



RENT STABILIZATION PROGRAM

Strategic Plan 2024-2027

**City of San José
Housing Department**

August 2024

INTRODUCTION

The City of San José (“City”) Rent Stabilization Program (“Program” or “RSP”) consists of education, engagement, collaboration, and enforcement of policies and regulations intended to build and maintain safe, healthy, and sustainable communities. Over the last several years, the City has developed, adopted, and implemented policies and programs aimed at protecting its rental community, which according to the City’s 2022-2023 annual report, includes over 38,000 rent stabilized apartments, over 47,000 market rate units (buildings with three units or more built after September 1979), and more than 10,000 mobilehome spaces.

During the past two years, Program staff, with assistance of a consultant, RSG, Inc., for some tasks, performed research, data analysis, and stakeholder engagement focused on assessing program effectiveness. Based on the findings, RSG, Inc. prepared an initial draft of a Strategic Plan (“Plan”) in 2023 to guide program implementation over three years¹, by establishing a set of goals and activities intended to evaluate and improve the effectiveness of the overall program. Program staff further revised the draft Plan after seeking stakeholder input and feedback and aligned the tasks with related goals and strategies for housing stability and tenant protections that were recently developed for the City’s 2023-2031 Housing Element. In addition, the Plan identifies tasks and activities to address the concerns and interests of housing providers.

Rent Stabilization Program Background and Goals

The City originally adopted a rental dispute ordinance in 1979 which covered both apartments and mobilehome park spaces. This ordinance only addressed rent increases and did not require just cause for eviction. In 1985, actions were taken to bifurcate the original rental dispute ordinance so that mobilehome parks and spaces are covered by their own stand-alone ordinance². Beginning in 2017, the City expanded the scope and services of the Rent Stabilization Program through significant legislative and policy changes, including amendments

¹ Due to the rapid changes in housing markets, community demographics, and legislation, the Plan should be reviewed periodically and course action updated after several years at a minimum.

² Mobilehome parks are governed by the State’s Mobilehome Residency Law and having an ordinance that only pertains to mobilehome parks was necessary to avoid inconsistencies or interference with state law.

and adoption of five related ordinances intended to stabilize and protect the renter community³. The current suite of rental stabilization ordinances and their primary goals are as follows:

ORDINANCE	KEY PROVISIONS	PRIMARY GOAL(S)
<i>Apartment Rent Ordinance (ARO)</i>	Limits rent increases to 5% per annum.	Promote stable and long renter tenancy. Stabilize rents in apartments covered by the ARO.
<i>Tenant Protection Ordinance (TPO)</i>	Limits termination notices to 13 just causes; provides for relocation assistance.	Validate just termination of tenancies Maintain tenancies and mitigate displacement of apartment residents.
<i>Ellis Act Ordinance (EAO)</i>	Regulates owner move-ins or demolitions, provides for relocation assistance, tenant right to return, and re-control of new rental units.	Maintain rent stabilized housing stock.
<i>Mobilehome Rental Ordinance (MRO)</i>	Allows rent increases based on 75% of CPI, ⁴ with a minimum of 3% and maximum of 7%. Provides for a fair return petition process.	Stabilize mobilehome rents and support residents to maintain affordable housing.
<i>Housing Payment Equality Ordinance (HPEO)</i>	Prohibits refusing to rent to households due to source of income, such as rental assistance.	Supports low-income households, particularly those who are disabled, single parent, and/or female-led households in gaining equitable housing by combating discriminatory practices.

³ It should be noted that in response to the COVID-19 pandemic, beginning in March 2020 and ending in March 2022, action was taken by the City, state and federal government bodies at different times to limit evictions and rent increases and to ensure emergency rental assistance funds were deployed to housing providers on behalf of impacted tenants.

⁴ CPI = Consumer Price Index

STRATEGIC WORK PLAN GOALS OVERVIEW

This Plan aims to improve the Rent Stabilization Program in three general areas. Each area addresses related key findings derived from data analysis, research, comparable jurisdiction program review, and stakeholder feedback. In general, the three goals of the program are to stabilize housing for families, preserve the units people live in, and provide broad outreach and education to better protect tenants and support housing providers.

Objectives

Goals

<p>1) <i>Family Housing Stabilization</i></p>	<p>Implement programs and employ evaluation tools to increase stability of families and fairness in the rental market⁵</p>
<p>2) <i>Unit Preservation</i></p>	<p>Implement systems and operational enhancements to promote and enable unit preservation⁶.</p>
<p>3) <i>Outreach and Engagement</i></p>	<p>Foster positive relationships between tenants and housing providers and further fair housing through inclusive education and outreach to tenants and housing providers.</p>

⁵The purposes of the Apartment Rent Ordinance are to promote stability and fairness within the residential rental market in the City, thereby serving the public peace, health, safety, and public welfare.” San José Municipal Code Section 17.23.020 – Policy and Purposes Declaration.

⁶ “The Apartment Rent Ordinance recognizes the value of residential rental units as a critical resource amid the continuing shortage of and persistent demand for housing in the City of San José.” SJMC Section 17.23.020

GOAL 1 – FAMILY HOUSING STABILIZATION

Objectives

The main objective of family housing stabilization is to identify and address the specific needs of local communities by leveraging available resources to ensure families remain housed. Family housing stabilization encompasses the programs and policies developed and executed by the City to ensure that families have access to decent, safe, stable, and affordable housing. These initiatives are designed to prevent homelessness and offer support to households experiencing housing instability. Family housing stabilization programs address the financial challenges encountered by low-income renters while carefully balancing the interests of housing providers and the broader housing market.

The City has chosen to implement specific housing stabilization plans that support anti-displacement efforts, mitigate evictions, stabilize vulnerable families, and preserve rent stabilized housing units.

Strategies

The strategy of approach synchronizes the three prongs of engagement: program administration, evaluation, and data collection to ensure alignment with the objective.

Short-Term	
1.1	Administration: Assess staffing level and structure of the current Program to determine when changes or additional resources are necessary to meet the objective.
1.2	Evaluation: Evaluate the frequency of using joint petition submissions and consider enhancements to encourage their use by housing providers and tenants.

Short-Term	
1.3	<p>Administration: Establish an operational policy and database configuration plan for the rental registry to:</p> <ul style="list-style-type: none"> • Notify housing providers and tenants of potential violation if rent increase field is greater than 5%; • Communicate with housing providers and tenants on refunds for any rent increases above the allowed 5% limit for covered units; and • Track when units are subject to eviction proceedings, mitigation actions, and subsequent outcomes. <p>If and when changes are made to the rent registry requirements, the City will need to modify the annual registration process, including housing provider noticing, to include information on the additional requirements.</p>
1.4	<p>Data Collection: Capture socio-economic and demographic data on program forms.</p> <ul style="list-style-type: none"> • Add data fields for total tenure of household in unit, percent change in rent at start of lease and thereafter and notes to explain any unusual circumstances for the unit or tenant and capture socio-economic and demographic data on program forms. Specifically, to include data captured when filing a Petition or Exemption Request
1.5	<p>Evaluation: Determine what resources and procedures are needed to identify and track termination notices and notices to pay, voluntary vacancies, and unlawful detainer proceedings.</p>
Long-Term	
1.6	<p>Data Collection: Establish a tool for tracking impacts/outcomes of tenants displaced through Ellis Act buyouts.</p>

Measuring Performance

The primary program outcomes that will be measured are:

- The number of stabilized households compared to the number of unlawful displacements submitted to the Program.
- The number of rent increases above the 5% limit by registered buildings within the Rent Registry.

- The number of evictions and eviction diversions by supporting vulnerable populations
- The rate of vacancy turnover and cause of vacancy.
- The number of longer-term tenants who received a rent increase year-to-year.

GOAL 2 – UNIT PRESERVATION

Objectives

The main objective of unit preservation is to streamline administrative processes by removing hurdles that slow down unit maintenance and repairs. Preserving existing housing stock is crucial for maintaining affordable housing and supporting community stability. Preserving housing units ensures families have access to decent, safe, and stable affordable housing.

Strategies

The strategy of approach synchronizes collaboration and compliance to ensure alignment with the objective.

Short-Term	
2.1	Compliance: Identify all housing providers of rent stabilized units that are not in the rent registry. Use notification, encouragement, and administrative citations to maintain at least 95% rent registry compliance annually.
2.2	Collaboration: Review capabilities of existing rental registry system to allow for modifications to collect additional information and easily report out on program metrics aimed at measuring program effectiveness. If necessary, the City could consider a request for proposal ⁷ to solicit a vendor that specializes in the creation of such systems that include built-in reporting functions.
2.3	Collaboration: Standardize the registration period dates for consistent comparison across periods.
2.4	Compliance: Automatically notify housing providers and tenants when no data was entered during a registration period.
2.5	Collaboration: Add data fields for unit square feet and tracking of any major rehabilitation and/or damage to building caused by fire or flood.

2.6	Collaboration: Collaborate with representatives of the Police Department, Planning, Building, and Code Enforcement Department, other key City and County Departments including local courts, legal aid and other tenant support groups, churches, and schools to share current trends and concerns in the community as it relates to the Program.
2.8	Collaboration: Establish regular meetings among Hearing Officers to create consistency and coordination, and to elevate best practices.
2.9	Collaboration: Establish a mediation program to support tenants and housing providers in coming to voluntary mutual agreements to their disputes.
2.10	Compliance: Implement a pre-approval process for proposed capital improvements to allow housing providers to determine feasibility of cost recovery.
2.11	Compliance: Establish an education program in partnership with other departments and agencies for housing providers concerning code requirements, resources for unit repairs or general building improvements, climate and utility incentives and programs, etc. Conduct housing provider “Landlord Learning Sessions” targeting smaller landlords, with multi-lingual translation/interpretation and that are held in collaboration with third party service providers and other City Departments.
Long-Term	
2.12	Collaboration: Implement improvements to petition mediation and hearing process.
2.13	Collaboration: Conduct a study to establish base year rent standards for use in fair return petition reviews.
2.14	Compliance: Evaluate the impact to housing providers and tenants due to limits on utility charges.
2.15	Collaboration: Consider a “hardship petition” process for low-income tenants in response to a proposed rent increase petitions from a housing provider.

Measuring Performance

The primary outcomes that will be measured are:

- The number of units participating in the rent registry.
- The total value of unit repairs and improvements.

- The percentage of tenant/landlord petitions resolved;
- The Percentage of tenant/landlord petitions that resulted in voluntary agreement without an appeal;
 - The average rent increase for apartments covered by the ARO
 - The continuing occupancy rate.

GOAL 3 – OUTREACH AND ENGAGEMENT

Objectives

The main objective of outreach and engagement is to collaborate with other entities and foster opportunities for providing services and receiving input from housing providers and tenants that will ensure families and housing providers remain in San José to provide and have access to decent, safe, stable, and affordable housing.

Strategies

The strategy of approach synchronizes collaboration and compliance to ensure alignment with the objective.

Short-Term	
3.1	Community Awareness: Collaborate with community organizations and other City or community-based organizations who can assist in sharing information with the public.
3.2	Community Awareness: Collaboration with community organizations who may have well-established relationships with vulnerable populations, including any grassroots efforts like “promotores” programs, in an effort to increase awareness of tenants’ rights under the ARO and TPO.
3.3	Marketing: Create basic ‘Know Your Rights and Responsibilities’ materials for housing providers and tenants, including fair housing information. Produce materials in multiple languages with accessible vocabulary, photos, and infographics. Create an outreach strategy to share this information widely including partners such as schools, community-based nonprofits, and housing providers. Provide internet links to additional resources including more information on fair housing. Identify eligible ongoing funding sources for this purpose.
3.4	Outreach: Distribute periodic program surveys to tenants and housing providers.
3.5	Outreach: Organize annual stakeholder engagement sessions, such as listening sessions, with mobilehome park tenants and housing providers.
3.6	Community Awareness: Establish standing meetings with housing providers to discuss a broad range of support topics and pursue collaborative initiatives.
3.7	Community Awareness: Collaborate with the State to establish that San José can educate the public about and enforce the California Tenant Protection Act, also known as Assembly Bill 1482. Assess whether desired enforcement authority can be granted administratively or if legislation is needed.
Long-Term	
3.8	Marketing: Increase fair housing education, monitoring, and enforcement in target neighborhoods, especially on source of income discrimination. Consult legal assistance partners and analyze City data to determine target neighborhoods. Create a plan for outreach with nonprofit and community-based partners. Identify additional ongoing funding sources for this activity. Enter into contracts with qualified legal services organizations.

3.9	Outreach: Identify ongoing funding to increase nonprofit organizations' support of San José tenants' and housing providers' rights and responsibilities, including fair housing laws. Increase funding of nonprofits to do broad tenant outreach, education, and in some cases legal representation on housing issues, to lower income tenants in the City. Support a nonprofit-run hotline for information and referrals on general tenant/housing provider issues (not legal advice) for all housing providers and tenants, regardless of income or type of home.
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Measuring Performance

The primary outcomes that will be measured are:

- The number of housing providers participating in the Program.
- The percentage of Program inquiries received by intake channel.
- The number of unique tenants participating in events.
- The number of unique housing providers participating in events and forums.
- Survey data demonstrating overall knowledge of the Program.

Appendix A – Key Observations

In preparing the Rent Stabilization Program Strategic Plan, research was completed and gathered for review. This appendix serves as a summary of this background work providing key observations. As part of the stakeholder engagement process for this Plan, both apartment tenants and housing providers indicated that they were only somewhat familiar with the various provisions of the Rent Stabilization Program. All stakeholder groups provided feedback that minority groups are more vulnerable to displacement and would like the City to ensure protection of these groups, including language accessibility, building trusting relationships with racial minorities, posting requirements for notices in mobilehome parks, and accessibility for people with disabilities. The overall feedback received from tenants and housing providers during the stakeholder engagement process was for greater communication and outreach from the City to ensure housing providers and tenants are aware of the ordinances and enforcement of regulations, particularly for the most vulnerable communities.

Need For High-Quality Data

Collecting high-quality data in rent stabilization programs offers numerous benefits, including accurate decision-making, effective policy evaluation, compliance monitoring, and long-term planning. Reliable data empowers policymakers to make equitable decisions based on accurate information, fostering trust among tenants, housing providers, and policymakers. It allows for the evaluation of existing policies, identification of improvements, and informed adjustments. Furthermore, high-quality data serves as a foundation for proactive long-term planning, enabling anticipation of future challenges and informed strategy development. Basing operations on analysis of high-quality data also enhances the effectiveness and fairness of the programs.

- **Data Transparency** - The City's rent registry system provides a good, but limited, base for the collection of information from housing providers. In its current form, the rent registry can only be viewed and utilized by the City, which reduces transparency and the ability for both housing providers and tenants to access information.
- **Registration Rates** - The rent registry includes units covered by the ARO, which are in buildings with three or more units and built before September 7, 1979. This represents approximately 27% of the entire rental housing market in San José. Over 96% of housing

providers with ARO rental units have registered in the most recent annual registration period. Program staff issues Notices of Violation and Corrective Action letters to housing providers who fail to register their units and issue Administrative Citations if no action is taken to correct the deficiency.

- **Housing Voucher Holders** - There is a lack of program data available for assessing the acceptance rate by housing providers of tenants with rental assistance (e.g., Section 8 vouchers), nor are there any demographic details that would provide insight on potential discrimination. Rent registry analysis shows that approximately 5% to 7% (depending on registration period) of rent registry units are rented to tenants who receive rental assistance vouchers, and that rent increases were greater for those receiving rental assistance vouchers. This suggests a need to better monitor equity impacts for this vulnerable group of tenants.
- **Unlawful Detainer Outcomes** - To effectively measure outcomes specifically related to unlawful detainer court proceedings, it is crucial for the City to establish a reliable method of capturing this data and tracking outcomes. Currently, consistent and accurate reporting of relevant information, such as reasons for eviction and outcomes is not available or feasible to track.

Allowable Rent Increases

The vast majority of ARO tenants experienced rent increases under 5% over the four rent registration periods from August 2018 through September 2022. In the most recent rent registration period (August to September 2022), ARO tenants had an average rent increase of approximately 2%. In contrast, units with new tenants following vacancy decontrol had an average rent increase of 8.7% in the fourth registration period. The average increase over the four registration periods was 2.3%. The low average increase is partly due to COVID-19 related rent moratoriums that occurred for seven months in 2020 and another five months in 2021. Additionally, the rent registry identifies rent increases above 5% are as non-compliant, and the City sends information to the tenant about their rights, to the landlord about their requirements and additional tools to both parties as may be needed to ensure program compliance. Less than 3% of landlords are engaged with to resolve non-compliant rent increases.

- **Allowable Rent Increases in Other Jurisdictions** – A review of rent stabilization policies in six comparable jurisdictions revealed that it is more common to use the Consumer Price Index (CPI) as a variable for setting annual allowable rent increases, versus a fixed 5% in San José. The cities of Mountain View and Inglewood use 100% of CPI, while Richmond, Berkeley, Santa Monica, and West Hollywood use 60-75% of CPI. Several jurisdictions also included a cap or maximum, as well as a floor or minimum for setting annual allowable rent increases. For example, Mountain View uses the CPI change, but also has a max of 5% and a minimum rent increase of 2%. Some jurisdictions also allow housing providers to “bank” allowable increases and apply them in subsequent years.
- **Fair Return** – Any evaluation of rent increases in ARO units must also examine whether housing providers are able to preserve their rights to a fair return on investment under the ARO and its provisions. This would consider the outcomes of any petition for fair return or for specified capital improvements that is submitted to the Program.
- **Coverage Based on Building Type** – The ARO and TPO combined apply only to buildings with three or more units (unless units fall under an exemption) which accounts for approximately 97% of the multifamily units in San José. There are also more than 49,000 duplexes, single-family homes, condominiums, and townhomes in San José that are rented and not subject to the ARO or TPO.⁸
- **Ellis Act Withdrawals** – In the past five years, the number of ARO units has been declining and EAO withdrawals have increased. Although Ellis Act Ordinance affected tenants are entitled to relocation assistance, the number and amount of relocation benefits has not increased at a similar rate. Additionally, data revealed that more rent-stabilized units and fewer market rate units were withdrawn in recent years, and the average relocation assistance amount decreased. Further investigation would be needed to identify the reasons behind these changes.

⁸ Some portion of the 49,000+ rentals not covered by the ARO or TPO are covered by the State’s Tenant Protection Act of 2019 which establishes just cause for eviction protections and an annual rent increase cap.

- **State Law Rent Provisions** – While San José has its own local ordinances that cover most units in multi-family buildings, almost all tenants and rental housing providers in California are subject to a state law known as Assembly Bill (AB) 1482 (The Tenant Protection Act of 2019) that limits rent increases and provides just cause eviction, discrimination, and other tenant protections.

San José ARO and TPO rental units are not subject to most of AB 1482's provisions, but other rental units in the City are covered by AB 1482, like duplexes and units constructed in the last 40 years. For example, units more than 15 years old, but built after 1979, are subject to a rent increase cap under AB 1482. However, if a tenant receives a rent increase above that threshold, they have no mechanism of enforcement available to them and the City does not currently have jurisdiction to enforce AB 1482. Another challenge is that AB 1482 just cause for eviction provisions apply to most duplexes, whereas all duplexes are exempt from the TPO. These differences create challenges to educating the rental community about rights and responsibilities, and for Program staff to analyze and understand trends.

Observations From Other Jurisdictions

Rent stabilization programs have been implemented in many jurisdictions throughout California, several within the last few years. As part of the comparable jurisdiction research process for this Plan, interviews were conducted with representatives from other cities with rent stabilization programs including Mountain View, Berkeley, Richmond, Santa Monica, West Hollywood, and Inglewood. Some of these rent stabilization programs have been in place for several decades, while others were established more recently. Each city's program has its own unique structure and approach. This diversity provides an opportunity to standardize best practices from a range of rent stabilization programs.

- **Mediation Program** - The ARO provides that tenants who live in rent stabilized units may file petitions for mediation and/or a hearing to the Rent Stabilization Program. These petitions may be based on invalid rent increases, health and safety concerns, or a service reduction. Furthermore, the current petition hearing and mediation process may require enhancements. In Mountain View, having separate individuals serve as mediators and

hearing officers was considered a strength. Mediation is a confidential voluntary proceeding where mediators assist parties in coming to a resolution of their own making, which promotes addressing matters outside of the petitions process if the parties wish. In contrast, a hearing officer considers evidence presented by parties at the hearing and in their petition or response and then issues a binding decision. Different hearing officers can present alternative solutions that may lead to more favorable outcomes for both tenants and housing providers. Mountain View's hearing officers hold regular meetings among hearing officers to foster collaboration and stay informed about the latest regulations and developments in the field of rent stabilization.

- **Capital Improvements** – As part of the stakeholder engagement process for this Plan, housing providers reported they struggle with the current capital improvement process. Housing providers believe the limited ability to recoup repair costs through a 3% pass-through creates disincentives for housing providers to make improvements, particularly in older properties subject to ARO regulations. They share that this is due to the financial challenge posed by ongoing repairs without sufficient cost recovery, hindering investment in necessary upgrades.