



## Staff Report

**Date:** September 5, 2023

**To:** City Council

**From:** Valerie J. Barone, City Manager

**Reviewed by:** Kevin Marstall, PE, Director of Community Development

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**Subject:** **Residential Rent Stabilization and Just Cause for Eviction Workshop: Consider information provided by staff, receive public comment, and provide feedback on elements to be incorporated into a Residential Rent Stabilization Ordinance and Amendments to the Just Cause for Eviction Component of the City's Residential Tenant Protection Ordinance.**

**CEQA: Not a project/exempt pursuant to Public Resources Code Section 21065, CEQA Guidelines Sections 15060(c), 15061(b)(3), and/or 15378**

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### Report in Brief

On January 12, 2023, as part of the City's 6<sup>th</sup> Cycle Housing Element Update adoption efforts, City Council directed staff to prioritize drafting a Rent Stabilization Ordinance and a Just Cause for Eviction Ordinance for Council to consider and adopt by December 31, 2023. Housing Staff, in conjunction with consultant group, RSG, Inc. has researched such policies and programs, and engaged the Concord tenant and property owner community for input. This staff report presents policy options for City Council's consideration. The goal of the Council Workshop on September 5 is to receive direction on the development of both prospective ordinances. Subsequently, staff will bring a draft Rent Stabilization Ordinance and Just Cause for Eviction Ordinance before Council for consideration and introduction at Council's November 28, 2023 meeting.

### Recommended Action

Consider information provided by staff, receive public comment, and provide feedback on elements to be incorporated into a Residential Rent Stabilization Ordinance and

Amendments to the Just Cause for Eviction Component of the City's Residential Tenant Protection Ordinance.

### **Background**

Housing affordability in California and the Bay Area continues to be a critical issue. In Concord, there are approximately 47,000 housing units and 45,700 occupied units. Out of the occupied units, approximately 18,000 are occupied by renters; this is approximately 40% of all occupied housing units. More than 48% of renters spend over 35% of their income on housing costs. Out of the approximately 18,000 rental units in Concord, 33.5% (approximately 6,300) are single-family homes, while about 66.5% (approximately 12,000) are in buildings with two or more units. Only 10.5% of units (approximately 2,000) are in rent-restricted affordable developments. Over the ten years from 2011 to 2021, median gross rents increased by 62% for all units. From 2021 to 2022 alone, average rents in Concord increased by 9%<sup>1</sup>. According to the [City's 6<sup>th</sup> Cycle Housing Element Update report](#), nearly half (48%) of renters pay more than 30% of their income on housing related costs, while over a quarter (26%) of renters pay more than 50% of their income on housing related costs. Of renters paying more than 50% of their income on housing costs, 20% (3,665 households) are considered extremely low-income.

The City of Concord is invested in creating effective housing policies that provide protection and opportunities for both tenants and property owners in the City and address tenant displacement. Since 2016, the City Council, its Housing and Economic Development (HED) Committee, and the Rental Housing Ad Hoc Committee have convened over 35 public meetings to specifically discuss the topic of rent stabilization and tenant protections, and have received approximately 100 hours of public testimony on this subject. These efforts have led to the adoption of the City's Residential Rent Review Program (discontinued), [Tenant Protection Ordinance](#), [Rent Registry Program](#), and [Residential Tenant Anti-Harassment Ordinance](#).

To further mitigate the risk of tenant displacement in Concord, the City Council committed to the adoption of a Rent Stabilization Ordinance and a Just Cause for Eviction Ordinance by December 31, 2023 as a program within the 6<sup>th</sup> Cycle Housing Element Update. This commitment was made at a Council meeting on January 12, 2023.

City staff engaged a consulting firm, RSG Inc. (RSG), to assist with researching policy options including evaluating policies adopted in nearby Bay Area jurisdictions, engaging with stakeholders for input and feedback, presenting policy options to City Council to receive further direction, and assisting with the preparation of draft Ordinances in collaboration with Housing staff and the City Attorney.

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<sup>1</sup> The sources of Concord housing data include the [City's 2019 Rental Housing Data Book](#), with the latest available updates from the Census' 2021 American Community Survey, and the City's 2022 Residential Rent Registry Report.

Housing staff and RSG kicked off the process by holding two stakeholder engagement sessions on July 26 and 27, 2023. The first was with property owner representatives and the second was with tenant representatives. Attendees included representatives from the California Apartments Association, Contra Costa Association of Realtors, Centro Legal De La Raza, Monument Impact, Raising Juntos, Todos Santos Tenants Union, EBASE, Public Advocates, Front Porch and others.

Staff also solicited responses from a broader group through the use of non-statistically valid online surveys, available in both English and Spanish, on the City's website from July 31 through August 20, 2023. One survey was geared toward tenants and one toward property owners. Notice of the surveys was sent via social media platforms, the City's e-newsletter, the Housing interested parties list, and by various organizations that work with tenants and/or property owners. A flyer was also made available during three of Concord's Music and Market events held on August 3<sup>rd</sup>, 10<sup>th</sup> and 13<sup>th</sup>, respectfully. Housing staff also solicited feedback from affordable housing providers to better understand the potential impact of rent stabilization and just cause for eviction ordinances on these housing providers. Housing staff also corresponded with affordable housing providers to better understand the potential impact of rent stabilization and just cause for eviction ordinances on these housing providers.

Collectively, through the in-person workshops and the online surveys, 119 tenants/tenant representatives, 118 property owners and their representatives, and three of Concord's affordable housing providers provided their feedback. A detailed account of the input received from the tenants and property owners has been included in Attachment 3 and a summary of the results have been incorporated in the body of this staff report in appropriate locations as each major topic is discussed. Similarly, staff reached out to Concord affordable housing providers and collected their feedback. Their feedback is located in Attachment 5 and incorporated in appropriate locations within this staff report.

#### Concord Rents

According to information gathered via the City's Residential Rent Registry Program, for the reporting period of July 1, 2021 through June 30, 2022, the average market-rate rents in Concord were \$1,715 for a one-bedroom unit and \$1,979 for a two-bedroom unit. Based on a January 23, 2023, report generated through CoStar, in 2022, the average market-rate one-bedroom rent in Concord was \$2,107 per month, and the average two-bedroom rent in Concord was \$2,401 per month. Rents in Concord currently support households earning between 70% to 80% AMI, which is considered to be accessible to low to moderate income households and is generally accessible to working families.

### The Ellis Act<sup>2</sup>

[The Ellis Act](#) allows rental property owners in rent restricted jurisdictions the right to exit the rental housing market, while also placing certain conditions and restrictions on property owners who evict tenants in order to exit the market. For cities which have adopted local rent control, these conditions include a requirement to notify most tenants 120 days prior to withdrawing a unit; however, the notification requirement increases to one year for tenants who are disabled or over the age of 62. Under the Ellis Act, cities which have adopted local rent control may also place restrictions on owners who after removing their units from the rental market choose to re-enter the rental market. These restrictions can include the price they re-rent units, and a requirement that owners offer former tenants a first-right-of-refusal to re-rent their former units.

### **Analysis**

The Analysis Section of this staff report is broken down into seven major components for ease of reading, as follows:

1. Costa-Hawkins and Ballot Measure to Repeal
2. State Law Protections Under AB 1482 and AB 978
3. City of Concord Residential Rental Programs
4. Rent Stabilization Basics
5. Just Cause for Eviction Basics
6. Enforcement and Fees Basics
7. Policy Direction Needed to Develop Rent Stabilization and Just Cause for Eviction Ordinances for Concord
  - Relating to a Rent Stabilization Ordinance (Policies A-E)
  - Relating to a Just Cause for Eviction Ordinance (Policies F-J)
  - Enforcement of Both Ordinances (Policy K)
  - Rent Registry Fee Increase and Pass-Through (Policies L & M)
  - Effective Date of Ordinances (Policy N)

### The Costa-Hawkins Act<sup>3</sup> and Ballot Measure to Repeal

The California legislature adopted the [Costa-Hawkins Act](#), restricting local agencies from establishing rent limits for single-family homes and condominiums, units in buildings constructed after 1995, and tenancies in a newly vacant unit (otherwise known as “vacancy decontrol”). The Secretary of State’s Office announced in April of 2023 that an AIDS Healthcare Foundation initiative to repeal the 1995 Costa Hawkins Rental

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<sup>2</sup> Government Code Sections 7040 et seq.

<sup>3</sup> Government Codes Sections 1954.50 et seq.

Housing Act had gathered enough signatures to be eligible for the November 2024 ballot. Similar state-wide initiatives asking California voters to repeal Costa-Hawkins have occurred twice in the past and failed twice.

Should this ballot measure pass in 2024, Council could request these Ordinances return to them at a public meeting to consider revision of any aspects of the rent stabilization ordinance adopted by the Council affected by the repeal.

#### State Law Protections under AB 1482<sup>4</sup>

In late 2019, the State Legislature passed the California Tenant Protection Act of 2019, otherwise known as [Assembly Bill 1482](#) (AB 1482), which established statewide housing affordability and tenant protection policies, including maximum rent increases, just cause eviction policies, and relocation assistance. AB 1482 went into effect on January 1, 2020 and sunsets on January 1, 2030, unless reauthorized by the State. AB 1482 law does not amend the Costa-Hawkins Act. Local ordinances must comply with the minimum standards of AB 1482 but may also provide further protections and assistance to tenants. AB 1482 includes the following key provisions:

##### *Rent Increases allowed under AB 1482*

- Places an annual rent increase limit based on the lesser of
  - five percent (5%) plus the local cost of living inflation (CPI)<sup>5</sup>, or
  - 10 percent (10%)
- Prohibits more than two rent increases over a 12-month period
- Rent increase limit is only applicable to existing tenants. When filling vacant units or establishing a new tenancy where no tenant from the prior lease remains, the owner can establish a new rent amount based on the market.

##### *Exemptions from AB 1482*

- Properties issued a Certificate of Occupancy within last 15 years
- Single family homes, townhouses, and condominiums, unless owned by investment trust, corporation or LLC
- Owner occupied duplexes
- Properties subject to more restrictive local rent control ordinances

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<sup>4</sup> [AB 978](#) extended just cause protections to renters of mobile homes. The City of Concord currently regulates mobile home space rents under its Mobile Home Rent Stabilization Ordinance (Concord Municipal Code Chapter 15.105).

<sup>5</sup> Consumer Price Index. Based on the one year change in regional CPI of 4.2% as of April 2023, Concord's maximum rent increase under AB 1482 would currently be 9.2%.

- Deed-restricted affordable housing for very low, low, or moderate income
- Higher education dormitories

#### *At-Fault Just Cause Policies in AB 1482*

Property owners may evict tenants who have occupied the premises for 12 months, based on one or more of the following At-Fault Just Causes:

- Non-payment of rent
- Criminal activity
- Material breach of lease term
- Commission of nuisance, waste, or criminal acts
- Refusal to signing a new lease with similar duration and provisions
- Subletting in violation of the lease
- Refusal to allow owner access
- Unlawful use of premises
- Failure to vacate after providing notice of intent to do so

#### *Noticing Requirements in AB 1482*

Property owners must provide notice to tenants of the protections provided under AB 1482 as an addendum to the lease or rental agreement. A property owner claiming exemption from AB 1482 must also include notice to the tenants. A tenancy may not be terminated unless the landlord provides notice in writing with one of the allowable just causes.

#### *No-Fault Just Cause Policies in AB 1482 and Relocation Assistance*

Property owners must provide relocation assistance in the amount of one month's rent, or \$1,000 (whichever is greater) for any no-fault termination. No-Fault Just Causes include:

- Compliance with a government order or a local ordinance that requires vacation of the unit (unless the tenant caused conditions triggering the order);
- Removal of the rental unit from the marketplace;
- Intent to demolish or substantially remodel the unit; or
- Intent to occupy the residential property or for specified family members of the landlord to occupy the property (only if the tenant agrees to such termination or if the lease allows for unilateral termination).

### City of Concord Residential Rental Programs

#### *Mobile Home Rent Stabilization Ordinance:*

In 1994, the City adopted a [Mobile Home Rent Stabilization Ordinance](#) (Concord Municipal Code Chapter 15.105). The ordinance regulates mobile home space rent increases, controls the frequency of rent increases and ties any adjustments to the regional consumer price index (CPI): once every 12 months, mobile home park owners are permitted to increase the rent on mobile home spaces by 80 percent of the percentage increase of the CPI. This policy covers all mobile home parks in the City, which together offer approximately 1,800 mobile home spaces. Although mobile home park space rents are covered by this ordinance, the mobile homes themselves that are being rented by tenants are not covered. The California Mobile Home Residency law provides just cause protections for mobile home owners who rent their space. Just cause for eviction provisions apply to renters of mobile homes through the City's Residential Tenant Protection Program (see below).

#### *Residential Tenant Protection Program:*

In 2020, the City of Concord adopted its own local [Residential Tenant Protection Program](#), effective August 2020 and which currently sunsets in January of 2030, concurrent with the sunset of AB 1482. While the City's ordinance mirrors the just cause protections under AB 1482, it provides for significantly higher relocation assistance for no-fault evictions: the greater of 2 months' rent or \$5,000. The City's ordinance also requires minimum lease terms: landlords must first offer prospective tenants a written 12-month lease and, if not accepted by the tenant, a written 6-month lease before offering a mutually agreed upon written lease for a shorter term, including a written month-to-month lease. The City's Residential Tenant Protection Program also provides just cause protections to tenants renting mobile homes.

The City's Residential Tenant Protection Program also established an updated [Residential Rent Registry Program](#) (Concord Municipal Code Chapter 19.40), which went into effect on July 1, 2021. It applies to all residential rental buildings with four (4) or more units (95% of all multifamily rental units). Property owners must register with the City's contracted Program Administrator. The 2023-24 annual fee is \$5.25 per unit. The City produces an annual [report](#) sharing key data obtained from the program.

#### *Residential Tenant Anti-Harassment Ordinance:*

In 2022, the City established the [Residential Tenant Anti-Harassment Program](#) (Concord Municipal Code Chapter 19.50) which applies to all Concord rental units, including single-family homes, condominiums, duplexes, and apartments, with the goals of preventing landlords and their representatives from harassing tenants, encouraging landlords to follow the law and uphold their responsibility to provide habitable rental properties, giving tenants legal recourse if landlords violate the Residential Tenant Anti-Harassment Program, and providing for tenant recovery of civil penalties and attorneys' fees.

*Residential Rental Multi-Family Inspection Program:*

The City also operates a [Multi-Family Inspection Program](#) whereby multifamily complexes of four or more units are inspected at least every two years. The purpose of the program is to proactively identify blighted and deteriorated multi-family residential buildings, ensure rehabilitation or elimination of rental housing that does not meet minimum Building and Housing code standards, and to ensure that rental housing conforms to maintenance standards. The program also responds to complaints.

Rent Stabilization Basics

Rent stabilization policies regulate rental housing costs to protect tenants from excessive rent increases, while still allowing property owners to achieve a fair return. The key provision is establishment of an annual limit on rent increases, which may be based on inflation or set an established fixed upper limit, or both.

A Rent Stabilization Ordinance may include the following Parameters:

- Covered Units – Not all rental units in a community may be covered by rent stabilization policies. The Costa-Hawkins Act restricts local agencies from establishing rent limits for single-family homes and condominiums, for units in buildings constructed after 1995, and for tenancies in a newly vacant unit (otherwise known as “vacancy decontrol”). In addition, under AB 1482, limits on rent increases cannot be applied to buildings which received a Certificate of Occupancy within the past 15 years. The purpose of this provision is to encourage development of new rental housing.

The City’s Mobile Home Rent Stabilization Ordinance restricts space rent increases, but does not regulate rents for tenants renting a mobile home.

Table 1 reviews the potential multi-family units eligible for participation in Rent Stabilization for properties constructed prior to February 1, 1995<sup>1</sup>.



**Table 1 Potential Units Eligible for Participation in Rent Stabilization – Pre-1995 Properties**

Building Type		Number of Units (*)
Duplexes, excluding affordable units		428
	<i>Built before 1995 (212 properties)</i>	424
3 units and homes with 2-3 rental units on-site, excluding affordable units		98
	<i>Built before 1995 (30 properties)</i>	98
4 units, excluding affordable units		651
	<i>Built before 1995 (163 properties)</i>	651
5-12 units, excluding affordable units		953
	<i>Built before 1995 (121 properties)</i>	933
13-24 units, excluding affordable units		731
	<i>Built before 1995 (39 properties)</i>	698
25-59 units, excluding affordable units		2,160
	<i>Built before 1995 (59 properties)</i>	2,124
60+units, excluding affordable units		3,456
	<i>Built before 1995 (27 properties)</i>	3,065
Total Market Rate Units, built before 1995 (651 properties)		7,993

Source: Contra Costa County Assessor Data, City of Concord Rental Housing Data Book 2016

- **Rent Increase Limits** – Rent stabilization ordinances, which may only regulate certain pre-1995 units, set annual rent increase limits that are typically within a range of 2-8% or which tie rent increases to the change in the regional Consumer Price Index (CPI).<sup>6</sup> Some jurisdictions use 100 percent of CPI as the allowable rent increase, some allow only a percentage of CPI such as 60%, and others allow an amount over CPI, such as CPI + 2%. Some ordinances may establish a rent increase floor that allows for a minimum allowable rent increase even in years when inflation is flat or negative. Some jurisdictions also include bundled services in their definition of rent, such as fees required for parking, utilities, pets, furniture, subletting and security deposits for damages and cleaning. The City’s Mobile Home Rent Stabilization Ordinance caps rents at 80% of regional CPI and includes applicable bundled fees in its rent calculations.

CPI in Concord increased by 32% from 2011 to 2021, while rents increased by 62% during the same period. The annual median income for renter households rose by 49%.<sup>1</sup> However, as noted in the [City’s 6<sup>th</sup> Cycle Housing Element Report](#), 60% of Concord’s renters are very low-income households earning 50 percent

<sup>6</sup> CPI measures the costs of inflation for items such as food and beverages, housing, apparel, transportation, medical care, recreation, education and other goods and services.

AMI or below, and 27% of renters earn above 80 percent of the Area Median Income.

- Rent Banking – Some ordinances include a provision that allows a property owner that did not increase rent by the allowable rate in a given year, to “save” or “bank” the allowable increase and add it on in subsequent years. With such provisions there will still likely be an overall annual limit to prevent large and sudden rent increases.
- Fair Return and Property Owner Petitions – Under State law, property owners are entitled to receive a fair return on their investment in residential property. There is no set standard methodology that is required to be used in determining what constitutes a fair return. However, an ordinance may include a standard or method of calculating an acceptable return on investment within its own jurisdiction. A best practice is to utilize a method known as “Maintenance of Net Operating Income” (MNOI) that is based on allowing a property owner to maintain a similar net operating income for their property as existed before the ordinance was established. This is also the methodology utilized in Concord’s Mobile Home Rent Stabilization Ordinance.

Under fair return policy provisions, the property owner must be allowed to petition for a rent increase above the allowable limit if they can demonstrate they are unable to achieve a fair return.

Testimony and surveys from Concord’s property owners (Attachment 3) suggest that the cost to maintain rental properties is high and rising, with some property owners unable to recoup the costs necessary for property upkeep. Some property owner costs are captured in the CPI, but CPI often excludes items such as property insurance, property management fees, property taxes, repairs and capital improvements, landscaping, pest control, and administrative costs/salaries. These items are factored in when determining if a property owner who files a petition is receiving their fair return on investment as required by State Law.

- Capital Improvements and Property Owner Petitions – It is in the interest of both tenants and property owners that buildings are maintained in good repair and are kept safe and habitable. Capital improvements include major repairs, renovations, and rehabilitation that are beyond ordinary maintenance and repairs, often involving replacement and repair of major building systems such as heating, plumbing, electrical upgrade, and roofs. In order for property owners to afford these investments, ordinances can provide for a method by which some or all of the cost of improvements may be recovered by supplemental rent increases amortized over a given period of time. The amount that can be recovered by a

property owner may be limited in a given year based on a percentage of the total or by spreading the increase over several years.

In some cities, property owners must file a petition for this type of increase, providing documentation of the capital costs. A decision would then be provided with the start and stop date of any capital improvement increase that would be allowed.

Concord's older housing units often require increased maintenance, improvements, and remediation. During the in-person workshop held on July 26, property owner representatives stated that in recent years, the cost of supplies, labor and insurance have all increased causing repairs to be increasingly costly to the property owners, especially to the smaller "mom and pop"<sup>7</sup> property owners. These types of costs could be considered when making a determination for allowing rent increases above the established City limit.

- *Tenant Petitions* – All jurisdictions surveyed have provisions allowing a tenant to file a petition asserting various types of claims against a landlord. Examples include requests for a decrease in rent due to a landlord's failure to comply with various housing laws, substantial decrease in housing services provided, failure to repair or maintain a unit, or failure to discontinue a capital or utility pass-through.
- *Rental Registry* – Adoption of rent stabilization policies at the local level are typically accompanied by creation of a rental registry and a requirement that all property owners subject to the policy register their property and units with pertinent tenancy information, including rental rate increases and any notices or violations. The registry allows tenants, property owners, and City staff to monitor and report on this data.

Concord's Residential Rent Registry program went into effect on July 1, 2021. It requires properties with four or more units to register and report on unit and tenancy information during the annual registration period of June 1 – July 31; from this information, staff publishes an annual [report](#). The City's Residential Rent Registry program will need to be updated to support the program Council adopts for Rent Stabilization.

### Just Cause for Eviction Basics

Concord established Just Cause for Eviction policies in 2020 through its Residential Tenant Protection Program, which includes allowable at-fault and no-fault just causes for eviction, and generally follows the provisions of State Law AB 1482 as described in

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<sup>7</sup> National Association of Realtors defines "Mom and Pop" property owners as those that privately own small rental properties, typically 1-4 units, and locally own 1-3 properties. Out of the 618 total multifamily properties, Concord has 348 properties that are 1-4 units; 339 of Concord's property owners own 1-3 properties<sup>1</sup>.

the section below. Concord's no-fault just-causes protections trigger relocation payments equivalent to the greater of two months of rent or \$5,000 dollars. This is more protective than that offered by the State's relocation assistance requirement of one month's rent or \$1,000, whichever is greater (more information regarding these provisions is provided further in the report). The Residential Tenant Protection Program additionally provides just cause protections to tenants that rent a mobile home.

Just cause for eviction protections limit a property owner's ability to terminate a tenant's lease. Such ordinances include a list of "at-fault" causes that a property owner can cite as a valid reason for terminating a lease. It would also provide a list of "no-fault" reasons when a property owner could require a tenant to vacate.

Local Just Cause for Eviction Ordinances can include the following elements that go beyond that offered by AB 1482:

- Expand the scope of covered/exempt units for just cause and no fault evictions
- Establish thresholds/ requirements for the at-fault and no-fault protections
- Greater enforcement and accountability
- Greater relocation assistance
- Greater noticing periods for termination
- Shorter length of tenancy requirements before the protections apply

#### Enforcement and Fees Basics

- Enforcement - Jurisdictions typically identify program enforcement mechanisms that can include items such as hearing officers, rent boards, and/or provisions for filing in the Civil Court system. Penalties for non-compliance would also be identified. These items are typically associated with an established per unit fee for the Rent Registration Program, which would be utilized to cover the personnel and administration costs. It may also cover certain petition costs should the City choose to do so (see Rent Stabilization Administration Fee section below).
- Jurisdictions either use hearing officers or an appointed commission (or board) to preside over petitions (appeals), which can also be coupled with mandatory mediation. Among local comparable jurisdictions, Richmond<sup>8</sup> and Alameda utilize a Rent Board and Rent Review Advisory Committee, respectively, while Antioch relies on Hearing Officers. Concord engages the services of a hearing officer to implement its Mobile Home Rent Stabilization Ordinance, and requires mandatory mediation between mobile home owners and park owner for non-rental disputes. Retroactive Enforcement – Some jurisdictions established an initial retroactive provision for rent increases. This is intended to keep property

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<sup>8</sup> Richmond uses Hearing Officers for the initial decision.

owners from increasing rents before adoption of the ordinance. Jurisdictions may choose a particular timeframe or event to define the effective date for the Rent Stabilization Ordinance. If this is pursued, it is usually tied to when the Council first made the commitment to pursue the Ordinance, which in Concord would be the Council public hearing on the Housing Element on January 12, 2023.

- *Administration* – A Rent Stabilization Ordinance program requires administration of items such as compliance monitoring, hearings, public information and outreach materials/efforts, and the rent registry. These activities will require hiring additional staff, although how many will depend upon the scope of the program Concord adopts. Examples of staff dedicated to rent stabilization programs in nearby cities: Alameda’s program has ten (10) Full-Time Equivalent employees (FTEs), Antioch includes approximately two (2) FTEs (although the need for more has been expressed by their staff), and Richmond is staffed by 12 FTEs. This count varies depending upon the departments involved in managing the program, the number of units in the program, and the breadth and design of the program. As programs are set up to self-fund, the number of staff necessary to run the program translates into costs to the property owner and possibly tenants. The use of a board or commission, rather than a hearing officer greatly increases the number of staff needed to run a program.
- *Rent Stabilization Administration and Petition Fees* – It is common for local agencies to charge property owners a fee to fund the administration of a rent stabilization ordinance and the rent registry. Petition filing fees may also be charged against a filing party, or the City could carry some or all of these costs for the tenants filing a petition, for example.

Fee structures vary by jurisdiction and can range from \$20 to \$250 per rental unit. The average fee per unit in California for a rent stabilization program is \$195 per unit. In some jurisdictions, as with Concord’s Mobile Home Rent Stabilization Ordinance, a portion of the fee, generally 50%, is passed on to tenants. Concord’s Residential Rent Registry fee is currently established as \$5.25 per unit; however, it does not include any costs associated with implementing rent control.

#### Policy Direction Needed

Direction from City Council is needed regarding specific elements for the two prospective ordinances: Rent Stabilization and Just Cause for Eviction. Staff’s target schedule is to present the draft Ordinances for Council consideration and introduction at the Council meeting of November 28, with second reading on December 12, and effective dates for the ordinances “going live” 30-days after or January 11.

Staff is requesting feedback from Council in the sections below. As a basis for comparison, provisions from AB 1482 as well as those from the ordinances in the three

local jurisdictions of [Alameda](#), [Antioch](#) and [Richmond](#) are noted. These three sample jurisdictions were chosen due to their similarities in renter populations and demographics, and their proximity to Concord. Staff When applicable, input from tenant and property owner stakeholders has also been included.

Relating to a Rent Stabilization Ordinance (Policies A-E)

A. Units Covered by a Rent Stabilization Ordinance

*What type of rental units should be subject to the City’s rent stabilization ordinance?*

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
A1.	Rental Buildings with 4+ units	Concord’s Multi-family Inspection and Residential Rent Registry Programs	<u>Tenants</u> : all Residential units covered, including affordable housing units and those not covered under AB 1482
A2.	Rental Buildings with 2+ units <ul style="list-style-type: none"> <li>can include rented single-family homes with ADUs/JADUs (treated as a duplex)</li> </ul>	AB 1482, Alameda, Antioch, and Richmond	<u>Property Owners</u> : Opposed to greater regulations than imposed by AB 1482. Exempt single-family homes, and smaller “Mom and Pop” property owners.
A3.	Rented mobile homes <sup>9</sup>		

Please see Attachment 1 for further unit coverage details for the cities of Antioch, Alameda and Richmond.

B. Rent Increase Limit

*What should the rent increase limit be set at?*

<sup>9</sup> Mobile home space rents in Concord are regulated by the [Mobile Home Rent Stabilization Ordinance](#).

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
B1.	CPI plus 5%, Max 10%	AB 1482	<u>Tenants:</u> 60% of CPI, Max 3%  <u>Property Owners:</u> Opposed to regulation of rents in general. Many feel that they are currently not getting a fair return on their investment. Want no further restrictions than AB 1482.
B2.	100% of CPI	Richmond	
B3.	70% of CPI, Max 5%, Min 1%	Alameda	
B4.	60% of CPI, Max 3%	Antioch	
B5.	Include bundled fees as part of rent limit increase	Richmond, Alameda	

C. Rent Banking

*Should owners be able to “bank” an allowed rent increase, that they voluntarily choose not to apply, and allow the rent increase to be applied to and compounded with other allowable increases in a future year?*

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
C1.	Not allowed	AB 1482, Antioch, Richmond	<u>Tenants:</u> Opposed to rent banking  <u>Property Owners:</u> Opposed to rent banking; feel that it is difficult to track and implement, and can have negative impacts on tenant/owner relations <sup>10</sup>
C2.	Up to 8%, but no more than 3% per year	Alameda	
C3.	Up to 10%, cumulatively since the last increase		

<sup>10</sup> Property Owner feedback received from in-person workshop held on July 26; most surveyed property owners remain silent on this issue.

D. Petition Process and Discretionary Rent Changes:  
*Should the following petitions be allowable?<sup>11</sup>*

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
D1.	<u>Tenant Petition</u> - may file a petition for a rent decrease with the City due to overcharged rent	Alameda, Antioch, Richmond	<p><u>Tenants:</u>            In favor of tenant petitions if property owner unlawfully increases rents/harasses tenants.            Want a comprehensive definition for housing services.</p>
D2.	<u>Capital Improvement Pass Through Petition</u> - Property owner may file petition to pass through capital improvement costs.	Alameda, Richmond	<p><u>Property owners:</u>            All maintenance costs and fees should be considered when determining a fair rate            In favor of capital improvement pass-through to maintain dignity and safety of properties.</p>

<sup>11</sup> Fair Return on Investment petitions will be drafted into the rent stabilization ordinance to meet State law requirements as explained in the Fair Return and Property Owner Petitions section of this report.



E. Petition Costs

*Should Concord charge a petition filing fee? Please choose one of the following options:*

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
E1.	No petition filing fee for: <ul style="list-style-type: none"> <li>• tenants</li> <li>• property owners</li> <li>• both</li> </ul>	No fee for tenants only: Antioch  No fee for tenants or property owners: Alameda, Richmond	No community input received
E2.	Tenants pay tenant petition filing fee		
E3.	Property owner covers cost of fair return and capital improvement petitions	Antioch	
E4.	Nominal petition fee at time of filing: <ul style="list-style-type: none"> <li>• Fee amount for tenants?</li> <li>• Fee amount for property owners?</li> </ul>		
E5.	Petition costs covered by rent registration fees <ul style="list-style-type: none"> <li>• No: separate filing fee desired               <ul style="list-style-type: none"> <li>○ Tenant Fee?</li> <li>○ Property owner fee?</li> </ul> </li> <li>• Fully covered?</li> <li>• Partially covered?               <ul style="list-style-type: none"> <li>○ What percent covered by rent registration fee and what percent by petition fee?</li> </ul> </li> </ul>		

Relating to a Just Cause for Eviction Ordinance (Policies F-J):

The City's current just cause for eviction protections are contained in the adopted Residential Tenant Protection Ordinance which outlines allowable at-fault and no-fault just causes for eviction, and generally follows the provisions of State Law AB 1482 as described in its corresponding section above. Concord's no-fault just-causes trigger a relocation assistance provision that is equivalent to two months of rent or \$5,000

dollars, whichever is greater. This is more protective than that offered by the State's relocation assistance requirement of one month's rent or \$1,000, whichever is greater.

The in-person workshops and survey results from the tenants and the property owners reveal a desire to add or amend certain provisions of the City's just cause for eviction ordinance. The input received from the community is summarized below each ordinance provision.

However, the City may choose to adopt additional provisions. Most jurisdictions in California follow AB 1482 with additional elements, similar to Concord's Residential Tenant Protection ordinance. For this reason, jurisdictions other than the three comparable cities of Antioch, Alameda, and Richmond are also included, where applicable.

#### *Tenant Requests and Inconsistencies with State Laws*

Certain requests received from tenant representatives (Attachment 4) pertain to longer noticing periods and restricting rent increases in government regulated affordable housing. The view of the City Attorney's Office is that these policy recommendations are prohibited by State law. These policies not included in the policy direction requests in the subsequent sections. All other requests from Attachment 4 and other feedback received from the workshops/surveys have been incorporated for Council's consideration. Specifically, the requests that are not included are:

- A noticing period of 6 months to one year to tenant in the case of substantial renovations and Ellis Act Evictions, with additional noticing requirements for vulnerable populations<sup>12</sup>. The Ellis Act requires property owners provide a 120-day notice to tenants, with a 12 month notice to disabled tenants or those 62 years of age or older.
- Requiring prior approval from Concord's rent program to remove property per Ellis Act. The City can require that the property owner provide notice for this occurrence to the City, but the City has no authority to approve/deny under the Ellis Act.

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<sup>12</sup> The joint letter received from tenant representatives on August 18, 2023 from Monument Impact, EBASE, Todos Santos Tenant Union, and Rising Juntos (Attachment 4), define Vulnerable Populations as "seniors, people with disabilities or terminal illnesses, educators, parents with school-aged children, and low-income households".

Council input is requested in each of these categories:

*F. Which units should be covered by the Just Cause for Eviction ordinance?*

<i>Policy Number</i>	<i>Tenant Feedback</i>	<i>Property Owner Feedback</i>	<i>Other Examples and Example Cities</i>
F1.	All rental units, including mobile homes, single-family homes, and new construction	Remain consistent with AB 1482	Variations of what is included under Tenant Feedback (Richmond and Alameda)

*G. Should Concord establish additional thresholds/requirements for at-fault and no-fault protections?*

<i>Policy Number</i>	<i>Tenant Feedback</i>	<i>Property Owner Feedback</i>	<i>Other Examples and Example Cities</i>
G1.	Define “substantial” in substantial renovations (ex. Require capital improvements definition to be met) (Antioch, Alameda, Richmond)	Remain consistent with AB 1482.	Additional At-Fault Provisions: <ul style="list-style-type: none"> <li>• Subleasing</li> <li>• Tenant caused substantial damage to rental</li> <li>• Tenant refuses to leave temporary housing while repairs occur in rental</li> </ul> (San Francisco and Berkeley)
G2.	Obtain building permits prior to vacating tenant for substantial rehabilitation (Richmond)	Concord has an aging housing stock and owners need flexibility in policy to renovate as needed	
G3.	Tenants right to return to units after renovations are complete (Richmond)	Protect “mom and pop” owners	
G4.	Ellis Act- Obtain prior approval from Concord’s rent program	Protect the diversity of housing stock and types of owners	

*H. Should there be additional enforcement and accountability in the ordinance?*

<i>Policy Number</i>	<i>Tenant Feedback</i>	<i>Property Owner Feedback</i>	<i>Other Examples and Example Cities</i>
H1.	Obtain building permits prior to vacating tenant for substantial rehabilitation (Richmond)	Owner move-ins need to be protected for the smaller property owners	Certification of Owner Move-In: certification to City within specified amount of time (ex. 3 days of serving the tenant; 30 days of moving into the unit) and recertification during period of time required to remain in the unit (ex. each year for 3 years) (Alameda, Richmond)
H2.	Ellis Act- property owner annually certifies to being off market for 10 years (Alameda, Richmond)		To evict, owner must have: <ul style="list-style-type: none"> <li>• (1) Valid business license</li> <li>• (2) served notice of program to tenant as required</li> <li>• (3) notice delivered to City w/in 10 calendar days</li> </ul> (Emeryville)

*I. Should relocation assistance be amended?*

<i>Policy Number</i>	<i>Tenant Feedback</i>	<i>Property Owner Feedback</i>	<i>Other Examples and Example Cities</i>
11.	<p>Base payment of \$10,000, plus \$5,000 per person with cap of \$30,000 per household (N/A).</p> <p>Vulnerable households- double the amounts described above (Alameda, Richmond).</p>	<p><i>Lower</i> of two months' rent or \$5,000, with special hardship exemptions for owners that are financially struggling.</p>	<p>3 months' worth of rent or allow tenant not to pay 3 months of rent (Santa Ana)</p> <p>Owner Move-In and Ellis Act Evictions- \$18,011 with additional \$6,003 for specific populations such as low-income, elderly, disabled, minor children, etc. (Berkeley)</p>
12.	<p>Substantial renovation- Temporarily relocate tenant to comparable unit in Concord or payment to cover hotel, food and laundry costs (Richmond).</p>		

*J. Should the ordinance take effect sooner than required by AB 1482?*

<i>Policy Number</i>	<i>Tenant Feedback</i>	<i>Property Owner Feedback</i>	<i>Other Examples and Example Cities</i>
J1.	Effective immediately upon move-in for all covered units	Remain consistent with AB 1482 and remain 12 months.	30 days into tenancy (Santa Ana)

*Enforcement of Both Ordinances (Policy K):*

*Which one or more enforcement mechanism should Concord adopt? Note, the City utilizes a hearing officer to enforce its other ordinances such as mobile home rent control, the Cannabis competitive application appeal process, and code enforcement.*

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
K1.	Hearing Officer(s)	Alameda, Antioch, Richmond <sup>13</sup>	<p><u>Tenants:</u> Rent Board appointed by City Council with majority tenant Board members and representation from low-income communities of color in Concord.</p> <p><u>Property Owners:</u> Generally opposed to provisions beyond that of State 1482. Mediation services suggested. Want to maintain as much flexibility as possible, particularly for “mom and pop” owners.</p>
K2.	Rent Board (or Committee)	Richmond	
K3.	Mediation and Civil Court		

<sup>13</sup> Richmond begins with a Hearing Officer and appeals are heard before the Rent Board; the Rent Board’s decision is final and binding.

Rent Registry Fee Increase and Pass-Through (Policies L & M):

Concord’s Rent Registry fee of \$5.25 per unit will increase to support the implementation and enforcement of the ordinances. The most significant program costs stem from the need for additional staff to administer the programs and the rent registry software/program.

Both the rent stabilization ordinance and amendments to the City’s just cause for eviction provisions may apply to properties with two or more dwelling units built before February 1, 1995 (i.e. fully regulated units). However, just cause for eviction may be applied to all properties, including single-family homes (partially regulated units). As such, the fee schedule can also change based on if the rental property is fully regulated or partially regulated. Once Council indicates what provisions to include in the respective ordinances, staff will estimate the costs and propose fees.

In evaluating costs, staff has the following questions for Council:

*Should there be a separate fee structure for fully regulated units and another for partially regulated units?*

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
L1.	Fees consistent for both fully regulated and partially regulated units.		None Received
L2.	Larger fee amount for fully-regulated units.	Alameda, Richmond	

*Should property owners be allowed to pass through some of the cost for being subject to these ordinances and participating in the rent registration program onto the tenants? If so, how much?*

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
M1.	Do not allow the pass through	Richmond	<u>Tenants:</u> Pass-through fees should not be allowed.  <u>Property Owners:</u> Want the fees and responsibilities of enforcement to be equally shared between landlords and tenants.
M2.	Allow 50% to be passed through to tenants?	Alameda	

*Effective Date of Ordinances (Policy N):*

*What should be the effective dates of the Rent Stabilization Ordinance and any updates to the City's Just Cause for Eviction Ordinance?*

<i>Policy Number</i>	<i>Policy Options</i>	<i>Sample Jurisdictions</i>	<i>Community Input</i>
N1.	30 days after 2 <sup>nd</sup> reading		<u>Tenants:</u> would like the ordinance to be retroactive to January of 2023.
N2.	2 months prior to Ordinance adoption	Antioch	
N3.	12 months prior	Richmond	
N4.	January of 2023		

**Financial Impact**

It is difficult to project costs until the Council defines the depth and breadth of the programs they are establishing under the new ordinances. However, for context please see Attachment 2 for a summary of program administration costs in other jurisdictions. The following costs should be taken into account: additional staff requirements to



administer the ordinances, rental registry software and administration costs and enforcement.

Additionally, the Council specifically asked for information on the impact of rent control and just cause for eviction ordinances on property tax values and the likelihood of continued residential investment in the community. There is little information and research on the impacts of rent stabilization and just cause for eviction on property values and investment. The Urban Displacement Project (UDP) is a third-party nonpartisan research project sponsored by universities including University of California Berkeley. In 2021, UDP published their [White Paper on Anti-Displacement Strategy Effectiveness](#) (Paper). The Paper notes that there is evidence of when rent control is repealed, the value of a previously regulated property increases slightly. However, the Paper notes that evidence is inconclusive.

The effect of the presence of rent control policies on non-regulated units is unclear. While it seems that the rent and property values of surrounding, non-regulated units may also remain lower with rent control, the Paper notes that the effect is limited and there is uncertainty as to whether this applies in all contexts. The effect of rent stabilization on new development also seems limited since jurisdictions usually exclude new construction from these types of measures.

The City's property tax consultant, HdL Companies, reiterates the lack of complete information. However, they mention that in California the values of properties that do not sell or add new construction are going to grow a maximum of 2% or the CPI whichever is less every year. This means that the tax bills for these rentals continue to increase annually, regardless of the amount of rent charged. Some of the cities with the highest property values have rent control such as San Francisco, Santa Monica, and Beverley Hills. Even this limited information is predicated on the existence of Costa-Hawkins regulations and the existence of vacancy de-control under local rent control regulations.

### **Public Contact**

The City Council meeting agenda was posted. Notice was sent by e-mail to all individuals on the interested party list on August 31, 2023.

Housing staff and RSG held two stakeholder engagement sessions on July 26 and 27, respectively, with property owner representatives and tenant representatives. Staff also solicited responses through an online survey, available on the City's website in both English and Spanish from July 31 through August 20, 2023. Notice of the survey was sent via social media platforms, City e-newsletter, and the Housing interested parties list. A flyer was also made available during Concord's Music and Market events. Collectively, through the in-person workshops and the online surveys, 119 tenants/tenant representatives, and 118 property owners/property owner representatives provided their feedback. Housing staff also corresponded with affordable housing providers to better understand the potential impact of rent

stabilization and just cause for eviction ordinances on these housing providers. Please see the Background section of this staff report for more information.

### **Environmental Determination**

Pursuant to California Environmental Quality Act of 1970, Public Resources Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, “CEQA”), the proposed Ordinance for establishing a rent registry program, Council action on this item does not constitute a “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code Reg. Section 15060(c)(2), 15060(c)(3), or 15378 because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment. In addition, the revision is categorically exempt pursuant to Section 15061(b)(3), “Review for Exemptions” of the CEQA Guidelines because there is no possibility that the project will have a significant effect on the environment, and no further environmental review is required. Moreover, even if Council action on this item does comprise a project for CEQA analysis, it falls within the “common sense” CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” None of the exceptions identified in Guidelines Section 15300.2 are present. No unusual circumstances are present. Therefore, the proposed Municipal Code amendments do not warrant further environmental review.

### **Attachments**

1. Local Jurisdiction Research Tables
2. Examples of Program Administration Costs and Activities
3. Summary of Feedback Received from Tenants and Property Owners
4. Collective Policy Recommendations from Monument Impact, EBASE, Todos Santos Tenants Union, and Rising Juntos
5. Summary of Feedback Received from Affordable Housing Providers
6. Correspondence Received