

Introduce Ordinance
Establishing an Annual General
Adjustment in Rent, a Rent Registry,
and a Petition Process for an Upward
or Downward Adjustment of Rents

July 2, 2019

CURRENT RENT INCREASE POLICY

No maximum allowable rent, instead:

- Mandatory review of any rent increase in excess of 5%



Multi-family properties built before 1995 are subject to **binding** decisions

Single-family homes, condos and multi-family properties built after 1995 are subject to **non-binding** decisions

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- Optional review of any rent increase at or below 5%



All units are subject to **non-binding** decisions

PROPOSED PROGRAM ELEMENTS

- Annual General Adjustment
- Banking Rent Increases
- Pass-throughs
- Petition Process
- Rent Registry
- Costa-Hawkins Exempt Units

ANNUAL GENERAL ADJUSTMENT

Definition

The maximum allowable rent that a landlord may impose annually

Units Subject to an AGA

- 86% of the rental stock (multi-unit properties built before 1995)

Factors to consider when establishing an AGA

- Address negative impacts of excessive rent increases
- Ensure a fair return for landlords
- Consider frequency of tenant move-outs that allow landlord to set rent to market for next tenant, i.e. “vacancy de-control”

ANNUAL GENERAL ADJUSTMENT

Staff Recommendation

100% of Consumer Price Index (CPI) with 1% floor and 5% ceiling

- CPI is a reliable and accessible measure of the increase in prices for urban goods and services
- A floor and ceiling create more stability for landlords and tenants
- Using 100% of CPI is expected to reduce program admin costs
- Historic CPI trends
 - 2.5% = 10-year CPI average (2018-2009)
 - 3.8% = 40-year CPI average (2018-1979)

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Bay Area
rent-regulated
cities use a
ratio of CPI

ANNUAL GENERAL ADJUSTMENT

Alternatives

60% - 90% of CPI

- Reduces the rent burden on low-income tenant households
- Could increase the number of rent adjustment petitions
- Courts have upheld an AGA as low as 60%, provided there is a fair return petition process

Flat rate at 4%

- Establishes predictability of future increases
- Often set above the rate of inflation, likely resulting in fewer pass-throughs and reduced program costs

SEPTEMBER 1, 2019

100%
of CPI 4%

80%
of CPI 3.2%

60%
of CPI 2.4%

BANKING RENT INCREASES

Definition

A landlord may defer some, or all, of an AGA by “banking” what is not used in that year and carry the unused portion to a future year(s)

Factors to consider when permitting banking:

- Allow landlords and tenants flexibility to address unforeseen circumstances
- Provide process that is easy to track and implement
- Mitigate sharp rent increase above the AGA from accumulated “banked” increases

BANKING RENT INCREASES

Example

\$1,500 original lease

	AGA Percent	AGA Amount	Maximum Allowable Rent
Year 1	3.0%	\$ 45.00	\$ 1,545.00
Year 2	5.0%	\$ 77.25	\$ 1,622.25
Year 3	2.0%	\$ 32.45	\$ 1,654.70
Year 4	4.0%	\$ 66.19	\$ 1,720.89
Year 5	2.0%	\$ 34.42	\$ 1,755.30

Increase Landlord Imposes	Actual Rent	Banked Rent Increase
\$0 (0%)	\$1,500.00	\$ 45.00
\$24 (1.6%)	\$1,524.00	\$ 98.25
\$106.68 (7.0%)*	\$1,630.68	\$ 24.02
\$90.21 (5.53%)	\$1,720.89	\$ -
\$34.42 (2.0%)	\$1,755.30	\$ -

*Max rent increase based on AGA + 5% of banked increase

BANKING RENT INCREASES

Staff Recommendation

Allow banking with certain restrictions:

- 1) Any banked amount used in a given year cannot exceed 5% in addition to the AGA
- 2) Banked amounts go away if the property is sold or the tenant moves or is terminated

Alternatives

- No banking
- Allow banking, but use different cap on amount that can be imposed at one time

PASS-THROUGHS

Definition

A landlord may pass through to tenants certain costs in addition to the amount of the annual general adjustment

Factors to consider when establishing pass-throughs:

- A lower AGA may require more pass-through costs than a higher AGA to ensure a “fair return”
- Certain pass-through costs are calculated automatically (ex: 50% of Rent Program Fee), while others are calculated through a review process (ex: portion of utility increases)
- Program costs typically increase with more pass-through options - particularly those requiring a review

PASS-THROUGHS

Staff Recommendation

Allow pass through of 50% of the program fee

- This will be included in the clean-up ordinance in September

Alternatives

- No pass-through costs
- Allow pass-through costs for utility increases or special property taxes/assessments
- Allow automatic pass-through when a landlord agrees to allow an occupant to be added to the lease

PETITION PROCESS

Definition

A process for a landlord or tenant to petition for an upward or downward adjustment to the Annual General Adjustment

Examples: fair return, reduction in housing services

Factors when considering a petition process:

- Allow for parties to use mediation to resolve dispute
- Petitions heard by a hearing officer can be costly and time-intensive

PETITION PROCESS

Staff Recommendation

- Utilize a Hearing Officer for petitions for rent adjustments
- Provide an option for parties to participate in voluntary mediation in lieu of hearing
- The Hearing Officer's decision is final and binding unless judicial review is sought.

Alternatives

- Require staff to render decisions first, with only appeals of staff decisions by a Hearing Officer
- Send Hearing Officer appeals to the RRAC or City Council rather than directly to the courts

RENT REGISTRY

Staff Recommendation

Require landlords to register the rents at units subject to the AGA

- Rents must be registered at the implementation of the AGA
- Upon the establishment of any new tenancy
- Covers units subject to AGA

Potential information requested at registration:

- Rent imposed on September 1, 2019, and thereafter the base rent of any new tenancy
- Number of bedrooms
- Utilities and amenities included with the rent
- Number of occupants
- Start date of tenancy
- Amount of security deposit
- Tenant contact information (confidential)
- Reason for tenancy turnover, when applicable
- Etc.

Alternatives

- Maintain a complaint-based system without a rent registry

COSTA HAWKINS EXEMPT UNITS

Definition

The Costa Hawkins Act precludes the City from legislating a rent cap for rental units at:

- Single-family homes
- Condominiums/ Town homes
- Multi-unit properties built after 1995

Current Regulations

At present, these Costa Hawkins exempt units must still appear at RRAC hearings when a rent increase is served above 5%. Any decision regarding rent increases is non-binding

COSTA HAWKINS EXEMPT UNITS

Staff Recommendation

Remove rent increase regulations on Costa Hawkins exempt units and dissolve the Rent Review Advisory Committee

- Introduce by ordinance in September

Alternatives

- Keep the RRAC to issue non-binding decisions for:
 - Rent increase notices above 5%
 - Rent increase notices above a threshold defined by the Council

Staff Recommendation

Introduce an Ordinance Establishing an Annual General Adjustment in Rent, a Rent Registry, and Petition Process for an Upward or Downward Adjustment of Rents