

# Summary of Discussion & Comments

## Tenant Protection Ordinance & Apartment Rent Ordinance

### Community Meeting Series 7/12/17

---

#### Tenant Protection Ordinance

#### Topic: Roommate Clause

July 12, 2017

*27 Comments*

1. If more than 1 min child, then 10% increase in rent
2. Additional family members: Allow 5% rent increase for all except first minor child
3. Set occupancy limit for each type of unit (like SF does). Studio, one bedroom, two bedroom, three bedroom
4. Up to 2 additional adults. 1<sup>st</sup> one no charge, 2<sup>nd</sup> one 5% rent increase
5. Additional tenants: must fill out application and allow background (criminal) check, landlord can reject based on criminal record. City can mediate if tenant disputes it.
6. Additional adult family members can not move in until ID has been confirmed & relationship confirmed. It is a lease violation to move them in before confirmation.
7. Additional adult tenants: must fill out same info as on application by other tenants. Landlord must be allowed to run background check to know quality of additional tenants.
8. 2+1 standard. Studio= 3 ppl; 1 Bd = 4 ppl; 2 bd = 5 ppl; 3 bd = 7 ppl
9. Stay with fair housing guidelines of 2 per bedroom + one
10. Property manager should be all to tenant occupancy to the 2 plus 1 standard.
11. How will these tenant requirements be enforced?
12. Policies need to be fair to both owner and tenants.
13. Tenants need to be in good standing
14. 1 extra adult + 1 minor children
15. Should be able to qualify new roommates to prevent persons with criminal background to move in with no background info.
16. Family members and roommates need to have background check and be rejected.
17. Go with lease agreement based on standard occupancy. Roommate clause is problematic:  
1) healthy & hygiene, 2) disturbance. Stay with contract agreement.
18. How are under 18 years old considered in the ordinance?
19. Need to have clear limits on # of people for # of beds
20. Owners should have a right to do background check. Need to put a upper limit on how many tenants can move in. Not state standard.
21. All tenant actions which lead to eviction should trigger vacancy control.
22. Every adult subject to review by property owner.
23. Allow 2 per bedroom + 1 per 250 sq ft. Not 50 sq ft.

24. 1) if it's a L/T of 3 mos. or more, then landlord has right to increase rent for utilities. If chooses to run a background check the landlord can and tenant pays for the background.
25. Consider giving landlords more oversight into who the roommate is. Clear steps for landlords to say no to roommates without it seeming like retaliation if reason is justifiable. Must fill out application. Needs to be approved by owner.
26. How is a landlord going to be able to verify relationship in a sanctuary city?
27. Concerned about fire code. Max number of people for safety, plumbing, one bathroom, can't fake that many people in units.

## **Tenant Protection Ordinance**

### **Topic: Criminal Activity**

**July 12, 2017**

*31 Comments*

1. Nuisance includes interference with use & enjoyment of neighboring properties under code of civil procedure 1161 (4)
2. Criminal: ability to evict one tenant from the lease if there is criminal activity by that tenant
3. Criminal: include crimes that can affect health and safety of tenants; parole /probation violation tenant reports of drug use or dealing. Tenant reports of threats.
4. Criminal: include criminal activity within 1000 ft of complex
5. We need a landlord protection ordinance. Landlords are losing power to keep their tenants safe from other tenants. Strong language is needed for "expedited eviction of criminals" including drug use and threats to other tenants and neighboring buildings.
6. Criminal ability to have guests forbidden from on premises if they have caused disturbance to their tenants.
7. Criminal: Landlord cannot be held to the same level of proof as police are.
8. No drug, violent crimes on the premise. Only crimes committed during tenancy. 2 or more eyewitnesses of confirmed illegal activity
9. Criminal: if landlord files a police report, and provides copy of tenant, and tenant does not reply to police within 14 days, then eviction can proceed.
10. Criminal: city to set up tip line for reporting criminal activity.
11. Criminal: housing dept to provide security patrol.
12. Criminal activity should be defined as charged offenses for violent crimes.
13. Criminal activity location needs to include at least the sidewalk. Preferably a neighborhood (ex: tenants go to 7-11 an pick pockets, sell meth)
14. Maintain quiet enjoyment
15. Security camera video is evidence of crime (if available). For example, if a tenant steals packages, video is evidence (with proof the package was expected) instead of waiting for conviction

16. Desire penalties for landlord who refuses to evict someone engaging in criminal activity despite notification.
  - o On and off premise. Drug dealing must be crime in eviction. If drug dealing by tenant is attracting undesirable character or behavior, that is ground for eviction. Proof, letter of complain by other tenants and neighbors. Police reports.
17. The City has a much bigger problem with landlords who should evict and do not. There are those who evict and should not.
18. Any crime anywhere that may be dangerous to neighbors. Nuisance activity to neighbors.
19. The City of San Jose appears to lack the tools \*legal and otherwise) to hold slumlords accountable. Bad, irresponsible landlords are a big program (e.g. Mike Lucich, owner of 215 Roxford 95128 Way)
20. Safety for any and all
21. Nuisance calls on at least three occasions by more than one other resident.
22. Criminal activity any resident who has policy called on them that results in an arrest.
23. Do not eliminate from tenancy a former offender who has completed their debt to society. Do not assume they will recommit (e.g. experience in my family)
24. Drugs use & dealings, prostitution, nuisance, group gatherings, and gambling. If it will bother me as the landlord or my neighbors, I'm allowed as a landlord to evict the person within 30 days. Pictures with 1 or more witnesses.
25. Why should an apartment building be a sanctuary for criminal activity because of the 1000 ft suggestion?
26. What documentation is needed – i.e. call for service from SPD or ?
27. Establish city policy to define steps to evict with cause for criminal activity ex demonstrate a pattern or behavior. Complainer vs. disturbing.
28. Criminal activity on site. A off site are grounds for eviction.
29. Domestic violence, drug dealer, difficulty to prove with TPO.
30. Must rely on property owners judgment for criminal activity. Too complicated to enforce otherwise.
31. Housing website to report nuisance activity for tenant so to report to City & Property owners.

## **Tenant Protection Ordinance**

### **Topic: Immigration**

**July 11 - 18, 2017**

*0 Comments*

- Not included in discussion topic.

# Apartment Rent Ordinance

---

## **Apartment Rent Ordinance**

### **Topic: Consumer Price Index**

**July 12, 2017**

*40 Comments*

1. Mar is great let's make it happen!
2. Plan based on original rent/maximum allowable rent. Need CPI.
3. Banking is unneeded complication.
4. Stay with a flat fee, easier for owners and residents. Less housing staff time needed for outreach and asking questions.
5. Do not change from 5% to CPI without a 2 year wait period to see effect of existing changes.
6. MAR is okay.
7. 5% is reasonable because of property tax increase, insurance, and cost of repair.
8. CPI approach is a non starter for apartment owners. Do not lower cap below 5%.
9. Favor 5% percentage. Simply easier, not sure CPI complicated and flexibility of banking etc. Tracking for owners and property managers and tenants
10. For simplicity and predictability for both landlords and tenants, maintain 5%
11. Forget banking. Stay with flat fee.
12. Keep at 5% cap so property owners can keep up with increase costs and also be able to plan ahead. CPI is an unknown year by year . Also allows tenants to plan ahead.
13. Clearly identifying the upper & power limits.
14. CPI is unfair and unreal when water, garbage, maintenance, costs exceeds CPI. Also city salary are not artificially limited.
15. The current 5% limit hasn't had enough time to determine if it's adequate to cover costs. Keep current cap of 5%.
16. It's too difficult to be fair to the owners.
17. CPI: leave 5%
18. Leave current rent control rules. We just changed them last year and don't know if we have a problem to solve.
19. CPI: don't want CPI; stay at 5%. But if using CPI, then use maximum allowable rent model.
20. Realize that costs to landlords include time as well as money! TPO increases the landlord time to resolve tenant disputes because problem tenants cannot easily be evicted.
21. Need to structure regulations different than mobile home.
22. Do we have a problem with 5% & TPO? Let's wait and analyze the impact.

23. Allow rent to come back to market rate after downturn in rent prices
24. Works for mobile homes. Do it. CPI
25. Should set a minimum current CPI is too low.
26. Use maximum allowable rent
27. Housing to provide data from other CPI based cities showing how often tenancy turns over. How many years do tenants typically stay in CPI units? Exclude student housing around the university.
28. If unit reaches a set dollar amount, take it off rent control. New York City takes units out of rent control if rent reaches \$2,700, probably because a tenant who can pay that amount is not in need of affordable housing.
29. Lower rent (affordable housing) should be used on need (income) same as affordable housing that the city provides.
30. Realize that in many CPI based cities, landlords end up paying large sums of money to remove problem tenants because it would cost more in dollars (attorney fees) and lost rent to follow eviction process.
31. Have a moratorium on new high tech businesses unless the city has provided sufficient housing; not confiscating program from landlords.
32. Learn from other CPI based cities. CPI only locks some tenants into lifelong leases (no matter their income level). It does not target those who need help. Units are held on for life even when no longer the primary residence.
33. The vote in 2016 was 5%. Respect the vote!
34. CPI can easily be administered. See mobile home rent control ordinance.
35. Don't agree with CPI but prefer maximum allowable rent if CPI has to be implemented.
36. Leave the 5% with TPO and see if still have a problem. CPI does not target the people who really need help.
37. Leave it at 5% without pass thrus. The change from 8% with banking has been huge already.
38. Hi Sara,  
Will you please add this as input for the apartment rent ordinance?

If we have CPI in place then we will likely have tenants who live there for 20, 30, or 40 years. So, as we increase the rent by CPI, we should also be able to increase the security deposit by the same percentage. Otherwise, when the tenant moves out, the security deposit will in no way reflect what may be needed many years later.

Thanks,  
Cheryl

39. Also I'd like give the input that if we are at 100% CPI it should be a minimum of 2% and a maximum of 8%. 5% max doesn't make sense; even though we're at 5% now, we never really got to feel the effects of 5%; so that's like just picking a number out of the air. When a group of us met with Jackie and Rachel last month, someone asked Jackie what

happens if we're on CPI and CPI goes to 6%, and Jackie said: "then you get to increase the rent by 6%".

Please add that to my input.

Thanks,  
Cheryl

40. Hi Sara,

There are so many topics and opens that are as yet to be resolved. The subject of vacancy decontrol for example.

I think that all tenant-caused reasons for eviction should be justification for vacancy decontrol. If a tenant refuses to sign a new lease, essentially that can be implied to be the same thing as voluntarily vacating the unit. And evictions for criminal activity or violations of the rental agreement should also be included, since there is a burden of proof on the landlord now with just cause eviction. . I understand that the goal is to not have situations where the landlord is evicting tenants just to raise the rent. Which is why I also feel that the housing department should focus on enforcing existing regulations, such as just cause eviction, instead of quickly moving forward and creating a new set of rules. If we had proper enforcement and Outreach to tenants and landlords and some severe penalties for breaking the rules, we wouldn't need to keep creating more regulations.

Please add my input.

Thanks,  
Cheryl

## **Apartment Rent Ordinance**

### **Topic: Capital Improvements**

**July 12, 2017**

*22 Comments*

1. Allow 100% pass through on all repairs & capital improvements.
2. If rent increase remains at 5% then a TBD % at a TBD amortization period is okay. BUT if rent increase is limited to CPI with banking then 100% of capital & expenses should be passed through.
3. Costs of major maintenance replacements should not be passed on to tenants. Landlords can use on equity loan.
4. Major maintenance replacement on list should be 100% for amortization.

5. Capital improvement pass throughs should all be in on category, easy to calculate, not contestable by tenants as to “affordability” but factual matters.
6. Capital Improvement pass throughs should be permanent increase to rent. Do not leave to be tracked separately.
7. Major maintenance replacements 100%
8. Yes, we need this. Please keep it simple.
9. Include air conditioning on major system upgrades
10. Capital improvements should require a hearing like the mobile home ordinance
11. If pass throughs are allowed, only apply upgrade expenses to units affected, not adding surcharge on my unit because they upgrade after a vacancy.
12. Major maintenance: include roofs & exterior painting
13. Roofs should be considered a major system upgrade, not maintenance
14. Property owners can help. Please keep
15. Do not allow LL to pass through capital improvements\*. They can use equity to finance.  
\*Except providing new benefit such as installing HVAC where not provided
16. Make sure to have clear records of amortization from start to finish
17. Yes, include capital improvements. 100%; Yes, improvements yes, maintenance yes
18. Maintain pass through on a line item on all increases. Capital improvements should have been et up on a reserve
19. Let’s collect data and see if this is needed. Also keep in mind if owner will continue to improve building
20. Capital improvements original notice to tenant should include the date when costs should be fully amortized and thus no longer charged.
21. Need capital improvement pass through to encourage owner to invest their properties
22. Allow for an additional 3% over 5% rent cap for capital improvements. As a means to incentive capital improvements.

## **Apartment Rent Ordinance**

### **Topic: Duplex**

**July 12, 2017**

*19 Comments*

1. Do not put under rent control; many people have one duplex and it is their retirement income. They did not have jobs which provided pensions.
2. Do an analysis to how why duplexes should be under rent control. Provide a report.
3. Provide data on real problems reported by tenants in duplexes.
4. Check the votes of HCDC and put those votes on this issues in the notes.
5. Leave duplexes alone
6. No. Do we have data that justifies adding them? Why are we discussing this. Who wants it?

7. Do not add duplexes. Many are owner occupied on one side. Many owners invested in duplex for later retirement plan.
8. Duplexes should be included in rent control.
9. Make sure to have sound data before moving forward
10. Do not include duplexes.
11. Duplexes should be included in the ordinance. I personally know of duplex tenants who desire and need protection of the Ordinance.
12. Ellis Act should not be applicable to landlords go out of business.
13. Advantage: benefit tenants. \*Outreach is needed to let property owners and tenants about passage of an ordinance
14. Should include landlords of 2 houses and 2 condos and up. Should go by units rent not type of properties.
15. Include duplexes and also single family homes.
16. When are you going to inform all owners of duplexes that this is being considered. Use property tax role to send out info to owners.
17. If duplexes are included the city should go about units of renting including 2 units and up, including single homes and condo. Single out duplexes is not fair.
18. Please include all duplexes and single family home so that people who won/rent out duplexes and Sf homes will vote for different city council member in the next election.
19. Duplexes need to be covered. This is a real issues and in many tenants in duplexes go to Law Foundation/ Legal aid for help with evictions. They leave SJ if rent is increased too much.

## **Apartment Rent Ordinance**

### **Topic: Hearing Process**

**July 12, 2017**

*14 Comments*

1. No forced arbit
2. Keep it simple, keep it fair.
3. Current process works! Why change?
4. Any fees should be split between both tenant and property owner.
5. How about a property owner advice website or hotline or email?
6. Hearing process is not fair to landlord: to hire lawyer for presentation, staff determination bias, could bankrupt landlord.
7. Administrative hearing should not be staff determination. The staff should not be increase because it increases paid employees that essentially are on payroll.
8. Voluntary mediation if results are binding. Reject mandatory mediation. Staff determination for simple issues. 2<sup>nd</sup> years raise in a year etc.

Tenant Protection Ordinance & Apartment Rent Ordinance  
Summary of Discussion & Comments  
Community Meeting Series 6/26/17, 7/11/17, 7/12/17, 7/18/17

9. Improve the quality of commissioners in mediation and arbitration. Standards of behavior need to be formalized.
10. Voluntary mediation is a waste of time and money because decisions are not enforceable.
11. Provide translation service for volunteer/admin mediation volunteer. Do you have enough employees to take care of service?
12. It would be helpful to have pre housing mediation process done by a skilled mediation but only if can be done over the phone. Why would you not want to go to difficult housing?
13. Some clear cut decisions – obvious violations of current admin would be handled by staff.
14. Code enforcement should address habitary issues. Other issues should go to voluntary mediation.