

ELLIS ACT ORDINANCE

Frequently Asked Questions

1. WHAT IS THE ELLIS ACT ORDINANCE?

The Ellis Act Ordinance is a set of requirements for owners who wish to remove their rental property from the rental market. It applies when an owner or developer plans to demolish or remove apartments from the rental market.

2. WHAT TYPE OF PROPERTIES ARE COVERED UNDER THE ELLIS ACT ORDINANCE?

Apartments built before 1979 are rent stabilized and subject to the Apartment Rent Ordinance. The Ellis Act Ordinance requires 50% of new apartments built on the site of previously rent stabilized apartments be subject to the Apartment Rent Ordinance. The owner is responsible for providing the noticing requirements and relocation benefits to the displaced tenant households. **Apartments built after 1979 and are not rent stabilized.** The owner is responsible for providing the noticing requirements and relocation counseling assistance to the displaced tenant households.

3. WHAT PROPERTIES ARE CONSIDERED RENT STABILIZED?

Properties that are rent stabilized where built prior to September 7, 1979 and contain 3 or more units and are subject to the Apartment Rent Ordinance. If you have questions on if a property is rent stabilized, contact the Rent Stabilization Program at (408) 975-4480 or RSP@sanjoseca.gov.

4. WHAT PROPERTIES ARE NOT COVERED UNDER THE ELLIS ACT ORDINANCE?

The properties not covered under the Ellis Act Ordinance include single family homes, duplexes, condos, townhomes, in-law units/granny flats/accessory dwelling units, hotels, boarding houses rented to transient guests for periods of less than 30 days, nonprofit homes for the aged, school dormitories, rental units owned and operated by any government agency, and properties in unincorporated areas of San José.

5. DOES THE CITY OF SAN JOSÉ PROVIDE ANY OF THE REQUIRED FORMS?

Yes. You can find the list of forms required by the Ellis Act Ordinance at: <https://www.sanjoseca.gov/your-government/departments/housing/renters-apartment-owners/apartment-rent-ordinance/2015-apartment-rent-ordinance-update/forms-fact-sheets>.

6. DOES THE CITY OF SAN JOSÉ ALLOW DEVELOPERS TO PAY THE INCLUSIONARY HOUSING ORDINANCE IN-LIEU FEE FOR THE RENT STABILIZED UNITS?

The Inclusionary Housing Ordinance in-lieu fee does not apply to Ellis Act Ordinance requirements.

7. WHAT DOES IT TAKE TO START THE ELLIS ACT PROCESS?

- Submit notice of intent to withdraw the rental units to the tenant and the City in accordance with the requirements under 17.23.1140.
- Provide tenants with the City form providing the tenant notice of right to extend tenancy.
- Deposit base relocation assistance into escrow account.
- Record City form memorandum with Official Records in the County of Santa Clara.

8. HOW MANY DAYS DOES A TENANT HAVE TO MOVE OUT ONCE THE OWNER HAS STARTED THE ELLIS PROCESS?

- Tenants are entitled to a minimum 120-day notice of eviction and should receive the Notice to Tenant of Intention to Withdraw Rental Units from the Rental Market (Form B) from the property owner.
- Special populations including residents over the age of 62, disabled, terminally/catastrophically ill, and residents with school-aged children must be given up to a one-year extension notice (Form C).

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9. CAN THE PREVIOUS TENANT RETURN TO THE UNIT ONCE THE NEW PROJECT IS FINISHED?

Yes. If the same apartments return to the rental market within ten years, tenants have a right to return to their apartments. If the apartment is demolished and rebuilt, the right to return does not apply under the Ellis Act Ordinance but may apply under state law.

10. ARE THERE ANY FEES ASSOCIATED WITH ELLIS? The property owner must pay a fee to the City to provide relocation counseling to the tenant household. **Note that this fee must be paid to the City prior to the service of the Notice of Intent to Withdraw to any tenant household.** Please make the check payment to: City of San José - Housing Department and contact Marisa.Vela@sanjoseca.gov for the latest fee amount.

- \$2,469 for the first 10 units and an additional amount for the subsequent units (For FY 2020-2021).
- Check Reference: Ellis Act Ordinance Filing Fee for [Property Address]
- Mailing Address:
 - City of San José – Housing Department
 - Rent Stabilization Program (Floor 12)
 - Attn: Ellis Act Ordinance Marisa Vela
 - 200 E Santa Clara Street, San José, CA 95113
- Additionally, Relocation Assistance is required to be paid to the tenant household made available in two installments, including a Base Assistance and, if applicable, Qualified Assistance.