style="list-style-type: none"> ▪ 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.



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

PETITION PROCESS

Landlords and Tenants may submit a petition to the Rent Stabilization Program office on the following grounds:

Tenant (SJMC Section 17.23.350(A))

- **Improper Rent Increase or Improper Pass Through of a Charge**
To allege a rent increase in violation of the ARO or to contest a fee or charge as an unauthorized or excessive pass-through.
- **Housing Service Reductions or Housing Code Violations**
To request a reduction in Rent based on a reduction of Housing Services or a violation of the City's Housing Code.
- **Violation of ARO**
To allege any other violation of the ARO.

Landlord (SJMC Section 17.23.350(B), 17.23.315)

- **Fair Return**
To request a rent increase in excess of the annual general increase to obtain a fair return.
- **Specified Capital Improvements**
To request the ability to pass-through portion of the cost of a Specified Capital Improvement that is listed in Appendix B of the Regulations.

Joint Petition (SJMC Section 17.23.350(C))

Where a written lease expressly prohibits a desired service that is not considered a Basic Service Level as defined by the ARO Regulation Section 7.03.1, tenants may file a petition together with their Landlord requesting certain new or additional housing services. The landlord may request either a one-time fee, an increase in security deposit, or an increase in rent, depending on the type of new or additional Housing Service being requested. Below is a list of new or additional housing services and the corresponding fee:

Requesting New or Additional Housing Services

- **Payment of a one-time fee:** Not to exceed 5% of the monthly rent or increased security deposit, in accordance with Civil Code Section 1950.5(ARO Regulations Section 10.01)
- **Increase rent up to 5% for Additional Tenant:** Increase does not apply where additional tenant is the Tenant's spouse, domestic partner, parent, dependent or foster child or minor child in Tenant's care. Such increases will terminate when additional occupant leaves. (ARO Regulations Section 10.02)
- **Parking space fee:** Fee cannot exceed \$50 a month (ARO Regulations Section 10.03)

Rent Registry

The Rent Registry allows jurisdictions with rent-stabilization programs to collect data on rent-stabilized apartments, monitor changes in tenancy and rents, and track allowable rent increases.

- **Rent Registration:** The landlord shall, on an annual basis, complete and submit to the Director a registration for each Rent Stabilized Unit on a City Approved form, unless some other interval is specified by the City in the Apartment Rent Ordinance (SJMC Section 17.23.900(A)).
- **Failure to Register:** The landlord may not serve annual rent increases if they have not registered (SJMC Section 17.23.310(A) and may be subject to an administrative citation of \$500 per unregistered unit (SJMC Section 17.23.570(A)).

Please note that this document is intended for informational purposes only, not legal advice. The fact sheet may be incomplete as it is a brief summary of the ARO. Please visit our website at www.sanjoseca.gov/rent for the most up to date fact sheet and complete details of the ARO.