

City of San José Housing Department

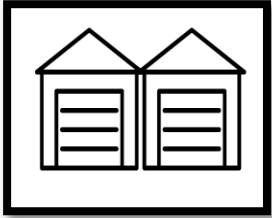
Actions Related to the Tenant Protection Ordinance: Inclusion of Duplexes, Criminal Activity, and Domestic Violence

December 11, 2018 City Council
Item 4.2

Jacky Morales-Ferrand
Rachel VanderVeen
Christopher Alexander

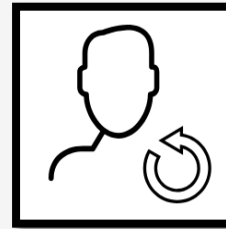


Recent Council Updates



Duplexes

Inclusion of duplexes



Tenant's Right to Return

if acquitted /dismissed/ reduced from criminal action which caused termination of tenancy



Posting a Notice

Prohibiting retaliation, harassment, and intimidation against tenants based upon their immigration status



Victims of violence

Add provision to unapproved holdover subtenant cause to exempt victims of domestic violence

Why Not Recommending Duplexes

Workload

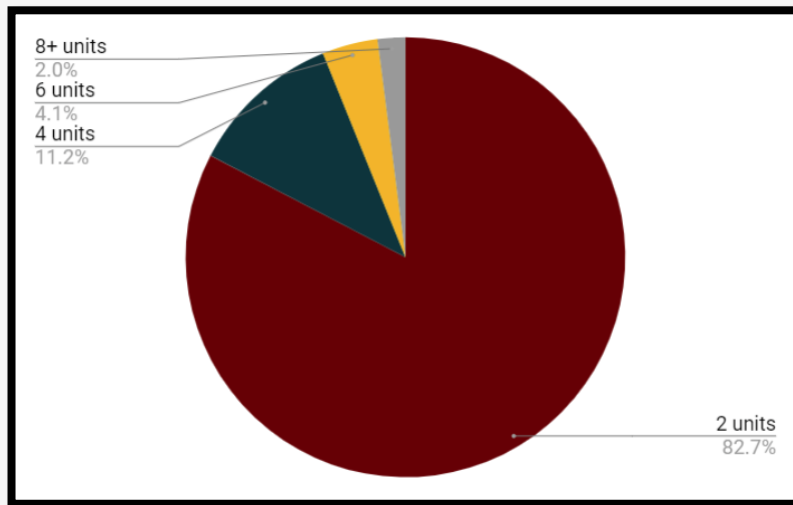
- Rent Registry
- Ratio Utility Billing System (RUBS) Petitions
- Monitoring Plan

Learned More About Duplexes

Does Not Address Tenants' Number One Concern

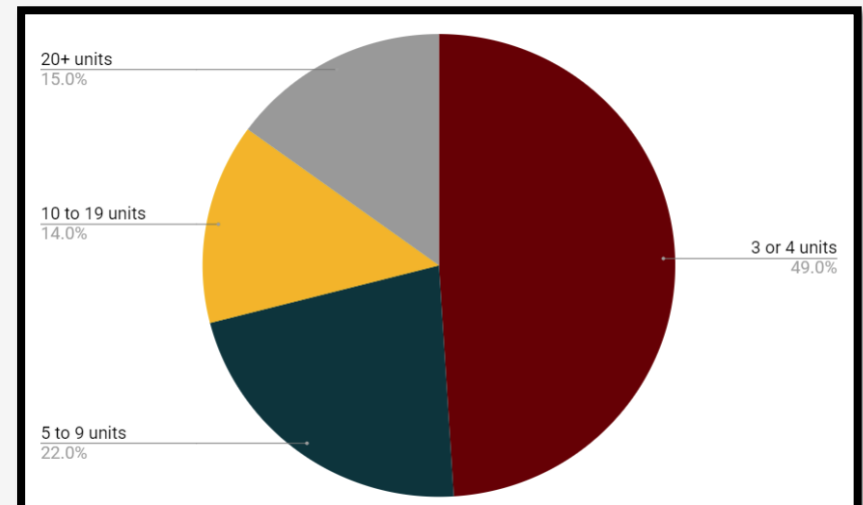
Level of Education Will be Substantial

80% of duplex owners own one duplex building



**Source: Surveys submitted to the City of San Jose, Housing Department – July – Nov 2018*

ARO Owners by Building Size

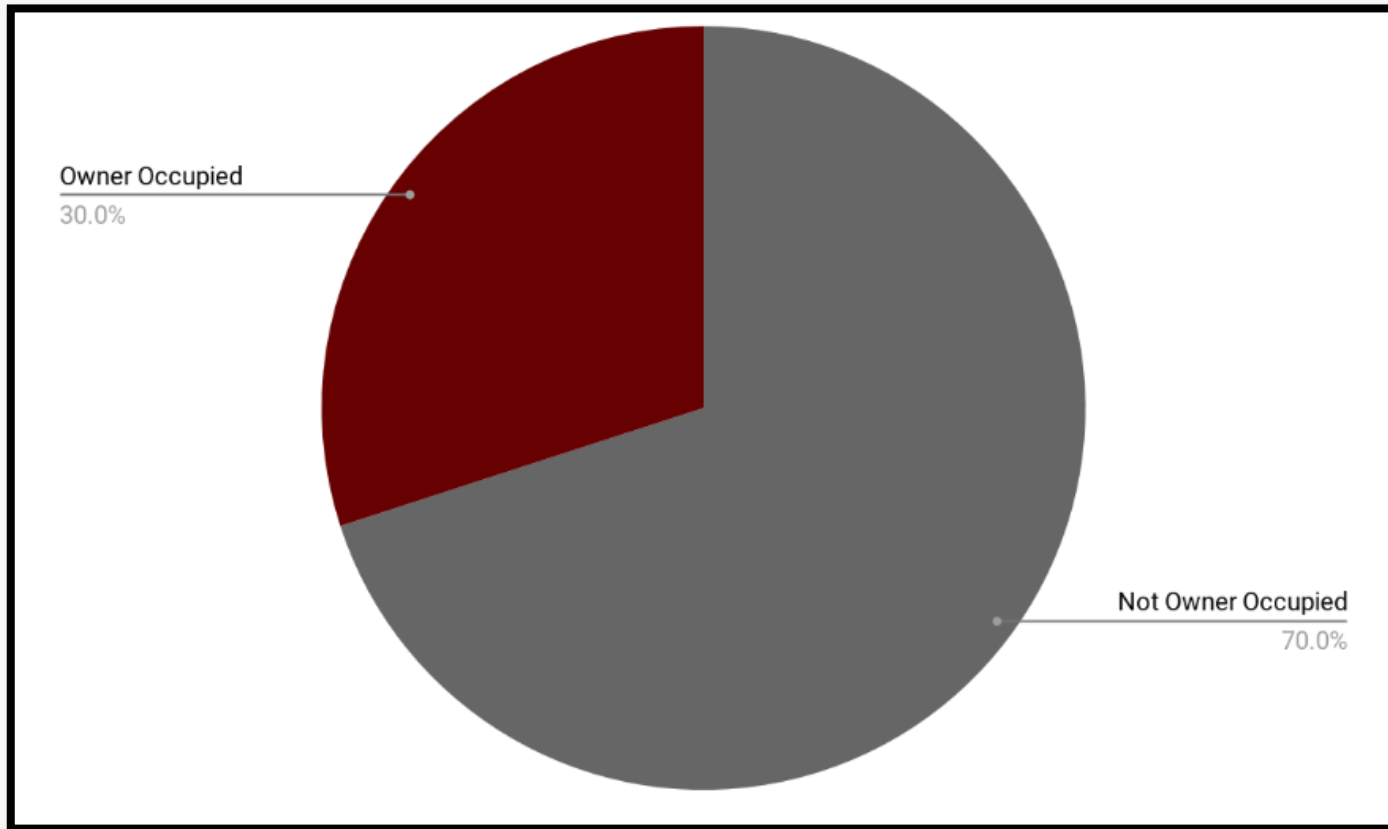


**Source: City of San José Housing Department, Multiple Housing Roster (MHR) database - 2017*

VS

High Owner Occupancy Rate

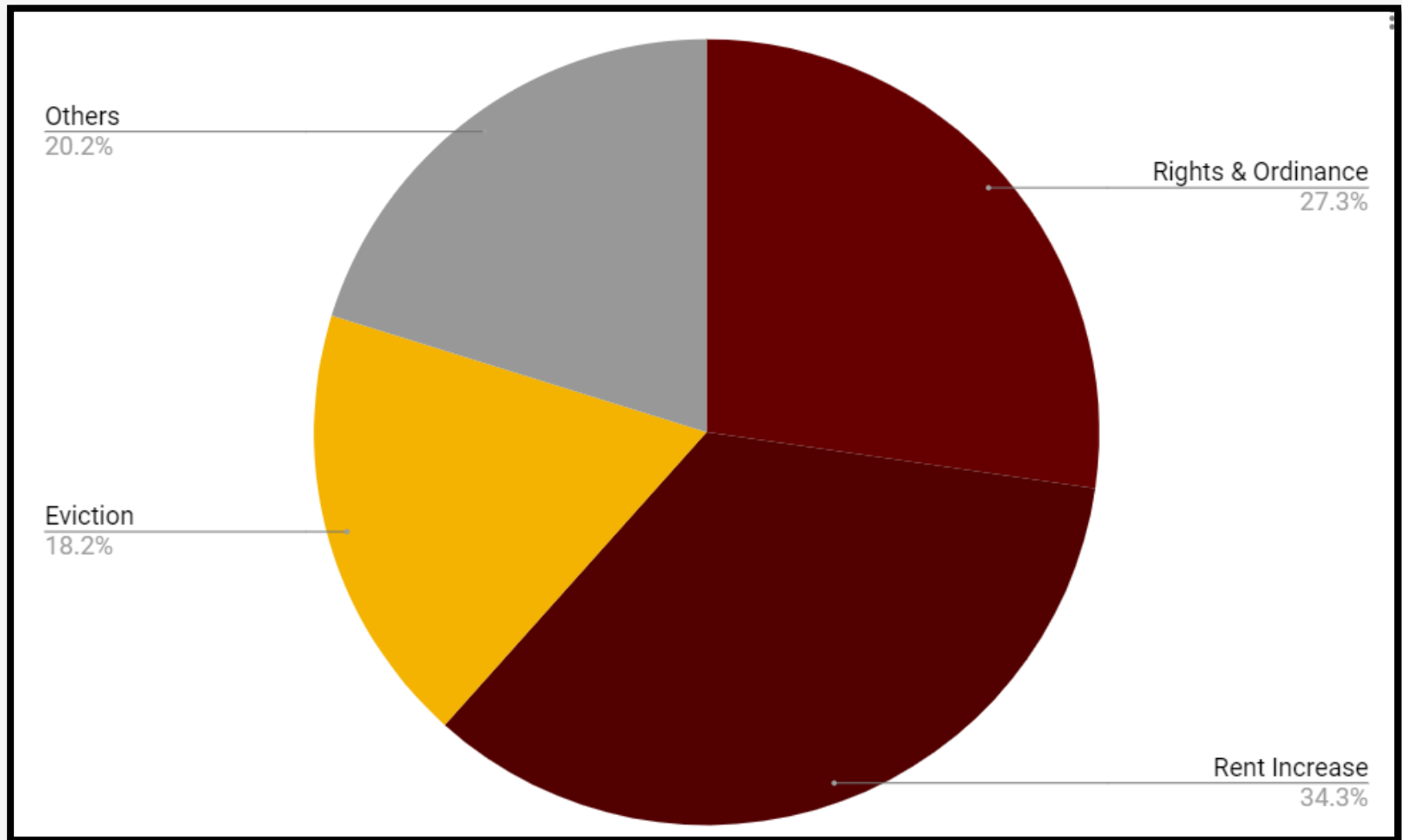
30% of duplexes are occupied by owners



**Source: Santa Clara County Assessor Data – 2018*

***Assumes an average 3.1 tenant household, based on the “2016 ARO Study” Economic Roundtable Study*

Tenants Concerned About Rent Increases



Duplexes Will Not Be Covered by the ARO



Duplexes are not rent stabilized.



Tenant Protection Ordinance without rent control is ineffective.



Other cities that cover duplexes have both rent control and renter protections.

	Duplexes are included in Just Cause Ordinance	Duplexes are Covered by Rent Control
San José	No	No
Richmond	Yes	Yes
San Francisco	Yes	Yes
Los Angeles	Yes	Yes
West Hollywood	Yes	Yes
East Palo Alto	Yes	Yes
Oakland	Yes	Yes
Santa Monica	Yes	Yes
Berkeley	Yes	Yes
Hayward	No	No
Mountain View	No	No

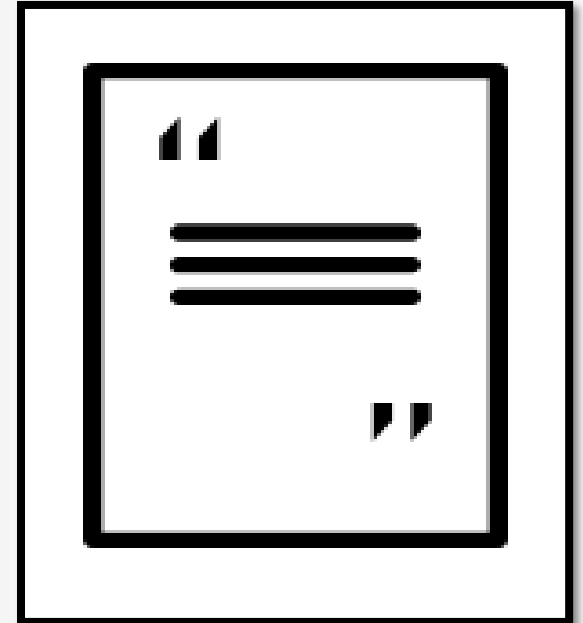
Proposed Amendment: Require TPO Posting



Require **posting** a notice summarizing TPO requirements.

Include:

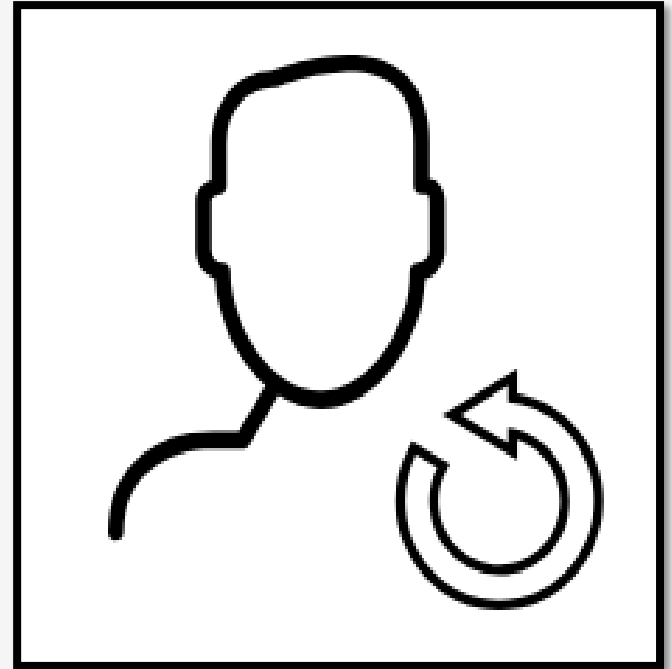
- prohibiting retaliation,
- harassment, and
- intimidation against tenants based upon their immigration status



Proposed Amendment: Right to Return

→ Add a tenant's **right to return** to the tenant household if acquitted, dismissed, or reduced from criminal action which caused termination of tenancy

- **Conditions:**
- Tenant Household remains
 - Tenant Household consents



Proposed Amendment: Victim of Violence



Add a provision that states that nothing in the Ordinance will abrogate the protections afforded to survivors of violence consistent with State and Federal law



Proposed Amendment: Nonpayment of Rent Notices

- ➔ Include referral information in Notices of Termination
- ➔ Served in good faith

Just Cause Submissions		Total
1	Nonpayment of rent	8,903
2	Material or habitual violation of tenancy	274
3	Substantial damage to the rent unit	5
4	Refusal to agree to a like or new rental agreement	5
5	Nuisance behavior	63
6	Refusing access to the unit	3
7	Unapproved holdover subtenant	19
8	Criminal activity	1
9	Substantial rehabilitation of the unit	5
10	Ellis Act Removal	0
11	Owner move-in	15
12	Order to vacate	8
13	Vacation of unpermitted unit	3
Total		9,304

Recommendation

- a) Council to accept one of the two following options:
 - 1) Approve an Ordinance amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to include duplexes with an exemption for owner-occupied apartments.
 - Or**
 - 2) Accept staff recommendation to not include duplexes under the Tenant Protection Ordinance.
- b) Approve an Ordinance amending Part 12 of Chapter 17.23 of Title 17 of the San José Municipal Code to:
 - 1) Add a provision to require the posting of a notice summarizing the requirements of the Tenant Protection Ordinance including prohibiting retaliation, harassment, and intimidation against tenants based upon their immigration status;
 - 2) Add a provision to the criminal activity cause for eviction stating if the tenant is acquitted or the criminal charges which caused termination of tenancy are dismissed or reduced, the tenant is permitted to return to the apartment if the tenant household still resides in the apartment and consents to the return;
 - 3) Add a provision that states that nothing in the Ordinance will abrogate the protections afforded to survivors of violence consistent the Civil Code Section 1161.3, as amended, and the violence against Women Act, Public Law 103-322 as amended, and require a posting to include these rights; and
 - 4) Add a provision to require a statement in the Notice of Termination that it is served in good faith and include a reference to the Rent Stabilization Program for referral information (including homeless prevention).

Recommendation

- c) If an amendment is approved to include duplexes, then adopt a resolution amending the 2018-2019 Housing Schedule of Fees and Charges (Resolution No. 72737, as amended) to extend the Non-Rent Controlled Apartment Unit Fee to Duplexes effective January 18, 2019, in the amount of \$2.65, prorated from the annual Non-Rent Controlled Apartment Unit Fee in the amount of \$6.20.
- d) If an amendment is approved to include duplexes, then adopt the following Fiscal Year 2018-2019 Appropriation Ordinance and Funding Sources Resolution Amendments in the Multi-Source Housing Fund:
 - 1) Increase the Fees, Rates and Charges estimate by \$25,313; and
 - 2) Increase the Non-Personal/Equipment appropriation to the Housing Department by \$25,313.

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