

ELLIS ACT ORDINANCE FACT SHEET

ABOUT THE ORDINANCE

The City's Ellis Act Ordinance outlines the process by which the owner of building with Rent Stabilized Units can permanently remove those buildings from the rental market. The City's Ellis Act Ordinance applies to buildings with four or more unit until June 8, 2018 after which it applies to buildings with **three or more** units. The Ordinance creates a standardized process for issuing Ellis Act withdrawal notices to tenants, recording a summary memorandum, and provides for required relocation benefits, and as well as a Tenant's right to return and the re-control of rents for units returned to the market.

Additionally, the City's Ellis Act Ordinance provides that where buildings with Rent Stabilized and new rental apartments are constructed, currently all newly constructed rental apartments are subject to the City's Apartment Rent Ordinance Effective June 8, 2018, that requirement will change to require that the greater of: 50% of new apartments built or the same number of apartments as were removed from the market are subject to the City's Apartment Rent Ordinance. Additionally, there will be an opportunity for an owner to seek an exemption from these re-control requirements if 20% of the new apartments are built as restricted affordable rental housing built on-site consistent with the requirements of the City's Inclusionary Housing Ordinance and additional .5% of the new units are voluntarily restricted to 100% AMI and built in compliance with the on-site standards in the Inclusionary Housing Ordinance and guidelines.

The City's Ellis Act Ordinance also extends to apartments built after 1979, allowing landlords not subject to the Apartment Rent Ordinance to use the Ellis Act Ordinance if they provide a 120-day notification of withdrawal and relocation consultant services to impacted tenants. These properties are not subject to the requirement to pay base or qualified relocation assistance or provide a right of return.

WITHDRAWING PROPERTIES FROM THE RENTAL MARKET SUMMARY

The State Ellis Act provides that all tenants can be afforded at least 120 days to relocate once they receive a Notice of Intent to Withdraw from the property manager. The information below is intended to provide a high-level summary.

#	Timeline	Activity or Event	Party
Withdrawal			
1		Notice of Intent to Withdraw ("Withdrawal Notice" or "Notice") provided to tenants (if any) <ul style="list-style-type: none"> ▪ Base Assistance payment is deposited into Escrow ▪ Fee is paid to the City 	Property Owner
2	Within 10 Days of delivery of Notice to tenants	Copy of the Withdrawal Notice(s) delivered to the Director	Property Owner
3	Within 10 Days of delivery of Notice to City	Record summary memorandum encumbering the property for 10 years	Property Owner
4	120 Days from delivery of Notice to the City	Earliest effective date of withdrawal of a building from the residential rental market ("Withdrawal"); or earliest date to provide tenant 3-day notice to quit.	Property Owner
5	1 Year from delivery of Notice to the City	Earliest effective date of Withdrawal if tenant household includes one or more identified vulnerable populations: <ul style="list-style-type: none"> ▪ Senior citizens (62+): one year ▪ Terminally ill: one year ▪ Catastrophically ill: one year ▪ Disabled individuals: one year ▪ Families with enrolled school-aged (K-12th) children: 120 days or 60 days beyond the end of the current school year, whichever is greater 	Property Owner & Tenant
6	After tenants receive Notice of Intent to Withdraw	Owner must submit Monthly Activity Report to City and include move-out activity until apartments are withdrawn.	Property Owner



Re-Control & Return to the Market

7	120 days prior to the property being re-rented	Owner must submit a report and include status of Tenant notification of right to return and list of tenants not found/contacted.	Property Owner
8	Within 5 Years of Withdrawal	Owner must notify City of intent to return apartment to residential rental market. <ul style="list-style-type: none"> ▪ Tenant displaced by Withdrawal has right to return to the apartment. ▪ Apartments returned to market after Withdrawal remains subject to Apartment Rent Ordinance. ▪ When the withdrawn units are demolished and new apartments are built the Apartment Rent Ordinance applies to the greater of : 1) 50% of newly-constructed units; or 2) the same number of previously demolished withdrawn units. (change effective June 8, 2018) 	Property Owner & Tenant
9	Within 10 Years of Withdrawal	Owner must notify City of intent to return apartment to residential rental market. <ul style="list-style-type: none"> ▪ Tenant displaced by Withdrawal of apartment has right to return to the apartment. 	Property Owner & Tenant

RELOCATION ASSISTANCE

When the property owner withdraws a building containing a Rent Stabilized Unit (until June 8, 2018, three unit buildings are not covered by) from the residential rental market, the landlord must pay and the tenant household must receive Relocation Assistance made available in two installments, including a Base Assistance and, if applicable, Qualified Assistance. The matrix of relocation benefits is below:

CITY OF SAN JOSE - BENEFIT LEVELS*				
BENEFIT TYPE PER COVERED APARTMENT	STUDIO	1 Bedroom	2 Bedroom	3 Bedroom
Base Relocation Assistance	\$ 6,925	\$ 8,400	\$ 10,353	\$ 12,414
Qualified Assistance (40% of Total Base Relocation)	\$ 2,770	\$ 3,360	\$ 4,141	\$ 4,966
Total Base Assistance + Qualified Assistance	\$ 9,695	\$ 11,760	\$ 14,494	\$ 17,380
Special Assistance (Moving Costs)	\$ 1,200	\$ 1,400	\$ 1,700	\$ 2,000

*The amounts set by the City Council via the Resolution will be adjusted each year; an increase would be equal to the amounts below multiplied by the percentage increase (if any) in the Consumer Price Index – Rent for all urban consumers in the San-Francisco-Oakland-Hayward area.

Property Owner

Tenant Household

Base Assistance

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| <ul style="list-style-type: none"> ▪ When to deposit into an escrow account – At the time of delivery of the Notice of Intent to Withdraw to the tenants ▪ Escrow account criteria – A San José bank or commercial escrow company ▪ Fund allocation – Not responsible or liable to divide the funds among tenant household ▪ Fee payment – Pay a fee to the City to provide relocation counseling to tenant household | <ul style="list-style-type: none"> ▪ Benefit type – Based on the number of bedrooms ▪ Funds withdrawal – Immediately from escrow ▪ Relocation Specialist Services – Receive services including one site, current information on local vacancies, and relocation plan on a form approved by the city <ul style="list-style-type: none"> ○ Includes services for limited English proficiency tenants |
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Qualified Assistance

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| <p>When to deposit into an escrow account – As soon as the Tenant Qualification Form has been submitted by tenant and verified by the Relocation Specialist and approved by the Director</p> | <ul style="list-style-type: none"> ▪ Qualifications – When at least one tenant is one of the following: 1) lower income, 2) sixty-two years old or older, 3) has a disability, 4) terminally ill, 5) catastrophically ill, or 6) has a custodial or family relationship with a child under the age of 18 that is enrolled in K-12 schools ▪ Complete a Tenant Qualification Form ▪ Fund withdrawal from escrow – Whichever is earlier: <ul style="list-style-type: none"> ○ 1st business day after giving a 30-day notice, or ○ Last day of tenancy and owner has received rent |
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Special Assistance

This amount of relocation assistance applies when a tenant household accepts an offer of an alternate Rent Stabilized apartment in lieu of base and qualified assistance.

Security Deposit

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| <p>Refunding Security Deposit – Refund any security deposit paid by the tenant, but owner can withhold any properly itemized deductions</p> | <p>Paying rent – Must pay rent until final day and prepare to move out</p> |
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Please note that this document is intended for informational purposes only, not legal advice. The fact sheet may be incomplete as it is a brief summary of the Ellis Act Ordinance. Please visit our website at www.sanjoseca.gov/rent for the most up to date fact sheet and complete details of the Ellis Act Ordinance.