



## **Residential Rent Stabilization Ordinance** **Frequently Asked Questions**

The City of Hayward Residential Rent Stabilization Ordinance (“Ordinance”) provides limits on rent increases and causes for eviction for residential rental units within the city limits of Hayward. Currently, the Ordinance applies to approximately 11,200 rental units in Hayward.

The following is a summary of the central provisions of the Ordinance in a FAQ (Frequently Asked Questions) format. Please note that this FAQ does not cover mobilehome units which are governed by a separate ordinance. The information in this FAQ is not a substitute for legal advice. Review of the Ordinance is strongly encouraged.

### **What units are covered under the Ordinance’s limits on rent increases?**

A “rental unit” is defined as any residential dwelling unit used or occupied by the payment of rent, provided the unit is one of at least five (5) residential units in Hayward under common ownership.

The following are *not* considered rental units for purpose of the Ordinance:

- A mobile home unit;
- Hospitals, extended care facilities, convalescent homes, nonprofit homes for the aged and dormitories;
- Multi-family housing projects financed or insured by a federal state or local agency or receiving a rent subsidy therefrom if the units are subject to rent controls;
- Dwelling units in structures with a certificate of occupancy first issued after July 1, 1979;
- Motels, hotels, inns, and tourist/boarding/rooming houses with occupancies of less than thirty continuous days;
- Nonprofit cooperatives owned, occupied or controlled by a majority of the residents.

(See Section 2(1).)

In addition, state law also exempts certain properties from local rent control. The Costa-Hawkins Act, passed by the California Legislature in 1995, exempts the following properties from Hayward rent control:

- New construction if the property has a certificate of occupancy issued after February 1, 1995. (Cal. Civil Code § 1954.52(a)(1).)
- Single-family homes and condominiums if the tenancy commenced on or after January 1, 1996. (Cal. Civil Code § 1954.52(a)(3)(A).) However, single-family homes and condominiums are still subject to the Ordinance’s Eviction for Cause provisions if the unit is one of at least five (5) residential units in Hayward under common ownership.
- Properties and/or units already exempt from local rent control on or before February 1, 1995, pursuant to a local exemption for newly constructed units. (Cal. Civil Code § 1954.52(a)(2).)

### **What are the rules regarding rent increases for rental units subject to the Ordinance?**

- **General Rule:** A landlord may not raise the rent more than five percent (5%) per year and may not increase the rent more than once in any twelve (12) month period.
- **Banking:** Where a landlord increases the rent payable during any twelve (12) month period commencing April 1, 1987 by less than five percent (5%) per year, the landlord may “bank” the untaken rent increase and apply it in the current year.
- **Government-Utility Service:** A landlord may also increase the rent more than five percent (5%) per year to recoup increases in costs of governmental-utility services.
- **Yearly Aggregate Cap:** The aggregate rent increase cannot exceed ten percent (10%) in any year.
- **Fair Return:** A landlord may also increase the rent more than five percent (5%) per year in order to obtain a fair rate of return on the landlord’s investment. The Ordinance authorizes a landlord to increase the rent in order obtain a fair return, subject to the noticing and review procedures provided in the Ordinance, as required under the California Constitution.

### **Is a landlord required to provide a notice of a rent increase to a tenant?**

Yes. A landlord must serve a tenant with a notice of rent increase that provides the amount of rent increase in both dollars and as a percentage of existing rent. The notice must identify all other units affected by the rent increase, the contact information and availability of the landlord or landlord’s representative, and a copy of the City’s petition for rent review.

In addition, the notice must set forth the following information:

1. If the rent increase is five percent (5%) or less, a statement that the landlord considers the rent increase consistent with the limits set forth in the Ordinance.
2. If the rent increase exceeds five percent (5%):
  - a. The rental history of the unit, if the rent increase is based upon banking; or
  - b. A summary of the unavoidable increases in maintenance and operating expenses, a statement of the cost, nature, amortization, and allocation among rental units of any substantial rehabilitation or capital improvement; or
  - c. A summary of the increased cost of the landlord's debt service and the date and nature of the sale or refinancing transaction; or
  - d. Other relevant information that supports the level of rent increase desired.

The notice required pursuant to the Ordinance must accompany any written notice of rent increase required by state law. The failure of a landlord to follow the Ordinance's notice procedures is a defense in any action brought to recover possession of the rental unit or to collect such rent increase.

### **What is the process to contest a rent increase?**

A tenant in a rent controlled unit may file a petition to initiate review of a rent increase, including a reduction in housing services, or the status of a unit as decontrolled. To initiate review of a rent increase, a tenant must follow these steps:

1. **Contact the Landlord:** A tenant must make a good faith attempt to contact the landlord or the landlord's representative to discuss the rent increase within ten (10) days of receipt of the notice of rent increase. A tenant's failure to make a good faith attempt to contact the landlord may result in the dismissal of any petition filed thereafter.
2. **File a Petition:** A tenant must file a petition for review of rent within thirty (30) days of either (a) service of a notice of rent increase, or (b) notice of an alleged failure to comply with a requirement of the Ordinance.
3. **Mediation:** The petition is assigned to a City mediator and the parties participate in non-binding mediation. Mediation is an informal dispute resolution process in which a neutral third party – a City-appointed mediator – helps the parties to reach an agreement. If the parties are unable to resolve the rent dispute at the mediation hearing, the next step in the process is binding arbitration.
4. **Arbitration:** Arbitration is a dispute resolution process in which a neutral third party – a City-appointed arbitrator – conducts and hearing and renders a binding decision concerning the rent dispute. The landlord or the tenant may request arbitration within ten (10) working days after a mediation hearing.

## **Are landlords required to pay interest on security deposits?**

Yes. Landlords are required to pay an annual interest on all security deposits for tenancies of rent controlled units of more than one year's duration, with interest accruing from the first day a tenancy begins. The interest rate is set annually by the Rent Review Office each November and is available on the City's website. Landlords that do not meet their obligations concerning security deposits are liable to the tenants for three times the amount of interest wrongfully uncredited or unpaid.

## **What is Vacancy Decontrol?**

State law authorizes a landlord to charge a "market" rent at the start of a new tenancy. A rental unit remains rent controlled for any subsequent rent increase. However, a landlord may "decontrol" a rental unit for purposes of any subsequent rent increase upon satisfaction of the following conditions:

1. The landlord has obtained a written certification from the City Building Official prior to the re-renting which states that the rental unit complies with applicable Hayward codes;
2. The landlord has made improvements to the unit prior to occupancy by a new tenant; and
3. The landlord has filed a written document with the Rent Review Officer within thirty (30) days following the re-renting stating that the unit has been decontrolled pursuant to the requirements of the Ordinance.

The value of the required improvements is adjusted annually based on the Consumer Price Index ("CPI") for Shelter for the San Francisco-Oakland-San Jose Metropolitan Statistical Area. The improvement value is adjusted at the time the CPI calculation is published by the Department of Labor in February of each year.

A summary of the decontrol process, including the adjusted value of required improvements, is available on the City's website. For information on the status of a particular unit, please contact the Rent Review Office.

## **What units are covered under the Ordinance's limits on eviction?**

Evictions are governed mainly by state law, but the Ordinance imposes additional requirements known as "Eviction for Cause." The Ordinance's "Eviction for Cause" section provides that a landlord may recover possession of *a rental unit covered by the terms of the ordinance* only if the landlord demonstrates one of the following fifteen enumerated causes:

1. The tenant has failed to pay rent to which the landlord is legally entitled, unless the tenant has withheld rent pursuant to applicable law.

2. The tenant has continued, after written notice to cease, to substantially violate any of the material terms of the rental agreement.
3. The tenant has willfully caused or allowed substantial damage to the premises and has refused, after written notice, to pay the reasonable costs of repairing such damage and cease damaging said premises.
4. The tenant has refused to agree to a new rental agreement upon expiration of a prior rental agreement, but only where the new rental agreement contains provisions that are substantially identical to the prior rental agreement.
5. The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants or occupants of the premises.
6. The tenant has, after written notice to cease, refused the landlord access to the unit as required by state or local law.
7. The landlord, after having obtained all necessary permits from the City of Hayward, seeks in good faith to undertake substantial repairs which are necessary to bring the property into compliance with applicable codes, and where such repairs cannot be completed while the tenant resides on the premises.
8. The landlord, after having obtained all necessary permits from the City of Hayward, seeks in good faith to recover possession of the rental units, in order to remove the rental unit from the market by demolition.
9. The landlord seeks in good faith to recover possession for his or her own use or occupancy as his or her principal residence, or for the use and occupancy as a principal residence by the landlord's spouse or domestic partner or by the landlord's or the landlord's spouse's child, parent, brother, sister, grandparents, or grandchildren. The landlord may not recover possession under this subsection if a comparable unit is already vacant and available in the property.
10. A landlord or lessor seeks in good faith to recover possession of the rental unit for his or her occupancy as a principal residence and has the right to recover possession of the unit for his or her occupancy as a principal residence under an existing rental agreement with the current tenants.
11. The tenant is convicted of using the rental unit for any illegal purpose.
12. The tenant has used or allowed the use of the rental unit for the manufacture, sale, distribution, possession, or use of a controlled substance as defined in state law.
13. The tenant has continued, after written notice to cease, to violate legal and reasonable written rules and regulations generally applicable to all tenancies within the premises.
14. The lawful termination of the tenant's employment by the landlord, where such employment was an express condition of, or consideration for, the tenancy under a written rental agreement.

15. The tenant has threatened to commit a crime which would result in the death or great bodily harm to any person on the premises, for which a report has been filed with the Hayward Police Department.

The Eviction for Cause provisions are only applicable to “rental units” as defined in the Section 2(l) of the Ordinance. In addition, any unit that has been decontrolled pursuant to the Ordinance’s Vacancy Decontrol procedures nonetheless remains subject to the Ordinance’s Eviction for Cause provisions.

**Contact Information:**

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