

ELLIS ACT ORDINANCE FACT SHEET

The City’s Ellis Act Ordinance (“Ordinance”) outlines the process required of owners who intend to remove buildings with rent stabilized units from the rental market. This process includes, but is not limited to, providing notice and relocation assistance to existing tenants, providing notice to the City, recording a memorandum with the County, payment for a relocation consultant, providing the right to return, and providing re-control of new apartments built where rent stabilized buildings were previously located.

PROVIDE NOTICING REQUIREMENTS – NOTICE OF INTENT TO WITHDRAW

TO THE CITY: Owners must provide notice of intent to withdraw to the City for every rent stabilized building being withdrawn from the rental market. All forms required are available on the City’s website.

TO THE TENANTS: Tenants living in apartments built after 1979 (not rent stabilized) requires a 120-day notice. Tenants living in apartments built before 1979 (rent stabilized) requires minimum 120-day notice or up to 1 year if special eligibilities are met.

COMPLETE RECORDING MEMORANDUM WITH COUNTY OF SANTA CLARA

Within ten days of providing the City with its notice of intent to withdraw, property owners must record a City-approved Memorandum against the parcels with rent stabilized buildings in the Official Records of the County of Santa Clara.

PROVIDE RELOCATION ASSISTANCE TO TENANT HOUSEHOLDS

For rent stabilized apartments built before 1979, the property owner must pay to the tenant household Relocation Assistance in two installments, Base Assistance and, if applicable, Qualified Assistance. For apartments built after 1979, the property owner does not need to pay relocation assistance but provide relocation counseling assistance to households.

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.*

RE-CONTROL REQUIREMENTS FOR NEWLY BUILT UNITS

The City’s Ellis Act also requires recontrol of a portion of newly-built apartments offered for rent within five years of demolishing former rent stabilized buildings. Re-control means that the apartments are subject to the Apartment Rent Ordinance (ARO). The number of apartments subject to re-control is either the same amount of units that were demolished, or 50% of any newly-constructed units, whichever is *greater*. For example, if there are 20 rent stabilized units being demolished to build 200 rental units, 50% of the 200 units, or 100 units, is subject to the ARO.

WAIVER OF RE-CONTROL IF PROVIDE ON-SITE AFFORDABLE UNITS: Alternatively, the re-control requirements may be waived if the owner develops 20% of the total project’s rental units as onsite affordable rental units, subject to the standards and affordability restrictions of the Inclusionary Housing Ordinance. The Inclusionary Housing Ordinance requires that 5% of the total project units be rented at rents affordable to households of moderate income at 100% AMI, 5% of the units be rented at rents affordable to households of lower income at 60% AMI, and 5% of the units to be rented at rents affordable to households of very low income at 50% AMI, for a period of no less than 99 years. Additionally, the owner is required to provide an additional 5% at 100% AMI to meet the 20% affordable unit count under the Ellis Act Ordinance.

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PART 1: PREPARING FOR WITHDRAWAL

- **Contact the Rent Stabilization Program:** Property owner contacts the Rent Stabilization Program to learn about the Ellis Act process. Determine if project/parcels include apartments are rent stabilized.
- **Prepare fees & relocation funds:** Prepare base filing fee and per unit fee if 10 units or more. Based on the number of occupied units, prepare relocation funds per tenant household. Additional relocation funds may be requested if the tenants are eligible for special assistance.
- **Prepare recording Memorandum:** Complete on a City-approved form at least 1 day prior to the sale or transfer of any a property. The Memorandum declares the number of units to be withdrawn and the owner's obligations under Ellis Act.
- **Determine Other applicable local and State Laws:** Review potential application of other City Ordinances (e.g. Inclusionary Housing Ordinance) and California law (e.g. Housing Crisis Act of 2019).

PART 2: SEND NOTICE OF INTENT TO WITHDRAW (WITHDRAWAL NOTICE) FOR ALL UNITS AND PROVIDE RELOCATION ASSISTANCE PER QUALIFICATIONS PER TENANT HOUSEHOLD.

- **Submit fees:** Property owner prepares filing fee and relocation consultant fee to the Housing Department. Please contact staff for fee amount.
- **Deposit funds in escrow:** Property owner must deposit base rental assistance (or qualified assistance if applicable) in an escrow account in the City of San Jose per Ordinance at the time the Notice of Intent to Withdraw is provided.
- **Provide copy to City:** Within 10 days of delivery of notice to tenants, property owner provides a copy of Withdrawal Notice(s) to the Rent Stabilization Program.
- **Prepare recording memorandum:** Record a City-approved Memorandum against the parcels with rent stabilized buildings in the Official Records of the County of Santa Clara within ten days after providing the City with the notice of intent to withdraw.
- **Relocation specialists provided to tenants:** The Rent Stabilization Program upon receiving the fees will introduce the relocation specialists to work with the tenants to develop a relocation plan. The property owner may also propose alternative relocation plan if there are other units available within portfolio in the City.
- **Tenants have 60 days to submit City approved form to request additional time or qualified assistance funds:** The relocation specialist provides assistance to tenants to determine eligibility. Tenants who meet the following qualifications would be eligible for additional time: senior citizens (62+), terminally ill, catastrophically ill, disabled individuals, families with enrolled school-aged children.
- **Tenants will work with relocation specialists to relocate within 120 days or up to a year:** Tenants will have 120 days or up to a year to work with the relocation specialists to relocate. Tenants may also withdraw funds from the escrow accounts upon receiving the Withdrawal Notice.
- **Submit Monthly Activity:** Property owner must submit a Monthly Activity report to the City and include move out activity until all units are withdrawn and vacant.

PART 3: RENTING THE FORMERLY WITHDRAWN RENTAL APARTMENTS

A property owner returning the apartments to the rental market within 10 years of withdrawing them must:

- Offer the former tenants the right to return to the rental property by providing 120 days' notice;
- Submit a report to the Housing Department at least 120 days prior to re-renting the property. The report must include the status of Tenant Notification of right to return.

If the rental units are returned to the rental market within 5 years of the withdrawal date, then the rent for those units cannot exceed the lawful rent at the time it was withdrawn and any allowable adjustments under the Apartment Rent Ordinance.

PART 4: IF BUILDING NEW RENTAL UNITS, PROVIDE RE-CONTROL OR ON-SITE AFFORDABLE UNITS

If an owner is offering to rent newly built apartments where former rent stabilized units existed, they must inform the City how they will satisfy the re-control provisions by either re-controlling a portion of the units or providing 20% onsite affordable rental units. If re-control applies, the owner must register each of the newly constructed rent stabilized units. Onsite affordable units must meet the standards and affordability restrictions under the Inclusionary Housing Ordinance.