



CITY OF OAKLAND

AGENDA REPORT

DATE: May 25, 2022
TO: Council Colleagues and Members of the Public
FROM: Councilmember Carroll Fife
SUBJECT: **Ordinance To Modify The CPI Rent Adjustment**

RECOMMENDATION

Adopt An Ordinance Amending Chapter 8.22 Of The Oakland Municipal Code (Residential Rent Adjustments And Evictions) To (1) Make The Annual Permissible Rent Increase For Covered Units 60% Of The Percentage Increase In The Consumer Price Index Or 3%, Whichever Is Lower And (2) Align Annual Adjustment Period With State Law.

EXECUTIVE SUMMARY

The City of Oakland's Rent Adjustment Ordinance allows for an annual rent increase based on the regional Consumer Price Index (CPI). The current rate for increase is 1.9% of CPI but effective July 1, 2022, unless the Council takes action, the maximum allowable rent increase for covered units in City will be 6.7%. This rate of increase is the highest in decades and it comes at a time when Oakland tenants are facing a myriad of issues, including income and housing insecurity.

The proposed Ordinance would make the annual permissible rent increase for covered units 60% of the percentage CPI increase (instead of the impending 100% of the percentage of increase) or 3%, whichever is lower. Additionally, this proposal would better align the City's annual adjustment period with state law by changing the effective date of annual rent increase to August 1 of each year, instead of July 1 of each year. Moreover, this proposed change would align Oakland with neighboring cities, such as San Francisco and Berkeley who have already place limits on the annual CPI increase. Now, more than ever, it is critical that we advance policy that helps stabilize our communities by ensuring Oakland tenants, who make up a majority of the residents in Oakland, remain housed.

BACKGROUND AND LEGISLATIVE HISTORY

As stated above, Oakland's Rent Adjustment Ordinance allows an annual rent increase for covered units based on the regional CPI. The U.S. Bureau of Labor Statistics announced that the CPI-All Items index rose 5.2% from February 2021 to February 2022, and the CPI-Less Shelter index increased 8.3% from February 2021 to February 2022.¹ Under the current annual

¹ [Consumer Price Index, San Francisco Area — February 2022](#)

adjustment formula, based on these inflationary numbers, Oakland tenants are facing a 6.7% rent increase starting on July 1, the highest in decades. From March 1, 1995 to June 30, 2002 the annual rate for rent increase in the City was 3%. In the years that followed, the highest rate for rent increase was 3.6% in 2003. The following table shows the City’s annual CPI rate for rent increase starting with the current rate.

Table 1: CPI Rate Rent Increase For The Years 2002- 2021²

Year	Rate of Increase
July 1, 2021	1.9% (current CPI)
July 1, 2020	2.7%
July 1, 2019	3.5%
July 1, 2018	3.4%
July 1, 2017	2.3%
July 1, 2016	2.0%
July 1, 2015	1.7%
July 1, 2014	1.9%
July 1, 2013	2.1%
July 1, 2012	3.0%
July 1, 2011	2.0%
July 1, 2010	2.7%
July 1, 2009	0.7%
July 1, 2008	3.2%
July 1, 2007	3.3%
May 1, 2006	3.3%
May 1, 2005	1.9%
May 1, 2004	0.7%
May 1, 2003	3.6%
July 1, 2002	0.6%

Covered Units

Pursuant to Oakland’s Rent Adjustment Ordinance annual allowable increases apply to “covered units”. Generally, residential rental buildings with two or more units constructed before 1983 are covered units.

Units not covered under the Rent Adjustment Program include:

- Newly constructed dwelling units (after January 1,1983)
- Dwelling Units whose rents are controlled, regulated (other than by City of Oakland’s Rent Adjustment Ordinance), or subsidized by any governmental unit, agency or authority.
- Dwelling units in a nonprofit cooperative, owned, occupied, and controlled by a majority of the residents.
- Single-family homes and condominiums

State and Council Action on Rent Increase

In 2019, the California State Legislature adopted the Tenant Protection Act that enacted a statewide cap on rent increases to 5% plus the rate of inflation. To conform with state law, in July 2020, the Oakland City Council adopted an ordinance amending the Rent Adjustment

² <https://www.oaklandca.gov/resources/learn-more-about-allowable-rent-increases>

Ordinance to change the maximum rent increase in any one year to 5% plus the Consumer Price Index change or 10%, whichever is lower.³ This cap applies to all increases in a 12-month period, including CPI, banking, and capital improvement, except for a fair return increase.⁴

In August 2020, the state legislature enacted Assembly Bill 3088 that amended the Tenant Protection Act of 2019 to change the effective date of annual rent increase limits to August 1 of each year. The City's current annual rent adjustment period from July 1 to June 30 creates two rent increase periods each year, one from July 1 to July 31 under new local CPI Adjustment and old state law cap, and a second period from August 1 to June 30 once the state law cap is updated for inflation.

POLICY ANALYSIS

The City's current formula to calculate the CPI rent adjustment is based on an average of All Items and the CPI—Less shelter for the twelve (12) month period starting on March 1 of each calendar year and ending on the last day of February of the following calendar year calculated to the nearest one tenth of one percent. Oakland is the only rent control jurisdiction that uses the average of these indexes. If adopted, the new calculation would be based on CPI-All Items alone and would bring Oakland's choice of CPI index in line with other rent control jurisdictions as well as the Tenant Protection Act. Beginning on August 1, 2022, the CPI Rent Adjustment would be 60% of the percentage increase in the CPI—All Items published for April of that calendar year from April of the immediately preceding calendar year calculated to the nearest one tenth of one percent, or three percent (3%), whichever is lower.

The April 2021 to April 2022 change in CPI-All Items for the San Francisco-Oakland-Hayward area was 5%.⁵ Based on the proposed new formula, the CPI rent increase from August 1, 2022 to July 31, 2023 would be 3% (60% of 5% comes out to a 3% increase). Furthermore, under this proposal, Oakland's CPI rent adjustment would take place in August at the same time as the Tenant Protection Act under state law. Aligning the City's annual rent adjustment period with state law would reduce confusion and allow the Rent Adjustment Program to present a single set of allowable increases in a twelve-month period. With this proposed change, the City would maintain the 1.9% rate of increase until the new effective date for the annual rent increase (August 1) is implemented. Therefore, any CPI increase effective between July 1 and July 30, 2022 that exceeds 1.9%, shall be void and unenforceable. Table 2 shows the allowable rent increase that would take effect upon approval of this legislation.

Table 2: Allowable Rent Increase Under The Proposed Formula

Adjustment Dates	CPI Increase
July 1, 2022 - July 30, 2022	1.9%
August 1, 2022- July 31, 2023	3%
Annually, August 1 - July 31	The Lower of 60% of CPI or 3%

³ [Tenant Protection, Just Cause, & Rent Ordinance Amendments](#)

⁴ Under the City Council's emergency eviction moratorium ordinance, rent increases may not exceed the allowable CPI increase during the local emergency due to COVID-19.

⁵ https://www.bls.gov/regions/west/news-release/consumerpriceindex_sanfrancisco.htm

This proposed change would also put the City of Oakland in line with neighboring cities. Currently, San Francisco limits their annual CPI increase to 60 percent of the change in CPI⁶ and Berkeley limits their Annual General Adjustment to 65 percent of the change in CPI.⁷

The cost of shelter accounts for nearly a third of the Consumer Price Index, the largest component of the index. A report published by the Federal Reserve Bank of San Francisco assessing the relationship between the cost of housing and inflation finds that rising rents account for a significant portion of the inflation we are experiencing.⁸ This system creates a vicious cycle in which a rise in rents drives up inflation and those inflationary numbers can then be used to further increase rents. Rent burdened tenants, who are already paying an exorbitant amount for gas, food, and other expenses are in no position to contribute even more of their income towards housing costs. While the City has placed a 10% cap for allowable rent increase, as adopted in Ordinance No. 13608, this is not a limit that most residents can afford to reach. Furthermore, placing a 3% cap is necessary because even if the City sets the allowable increase to 60% of the change in CPI, if inflation keeps going up, tenants may still face major hikes.

The impact of the COVID-19 pandemic on low-income renters cannot be overstated and thousands of residents struggling to pay rent have yet to receive State Emergency Rental Assistance Program funding (ERAP) support, despite applying. Setting the CPI Rent Adjustment to 60% of the change in the CPI or 3% appropriately balances protecting renters from large rent increases and providing owners a fair return. Owners' operating expenses do not necessarily increase from year to year at the rate of inflation, however many Oaklanders cannot afford a historic rent increase at a time when most are living on limited income and most residents' wages have not gone up to match the rate of inflation. As reflected in Table 1, the average for the allowable rent increase for covered units from 2002-2021 is close to 2.4%, the highest increase being 3.6%. The impending increase of 6.7% is unprecedented and requires immediate action.

COORDINATION/COMMUNITY SUPPORT

This legislation was crafted in collaboration with the City Attorney's Office. Additionally, the relevant City staff, including those in the Rent Adjustment Program, were consulted and have reviewed the legislation.

The proposed change is supported by many tenants and community organizations, many of whom have been emailing the City Council directly over the past several weeks and have spoken during public meetings stating that the potential 6.7% increase is too steep and would result in Oakland residents being displaced.

RACE AND EQUITY CONSIDERATIONS

The impending rent increase for covered units in our City is not equitable. A majority of Oakland

⁶ [Annual Allowable Rent Increase \(sfrb.org\)](https://www.sfrb.org/annual-allowable-rent-increase)

⁷ [Berkeley Annual General Adjustment \(rentboard.berkeleyca.gov\)](https://rentboard.berkeleyca.gov/berkeley-annual-general-adjustment)

⁸ [Will Rising Rents Push Up Future Inflation?](#)

residents are renters and many pay more than 30% of their income for housing costs. A growing number of Oakland tenants, particularly Black and Latinx tenants, are facing housing insecurity, and a drastic increase of 6.7% will undoubtedly place countless people in an even more precarious position. We have a responsibility to our residents, for whom this rent hike would be devastating, to limit the rate for increase as set forth in this proposal. Displacement and gentrification are results of policy decisions and we have to do better for our community.

ACTION REQUESTED OF THE CITY COUNCIL

I respectfully request that the City Council Adopt An Ordinance Amending Chapter 8.22 Of The Oakland Municipal Code (Residential Rent Adjustments And Evictions) To (1) Make The Annual Permissible Rent Increase For Covered Units 60% Of The Percentage Increase In The Consumer Price Index Or 3%, Whichever Is Lower And (2) Align Annual Adjustment Period With State Law.

For questions regarding this report, please contact Rediat Bayeh, Policy Analyst to Councilmember Carroll Fife, at RBayeh@oaklandca.gov.

Respectfully Submitted,



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