

RENT CONTROL PROGRAM ORDINANCE CHECKLIST

The following Checklist presumes regulations as set forth in the Interim Rent Control Ordinance (IRCO), and identifies areas of potential modification or variation for consideration by the City Council for the permanent Rent Control Program. Items identified with a indicate provisions that are already included in the IRCO. Items identified with indicate provisions/issues on which staff is seeking direction. If there is a consensus by the City Council to retain a particular provision in the IRCO, the City Council may choose to dispense with discussion on the other options. Additionally, for those items included in the IRCO, City Council could choose to delete them from the permanent Rent Control Program.

Units Exempt from Rent Control:

- Units expressly exempt from rent control by state or federal law
- Units having a certificate of occupancy, or equivalent, issued after February 1, 1995
- Units that are alienable separate from the title to any other unit (e.g. single family residences, condominiums, townhomes, but excluding mobilehomes offered for rent by the owner of the mobilehome)
- Units in “community apartment projects” and “stock cooperatives
- Government subsidized units (e.g. Section 8)
- Non-government subsidized affordable housing units (e.g. inclusionary units)
- Single family residences that share a property with an ADU
- “Luxury units” (i.e. units with very high rents at the time of enactment)
- Owner occupied properties
- Non-owner occupied properties with up to a certain number of units

Permissible Rent Increases: *(Note: The amount of cap on a rent increase must provide the landlord with a fair and reasonable return on investment.)*

- 3% above current rent in effect
- Other fixed percentage
- Change in CPI:
 - Annual average
 - Year-over-year
 - Full CPI
 - Partial CPI
- Guaranteed minimum
- Guaranteed maximum
- Rent banking (i.e. apply increases not utilized to subsequent years)
- Additional percentage increase for additional occupants added to a lease

RENT CONTROL PROGRAM ORDINANCE CHECKLIST

- Additional percentage increase if unit is considered a “luxury unit”
- Housing service adjustments constitute a rent increase

Allowable Pass-Throughs/Cost Recovery:

Eligibility determination:

- Full Net Operating Income (NOI) analysis (i.e. pass-through allowed only if landlord cannot maintain NOI through otherwise allowable rent increases)
- Cost recovery formula tied to actual cost of improvement (i.e. pass-through allowed regardless of NOI)

Type of eligible capital improvement:

- All capital improvements
- Capital improvements related to tenant health and safety (Per Guideline/Rule No. 2019-02)
- Government mandated improvements (e.g. required seismic retrofit)

Allowable percentage of pass-through to tenant: (Note: Not applicable if full NOI analysis is selected, above.)

- 100%
- 50%
- Other fixed percentage
- Variation based on category of improvements (e.g. government mandated improvements, such as seismic retrofit 50%, other types of improvements X%)

Period of amortization of costs:

- Fixed period for each category of improvement (e.g. 5, 10, 20 years established by ordinance, resolution, or administrative guideline)
- Reasonable life of the improvement (subject to staff approval)
- Other variation based on category of improvements

Other allowable costs to be passed-through/recovered:

- Capital improvement debt service
- Owner-performed labor costs
- Capital improvement soft costs
- Voter-approved taxes (e.g. parcel tax measures, certain property tax levies)

Structure of pass-throughs in rent increases:

- Temporary rent surcharge (until amortized costs recovered)
- Permanent rent increase (result of full NOI analysis methodology)
- Limitation on the monthly pass-through to tenant (as percentage of base rent)
- Hardship exemption to pass-through for low-income tenants

RENT CONTROL PROGRAM ORDINANCE CHECKLIST

“Fair and Reasonable Return” Analysis: *(Note: The standard for evaluating landlord’s ability to earn a “fair and reasonable return” in review of a landlord petition to impose a rent increase above what is permitted.)*

Method for evaluating “Fair and Reasonable Return”:

- Maintenance of Net Operating Income (NOI) (Per Guideline/Rule No. 2019-02)
- Other method

Structure of NOI analysis: *(Note: See also pass-through section above, as these issues are related.)*

- CPI adjustment
 - Full (Per Guideline/Rule No. 2019-02)
 - Fractional
- Include mortgage debt service
- Include amortized capital improvements (Per Guideline/Rule No. 2019-02)
 - Health and safety improvements only
 - All improvements
- Include owner-performed labor costs for maintenance or capital improvement costs (Per Guideline/Rule No. 2019-02)

Tenant Petition Process: *(Note: Although the Petition process has been available to tenants, the City has been enforcing the IRCO through warning letters, which have been successful at resolving violations. It is anticipated the next step in enforcement would be the issuance of an administrative citation, which has not been necessary to this point.)*

- Petition for challenging increases
- Petition for requesting rent decrease in light of service reductions or maintenance issues

Rent Registry:

Require registration:

- Yes
 - Rent controlled units only
 - All rental units
- No

Required information:

- Ownership information
- Property information
- Year built and certificate of occupancy date

RENT CONTROL PROGRAM ORDINANCE CHECKLIST

- Number of bedrooms and bathrooms for each unit
- Rent on “reference date” included in ordinance
- Rent at time of registration
- Housing services included in rent
- Registration update:**
 - Annually
 - New tenancies
 - Changes in services/amenities
- Fee:**
 - Yes
 - 50% pass-through to tenant
 - Other fixed percentage pass-through to tenant
 - Exemptions from fee
 - Owner-occupied units
 - Owner relative-occupied units
 - Government-subsidized units
 - Units occupied by very low or low income seniors
 - Units occupied by persons with disabilities
 - Units vacant all year