



RENTAL RIGHTS AND REFERRALS PROGRAM

Draft Tenant Protection Ordinance

On April 19, 2016, the City Council directed staff to develop an Anti-Retaliation and Protection Ordinance that created protections for tenants living in apartments that were experiencing housing, building, and fire code violations, or needed important repairs as well as those who exercised their rights in the Apartment Rent Ordinance. After receiving feedback that the “Anti-Retaliation and Protection Ordinance” name was cumbersome and difficult to understand, the Housing Department staff renamed this proposed ordinance to the Tenant Protection Ordinance.

KNOW THE DRAFT REGARDING THE TENANT PROTECTION ORDINANCE

Under this Ordinance, in certain circumstances, an owner will not be able to give tenants a no-cause eviction, but will still be able to evict them if they violate certain rules. This is called “Just Cause for Eviction” protections. Tenants that damage the building, illegally add roommates, refuse to pay rent, or otherwise violate their lease can still be legally evicted.

QUALIFICATIONS FOR TENANT ENROLLMENT

Types of Housing	Protection Term			
	Issue	Commencement Immediate	6-Month Term Limited Enrollment from Resolution	2-Year Term Full Enrollment from Resolution
Covered <ul style="list-style-type: none"> ▪ Buildings subject to the Apartment Rent Ordinance, ▪ All other multiple family dwellings, ▪ All apartments built without a permit, or operating illegally, ▪ Guesthouses, as defined. 	Material Code Violation	x	x	<i>Extends to 2 years if not completed or repair period extended within 30 days</i>
	Necessary Repair or Replacement	x	x	<i>Extends to 2 years if not completed or repair period extended within 30 days</i>
	Fair Housing Complaint	x	x	<i>Extends to 2 years if complaint held in favor of tenant</i>
	Violation of the ARO Petition	x	-	x
Not Covered <ul style="list-style-type: none"> ▪ Duplexes ▪ Single family homes ▪ Condos ▪ Townhouses ▪ Second apartments 	Owner refusal to allow inspection	x	-	x
	Ellis Act <i>Tenants who have been given no-cause notices in the 12 months prior to an Ellis Act filing are eligible for relocation benefits.</i>	x		x
	Unregistered Apartment <i>Effective January 1, 2020</i>	x	-	x
	Unpermitted Apartment	x	-	x
	Violation of City Short Term Rental Ordinance	x	-	x

MATERIAL CODE VIOLATIONS AND NECESSARY REPAIR AND REPLACEMENT LIST

The Tenant Protection ordinance includes Material Code Violations and Necessary Repair definitions. Below is a list of San José Municipal Code violations that would be considered either a Material Code Violation or a Necessary Repair.

Material Code Violations		Necessary Repairs and Replacements	
<ul style="list-style-type: none"> ▪ Exterior walls ▪ Stairway, landing, decks, balconies, guardrails, handrails ▪ Exterior lighting ▪ Electrical Service ▪ Heaters ▪ Flooring ▪ Roof and ceilings 	<ul style="list-style-type: none"> ▪ Windows ▪ Water heaters ▪ Fire Detection ▪ Carbon Monoxide Detectors ▪ Electrical ▪ Pest Control ▪ Plumbing/Piping 	<ul style="list-style-type: none"> ▪ Exterior Premises ▪ Vent screens ▪ Electrical Service ▪ Common Areas ▪ Windows and window locks ▪ Entry doors ▪ Kitchen counters and sink surfaces 	<ul style="list-style-type: none"> ▪ Entry doors ▪ Flooring ▪ Plumbing fixtures, piping ▪ Bathroom ventilation ▪ Electrical ▪ Exterior walls

APPEALS OF ENROLLMENT STATUS OR COMPLETION OF REPAIR

Property Owner May petition to revoke Just Cause within 10 days of the tenant receiving any term of protections if:

	Tenant Entitled to Limited Term Protection	Tenant Entitled to Full Term Protection
The necessary repair or replacement was completed within 30 days.	Yes	No
The necessary repair or replacement could not be reasonably completed within 30 days, but work has commenced and a repair is being pursued.	Yes, extended until 6 months after repairs completed and Notice of Satisfaction is delivered to the City and the tenant.	No
The necessary repair or replacement occurred because of willful misconduct or gross negligence by the tenant.	No	No
The tenant refused to allow access to the apartment and prevented the repair from happening.	No	No
The property owner appealed the existence of the Material Code Violation and the appeal was sustained.	No	No

Tenant May contest the determination that the repair was satisfied within 10 days of receiving the Notice of Satisfaction and being notified by the City that the repair has been completed if:

	Tenant Entitled to Limited Term Protection	Tenant Entitled to Full Term Protection
The repair or replacement was not completed.	Yes	Reconsideration of Full Protection
The repair or replacement was incorrectly completed.	Yes	Reconsideration of Full Protection

REASONS LANDLORD CAN EVICT TENANTS WHO RECEIVE GOOD CAUSE PROTECTIONS

Tenants covered by Just Cause protections can only be evicted for Just Cause. This means that tenants cannot terminate tenancy unless they demonstrate that there is a Just Cause for eviction.

I. Landlord Requirements

If Landlord chooses to execute a lawful eviction for cause, the Landlord must:

1. Have a valid Residential Occupancy Permit,
2. Properly serve the Notice of Termination to the tenant,
3. Ensure that there are no Code violations on the property, and
4. Ensure that the property and apartment are in compliance with the Apartment Rent Ordinance, including having current registration in the rent registry.

II. Just Cause Terminations

List of Just Cause Terminations that Landlord can qualify to terminate tenancy with tenants

1. Nonpayment of rent
2. Material or habitual violation of the lease
3. Substantial damage to the apartment
4. Refusal to agree to a like or new rental agreement
5. Nuisance behavior
6. Refusing access to the Apartment
7. Unapproved holdover subtenant

Relocation Assistance

Relocation benefits, as stipulated by the Ellis Act, must be paid when a tenant is being removed from an apartment for reasons 8-12.

8. Substantial rehabilitation of the apartment – *Requested in accordance to Law*
9. Ellis Act removal or demolition – *Relocation benefits per proposed Ellis Act Ordinance*
10. Owner move-in – *Base Assistance*
11. Order to vacate – *Benefits stipulated by the City of San José*
12. Vacation of Unpermitted Apartment – *Base Assistance*