

A Guide to Rent Control IN SAN JOSÉ



Understanding the Rental Dispute Mediation and Arbitration Ordinance in San José

CALIFORNIA APARTMENT ASSOCIATION, TRI-COUNTY DIVISION

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DISCLAIMER: The information contained herein is provided as a resource for general information for members of the California Apartment Association. Any advice provided is general in nature and is meant to assist property owners and managers to better understand particular issues facing the apartment industry. This document is not intended to serve as legal advice or as a substitute for seeking advice of a licensed California attorney.

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PART 1

Overview

This brochure is intended to provide property owners and managers with information regarding the Interim Amendments to the Apartment Rent Ordinance (ARO) in the city of San José and to answer several frequently asked questions about the ordinance.

This brochure is not a comprehensive summary of the entire rent control ordinance and should not be used in lieu of the complete text. The complete text can be found online at www.sanjoseca.gov/index.aspx?NID=4744. In Part 5 of this brochure, CAA Tri-County has compiled an FAQ with frequently asked questions about San José's Rent Control Ordinance.

CAA Members may also contact our Landlord Helpline during normal business hours at (800) 967- 4222, Option 2 or on-line at www.caanet.org/products-service/helpline for questions related to rent control in San José.

If you are not a member of CAA and have questions, concerns or complications relating to rent control in the city of San José, we invite you to contact us at (800) 967-4222 to discuss membership. Also, staff at the Rental Rights and Referrals Program can offer interpretations and make recommendations, as well as provide copies of the interim ordinance. The Rental Rights and Referrals Program can be reached online at www.sjhousing.org, by phone at (408) 535-3860 or in person at 200 E. Santa Clara Street, 12th Floor, San José, CA 95113.

Applicability

The ordinance only applies to triplexes and larger buildings that were built before Sept. 7, 1979 and excludes:

- Multifamily units built after September 1979
- Rental units located in a building containing two or fewer dwelling units
- Single family homes
- Condominiums
- Townhomes
- County property within San José's boundaries

PART 2

Rental Agreements

When forming a rental agreement with a resident you are required to do two significant things to be in compliance with the Apartment Rent Ordinance. Before the resident takes occupancy of the unit, you must:

1. Notify the resident in writing that the unit is covered by rent control

All rental housing owners who have rental units in San José subject to rent control are required to notify residents at inception of their tenancy, in writing, that the unit they are renting is subject to rent control. CAA Tri-County has developed an easy notification form for owners or property managers to use (CAA Form 55.0-SJ). CAA Tri-County members can download the form at no charge from www.caanet.org.

2. Provide the resident a copy of the city brochure on rental rights and referrals.

All rental housing owners who have rental units subject to San José rent control are also required to provide each resident with a copy of the current City of San José Rental Rights and Referrals Tenant Information Brochure. Owners who did not receive a copy of the Rental Rights and Referrals "Tenants and Landlords Have Rights and Responsibilities" information sheet can contact the San José Rental Rights and Referrals Program at (408) 975-4480. This information sheet is part of CAA Form 55.0-SJ. CAA Tri-County members can download the form with the brochure attached at no charge from www.caanet.org.



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PART 3

Rent Increases

San José is in the process of changing its rent control ordinance. On May 17, 2016, the ordinance was changed to limit rent increases to 5% within a 12-month period.

Although rental property owners are entitled to raise the rent above the 5% maximum, an owner must provide notice to the resident of their right to petition the rent increase and request a hearing. At the hearing, the “reasonableness” of the rent increase will be judged by a city appointed arbiter.

As of June 17, 2016, owners can raise rents on rent-controlled units by 5% per year. The lower rent cap is among sweeping changes to the city’s 40-year-old rent control law. In April 2016, despite strong opposition from CAA and hundreds of rental housing providers, the City Council approved the revisions on a 6-5 vote.

Any rent increase that takes effect on or after June 17, 2016, for units subject to the San Jose Rent Control Ordinance, cannot exceed 5% unless a rental owner files for a petition to pass-through capital improvements or debt service before Sept. 1, 2016.

Rental owners are still required to comply with applicable state laws governing proper notice for rent increases, and CAA continues to encourage rental owners to provide as much notice as possible. At this time, these new changes do not impact the rules governing termination of tenancies or the requirements to file copies of those notices with the city of San Jose’s Rental Rights and Referrals Program as outlined in this brochure.

PART 4

Notices To Vacate (Termination of Tenancy)



Effective Jan. 1, 2003, San José rental housing owners are required to provide a copy of any Termination of Tenancy Notice and other related information to the San José Rental Rights and Referrals Program within five calendar days of serving the notice to the resident.

Disclosure Requirements to City

In addition to giving a copy of the Termination of Tenancy Notice to the City, landlords are required to give the City a copy of a Signed Statement (CAA Form 57.0-SJ), indicating that the tenant is not being evicted to raise the rent. Lastly, the landlord must give the City a copy of the Filing Statement (CAA Form 56.0-SJ), which indicates the current rent, last rent increase, and contact information for the tenant. CAA Tri-County members can download these forms and the forms listed below at no charge from the CAA website.

Terms and Conditions on Notices to Vacate

- A *3-day notice* to vacate can still be used at any time for a violation of the rental agreement or non-payment of rent.
- A *30-day notice to vacate* may be used if the resident has lived in the unit for less than one year.
- A *60-day notice* must be used if all residents have resided in the rental unit for one year or longer, per state law. When giving a resident a *60-day notice* to vacate, landlords must include an *offer to arbitrate* to residents as well. An arbiter may extend the notice to vacate anywhere from 1 to 60 days at the arbiter’s discretion. Use CAA Form 52.0-SJ.
- A *90-day notice to vacate* (use CAA Form 53.0-SJ), is another option. Choosing this option absolves the landlord from the responsibility to offer to arbitrate the final move out date. This notice may become a *120-day notice* to vacate (CAA Form 54.0-SJ) upon a finding from the City of San José that there is a vacancy rate of 3% or less.
- All the options for *notices to vacate* are described in a convenient flow chart on the back page of this brochure.

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Part 5

Frequently Asked Questions

Q. Can I give my resident a 3-day notice if they do not pay the rent on time?

A. Yes, landlords can still give a 3-day notice at any time when a tenant does not fulfill a portion of the rental agreement (lease), such as non-payment of rent.

Q. Are duplexes covered by rent control?

A. No, duplexes are exempt from rent control requirements.

Q. My units are not under rent control. Do I still have to give the city a copy of the notice to vacate and the other disclosure requirements?

A. No. If your units were built after September 1979, then you are not required to give the city a copy of notices to vacate or any disclosure requirements. However, you are required to give the tenant an offer to mediate when serving a 60-day notice. Use CAA form 51.0-SJ.

Q. I want to sell my property and retire. Do I have to disclose to the buyers that the units are covered by rent control?

A. Yes. Such disclosures must be made prior to close of escrow and be available to the city. Former owners need to keep such disclosures for the future.

Q. I want to give my tenant a 90-day notice to vacate but I do not know if I need to give them a 120-day notice because of a housing shortage. How do I find that type of information?

A. Twice a year, the director of housing for the city of San José will make a determination on whether there is a housing shortage. You can call CAA Tri-County or the Rental Rights and Referrals Program at (408) 975-4480.

San José Ordinance for Rental Housing COMPLIANCE REQUIREMENTS

Length of Tenancy	Less Than 1 Year		1 Year or Longer		
	Rent Control	Non Rent Control	Rent Control	Non Rent Control	
Size of Rental Property	All	Single or Duplex	All	Single or Duplex	Triplex or Larger
Formation of Rental Agreement: Written disclosure that unit is subject to City's rent control ordinance	Required	♦	Required	♦	♦
Copy of City's Rental Rights & Referrals brochure					
Issuing Notice to Vacate: Disclosure requirements submitted to City's Rental Rights & Referral program	Required	♦	Required	♦	♦
(1) Copy of Notice to Vacate					
(2) Sworn Statement					
(3) Filing Statement					
Respond to City's requests for information on new tenant					
Notice to Vacate Process & Rules: Serving 30-day Notice to Vacate	Still Available	Still Available	Prohibited	Prohibited	Prohibited
Serving 60-day Notice to Vacate	Not Required	Not Required	Prohibited	Required	Required***
Option 1 - Serving 90-Day Notice to Vacate (120-day Notice to Vacate in Tight Rental Market)**	♦	♦	Option 1** OR Option 2	♦	♦
OR	♦	♦		♦	♦
Option 2 - Serving 60-day Notice to Vacate with offer to mediate/arbitrate	♦	♦	♦	♦	♦
Serving 60-day Notice to Vacate with offer to mediate***	♦	♦	♦	♦	Required***
Serving 3-day Notice to Pay or Quit/Cure or Quit	Still Available				

♦ Not Applicable ** 120-Day Notice to Vacate will be required when the vacancy rate for San Jose Rental Housing is 3% or less.
*** Effective July 1, 2003, when serving a 60-day notice to vacate, you must include an offer to mediate, see CAA Form 51.0-SJ.