

Frequently Asked Questions for Landlords

FAIRFAX RENT STABILIZATION ORDINANCE

1. How much can I raise the rent each year?

This year, the maximum annual rent increase is 3%.

Under the law, the maximum annual rent increase is called the Annual General Adjustment (AGA). **The AGA is set at 60% of the percentage increase to the Consumer Price Index (CPI) for the San Francisco-Oakland-Hayward region, published in April. The AGA can never go above 5% or below 0%.**

In most cases, the AGA will be lower than 5%. [This year, the regional CPI published in April, 2022 was 5%.](#) 60% of 5% is 3%, therefore, the maximum annual rent increase is 3%.

Each year, the maximum allowable rent increase will be recalculated based on the change in CPI over the last 12 months, calculated in April. Landlords are allowed to increase rents one time between September of that year and September of the following year.

2. What if this amount is not enough?

Every landlord has a constitutional right to make a reasonable return on their investment. The ordinance allows every landlord to file a petition in the event that the allowed increase does not provide for a reasonable return on their investment. Once the ordinance is implemented, the forms to file a petition will be available on the Town of Fairfax's website.

3. What happens if I decide that I no longer want to provide laundry, parking, pool, or other housing services?

In general, you cannot change housing services without an agreement from the tenant. In the event that you cannot control the reduction in services, then you will have to reduce the rent an amount commensurate with the reduction in services.

4. Is my property covered by the ordinance?

Fairfax's ordinance will cover most residential rental units. However, there are several exclusions from the law. If your units fall into one of the following categories, Fairfax's Rent Stabilization Ordinance does not apply to your property:

This flier contains general information on Fairfax's Rent Stabilization Ordinance based on information available in the first week of November 2022. Every situation is different and this flier is not a substitute for legal advice. Tenants are encouraged to consult with a tenant attorney regarding their individual tenancy. Receipt of this information does not create an attorney-client relationship.

1. Single-family homes (where only one rental unit exists on the property)
2. Condominiums
3. Properties built after February 1, 1995
4. Dorm rooms
5. Mobile homes in mobile home parks
6. Hotel rooms, if you stayed in the room for less than thirty days
7. Hospitals, medical facilities, and other facilities where people receive care
8. Rental units which a government agency or authority fully owns, operates and manages
9. Units where the rent is limited by a legally binding restriction that restricts rent to no more than affordable rent

5. If one of my tenants moves out and a new tenant moves in, can I raise the rent beyond the annual maximum rent increase set by the ordinance?

Yes.

Rent control only applies to a given tenancy. If a tenant moves out, there are no restrictions on how much you can charge in rent for the new tenant.

6. When does Fairfax's Rent Stabilization Ordinance go into effect?

December 2, 2022 is the effective date of the ordinance, however the ordinance will not be implemented until such time as the petition and hearing process has been fully implemented. The Town Council will set an implementation date by resolution expected within the next few months.

Fairfax's Rent Stabilization Ordinance is effective on December 2, 2022, but will not be implemented until such time as the Town Council sets an implementation date. This is expected within the next few months.

7. Is Fairfax "rolling back" Rents?

Yes, once the rent stabilization ordinance is implemented, but only to establish a base rent to which a maximum annual increased could be added (see item 1 above).

For existing tenants, if you raised the rent after February 2, 2022, the rent must be rolled back to the February 2, 2022 rent plus the annual maximum rent increase of 3%. This rent amount will be effective on the implementation date. This means the rent charged should be rolled back to the amount you were charging on February 2, 2022, plus 3% (see further details below on how to calculate the new rent). It should be noted that the petition and hearing process will not be ready for use until such time as the Town Council sets an implementation date.

This flier contains general information on Fairfax's Rent Stabilization Ordinance based on information available in the first week of November 2022. Every situation is different and this flier is not a substitute for legal advice. Tenants are encouraged to consult with a tenant attorney regarding their individual tenancy. Receipt of this information does not create an attorney-client relationship.

For new tenants that enter leases beginning on and after December 2, 2022, you may set the initial rental rate at an amount of your choice. However, this rate will become the base rent subject to the ordinance's annual general adjustment going forward.

8. How do I calculate the correct rent?

Once Fairfax's Rent Stabilization Ordinance is implemented, you can figure out the correct rent using the formula below:

A. If the rent changed after February 2, 2022:

If you raised the rent after February 2, 2022, you can use this formula to roll back the rent:

$$(rent\ on\ February\ 2,\ 2022) + (rent\ on\ February\ 2,\ 2022 \times .03) = New\ rent\ amount$$

Example: If a tenant was paying \$2,000 on February 2, 2022, and had a rent increase to \$2,200 after that date, you would apply the formula like this:

$$\begin{aligned} (\$2,000) + (\$2,000 \times .03) &= \text{new rent amount} \\ \$2,000 + \$60 &= \$2,060 \\ \$2,060 &= \text{new rent amount} \end{aligned}$$

\$2,060 would be the tenant's new legal rent, even though at one point, their rent was higher than this.

B. If the rent did not change after February 2, 2022:

If your tenant's rent did not change after February 2, 2022, you do not need to calculate a rollback, their rent stays the same. You can raise your tenant's rent by up to 3% if you issue a thirty-day notice and have not already increased their rent in the past year (i.e. December 2, 2021-December 2, 2022).

9. Do I need to reimburse my tenants for the difference between the rent I collected before February 2, 2022 and the new rent that starts December 2, 2022?

No. The rollback only changes the rent owed after December 2, 2022.

10. Do I need to reimburse my tenants for the difference between the rent I collected after December 2 until the implementation date?

This flier contains general information on Fairfax's Rent Stabilization Ordinance based on information available in the first week of November 2022. Every situation is different and this flier is not a substitute for legal advice. Tenants are encouraged to consult with a tenant attorney regarding their individual tenancy. Receipt of this information does not create an attorney-client relationship.

Yes, if you increased the tenant's rent after February 2, 2022 and the amount of the increase was more than 3%. You would reimburse the tenant in the amount that the tenant paid that exceeded the lawful 3% increase.

11. Do the tenants have to pay the rent owed through December 2, 2022?

Yes, if the rent amount is otherwise legal.

Until rent stabilization is implemented, tenants need to pay all otherwise legal rent increases.

There may be reasons that previous rent increases were illegal. For example, before Fairfax's Rent Stabilization Ordinance begins, it is illegal to raise rents more than ten percent in one year. It is also illegal to raise rents with less than ninety days' written notice.

12. What if the tenant signed a new lease after February 2, 2022?

They do not lose their rollback rights.

Fairfax's Rent Stabilization Ordinance says that a tenant cannot waive any part of the law by signing a contract. Even if your tenant signed a new lease, they are able to use the rent calculation method described above.

14. Who sets the base rent?

For new tenancies, landlords set the base rent without restriction. For existing tenancies, the base rent is whatever the rent was on February 2, 2022.

This flier contains general information on Fairfax's Rent Stabilization Ordinance based on information available in the first week of November 2022. Every situation is different and this flier is not a substitute for legal advice. Tenants are encouraged to consult with a tenant attorney regarding their individual tenancy. Receipt of this information does not create an attorney-client relationship.