

# Residential Rent Stabilization and Tenant Protection Ordinance (RRSO)

Christina Morales, Housing Division Manager | Tuesday, June 18, 2019

# Purpose of the New RRSO



- **Provide relief to residential tenants** by stabilizing rent increases for tenants in covered units via a mediation and arbitration program.
- **Increase tenant protections** to alleviate hardship and displacement caused by a serious housing shortage.

Balanced with provisions to:

- **Encourage investment** in new residential rental property in the City.
- **Assure landlords rental income** sufficient to cover the costs of operation.
- **Assure landlords a fair return** on their property.

# Presentation Focus

Summarize key provisions of the Residential Rent Stabilization and Tenant Protection Ordinance (RRSO).

1. Repeal existing RRSO.
2. Replace with proposed RRSO.
3. Reincorporate Just Cause provisions to create comprehensive set of housing policies.

Discuss the costs and fee revenue associated with implementation of the proposed RRSO.

# Recommendations

That the City Council:

1. Introduces the proposed Residential Rent Stabilization and Tenant Protection Ordinance (RRSO);
2. Approves an increased budget allocation to administer the RRSO and the Mobile Home Space Rent Stabilization Program to cover the cost of the expanded scope of the new RRSO; and
3. Approves an increase in the Rent Review Fee to cover the cost of administration of the Ordinances.

# Correction to Proposed Ordinance

Section	Corrections	Language Changes
Section 7(b)	Corrected incorrect section reference in second paragraph.	5(b)(2) to 7(b)(2) 5(b)(3) to 7(b)(3)
Section 7(j)(6)	Correct ambiguity related to burden of proof placing burden solely on landlords.	For Tenant petitions, the burden of proof shall be on <del>both Landlord and Tenant(s)</del> .
Section 10	Corrected incorrect section reference.	5(b)(2) to 7(b)(2) 5(b)(3) to 7(b)(3) 5(b)(1) to 7(b)(1) 5(b)(4) to 7(b)(4) 5(b)(5) to 7(b)(5) 5(b)(6) to 7(b)(6) 5(b)(7) to 7(b)(7)

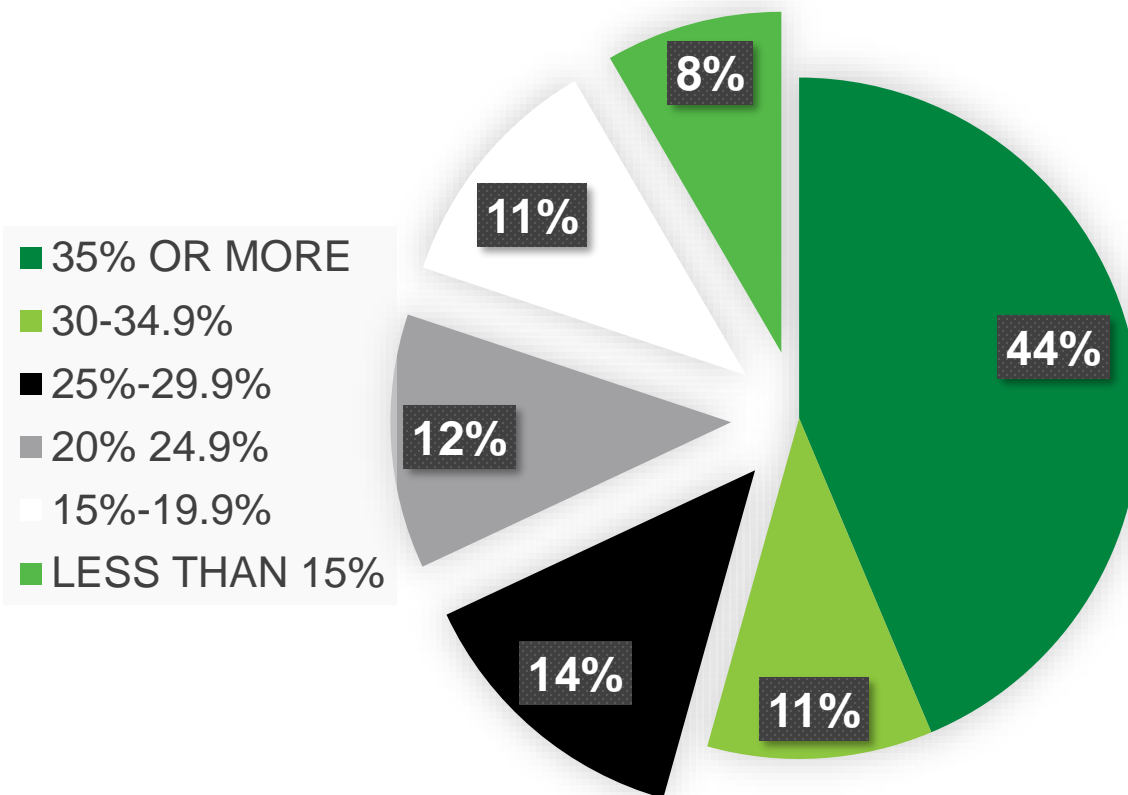
# Correction to Proposed Ordinance

Section	Corrections	Language Changes
Section 11	As communicated to stakeholders, delete requirement to pay annual interest on Security deposits.	Security Deposits shall be collected by the Landlord and administered in accordance with state law.
Section 12(b)(5)	Deleted reference to reporting tenants to U.S. Immigration and Customs Enforcement if contacted by said agency	Influence or attempt to influence a Tenant to vacate a Rental Unit through fraud, intimidation or coercion, which shall include threatening to report a Tenant to U.S. Immigration and Customs Enforcement., <del>though that prohibition shall not be construed as preventing communication with U.S. Immigration and Customs Enforcement if contacted by said agency</del>

# Background

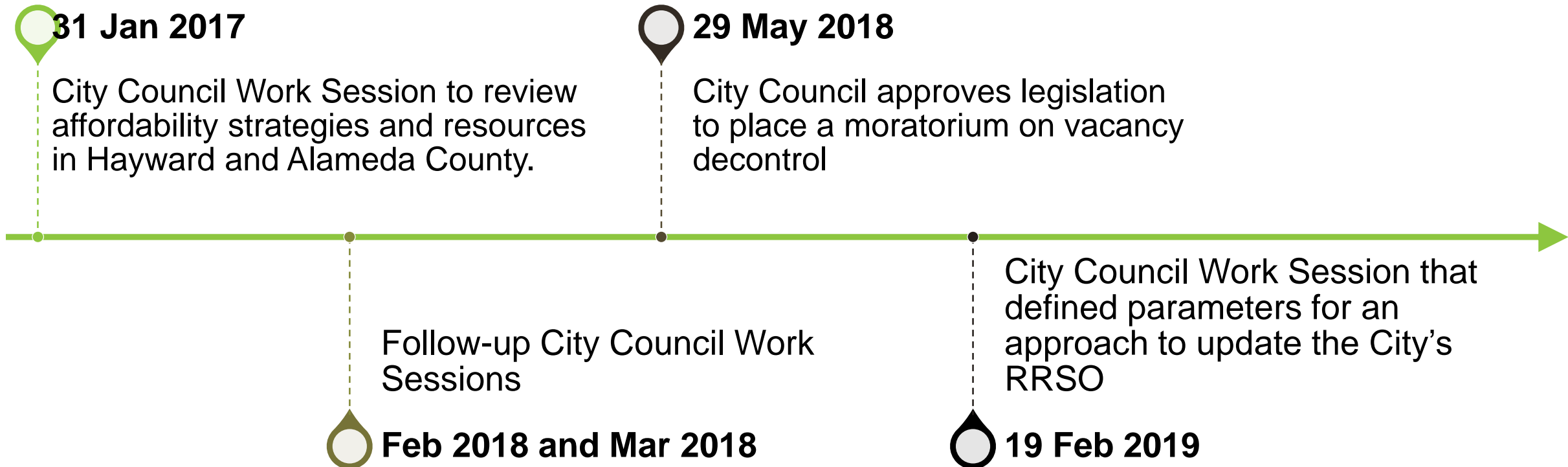
- Housing production has not kept pace with population growth
- 55% of Hayward renters experience a housing cost burden—spending more than 30% of their income on housing
- Between 2013 and 2017, rents increased in the City by 46% while the median income of renters only increased 25%
- From the most recent point-in-time count, the number of people who experience homelessness in Alameda County increased by 43% from 2017 to 2019.
- Regional policy suggestions recommend tenant protections to address cost burden, displacement, and prevent homelessness.

## Rent as a Percentage of Income



Source: American Community Survey 2017

# Background Timeline





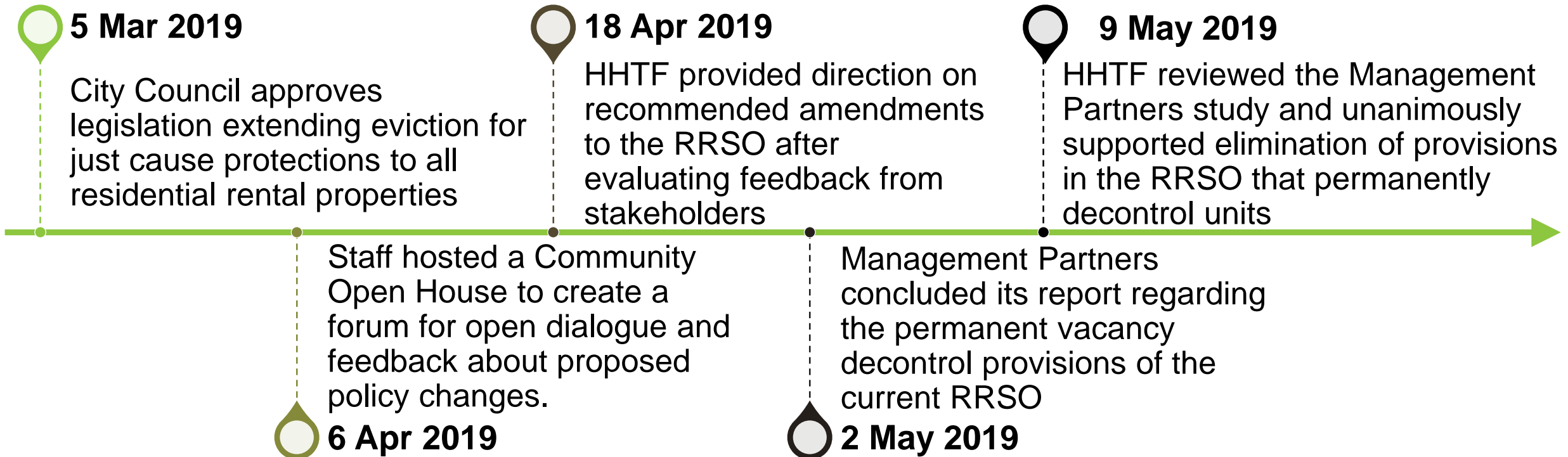
# Council Direction February 19, 2019

- Create a mandatory mediation with binding arbitration program
  - Mediation available to all pre-1979 rental units except single family homes and condominiums
  - Mediation available to rent increases above 5% (including all fees)
- Consider elimination of the permanent vacancy decontrol provisions based on Management Partners report
- Create provisions to protect Section 8 voucher holders from discrimination

# Council Direction February 19, 2019

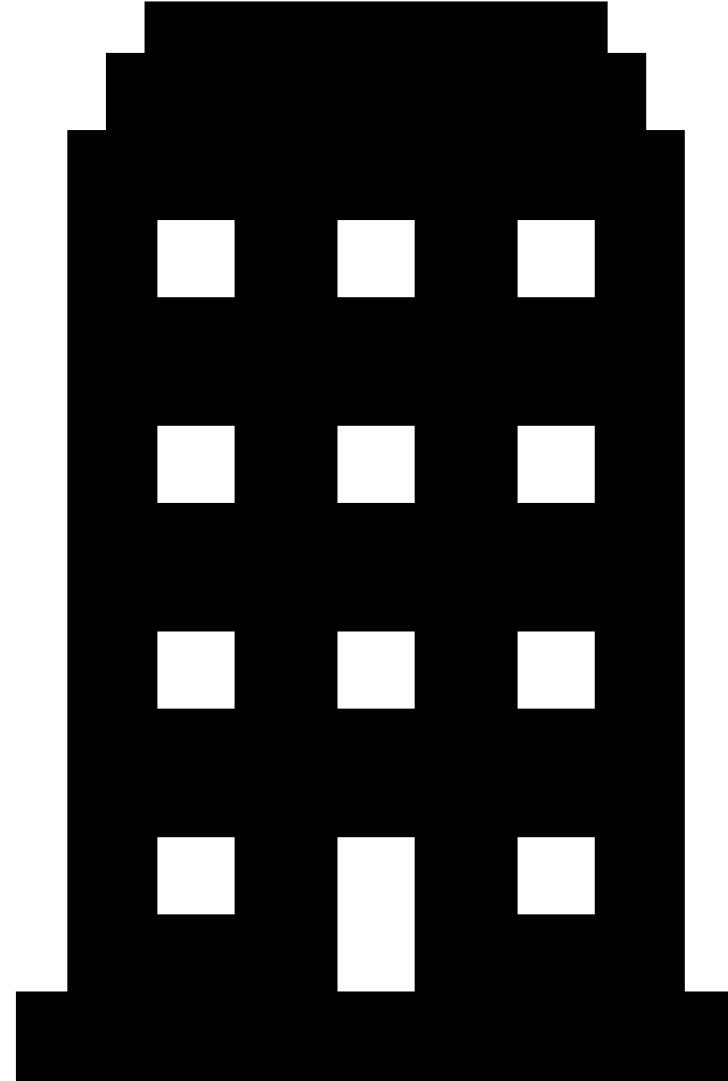
- Require landlords to file rent increase notices and eviction notices with the City to obtain accurate data about rental housing activity;
- Explore with the HHTF retaliation provisions and a tenant relocation assistance program; and
- Extend eviction for cause protections to all residential rental properties (adopted March 5, 2019),

# Background Timeline



# Summary of the Residential Rent Stabilization and Tenant Protection Ordinance

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# Development of the New RRSO

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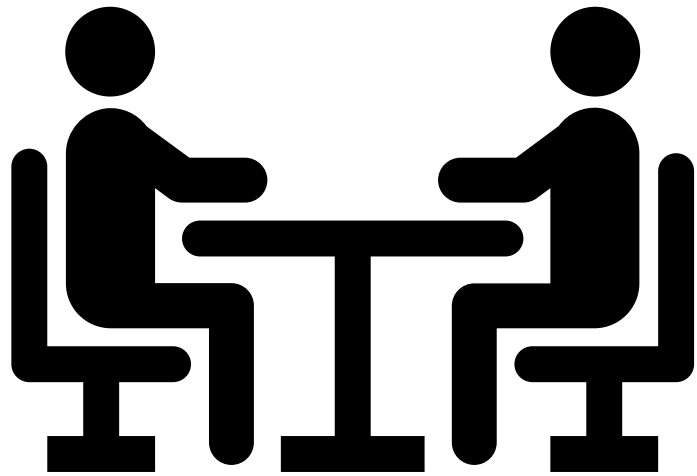
Staff has developed a comprehensive and multi-faceted set of housing policies based on:

1. Direction from City Council
2. Homelessness-Housing Task Force (HHTF) feedback
3. Stakeholder feedback
4. Management Partners study
5. Review of draft ordinance with stakeholders



# Key Provisions of the New RRSO

- Mandatory mediation program with binding arbitration;
- Provisions to protect Section 8 voucher holders from discrimination;
- Requirements that landlords file rent increase notices and eviction notices with the City;
- Tenant retaliation protection provisions; and
- Reincorporation of the Just Cause for Tenant Evictions into a single comprehensive housing policy.



# Mandatory Mediation with Binding Arbitration

# Mandatory Mediation with Binding Arbitration

## Overview

### Applicability

- A. Threshold:** Increases  $> 5\%$ , including all charges except utility charges passed through to tenant per terms of lease
- B. Applies to:** All pre-1979 units
- C. Exceptions:** Single family homes and condominiums (Costa Hawkins)

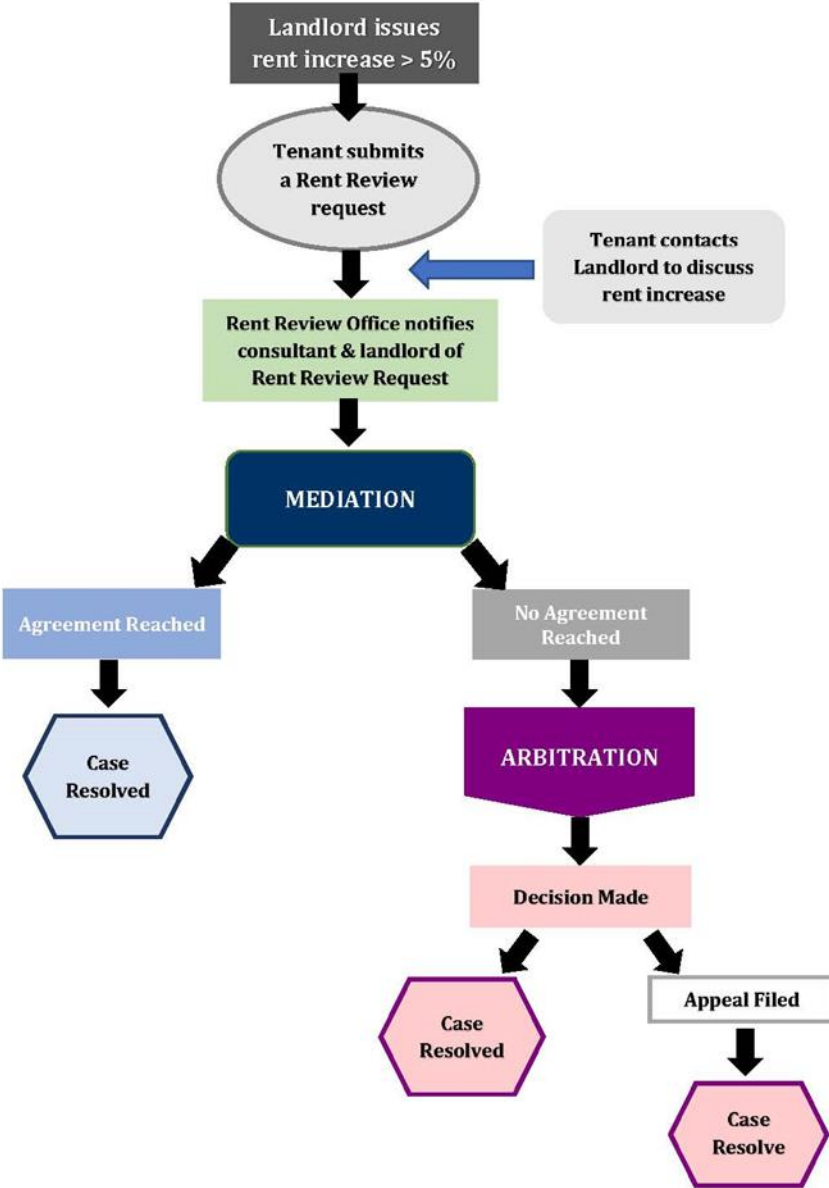
### Description

- 1. Improves communication** between tenants and landlords.
- 2. Provides protection to  $\approx 9,500$  units** from large increases that could cause displacement or increase overcrowding in rental housing.



# Tenant Petition Process

## Proposed Mediation and Binding Arbitration Process



# Mandatory Mediation with Binding Arbitration

## Rent Increase Threshold

### Rent Increase

- A. Does not include utility charges passed through to the tenant per the terms of the lease, but RRSO does include protection from unsubstantiated utility charges
- B. Can exceed the 5% threshold for:
  1. Capital improvements up to an additional 5% annually;
  2. Banked Rent increases (years a rent increase was not imposed) up to an additional 5% annually.
  3. Ensuring a fair return on investment

# Mandatory Mediation with Binding Arbitration

## Landlord Right to File a Petition

### **A. Landlord may file a petition to:**

- i. Request a rent increase to obtain a fair return; and/or
- ii. Request pass-through of capital improvement costs.

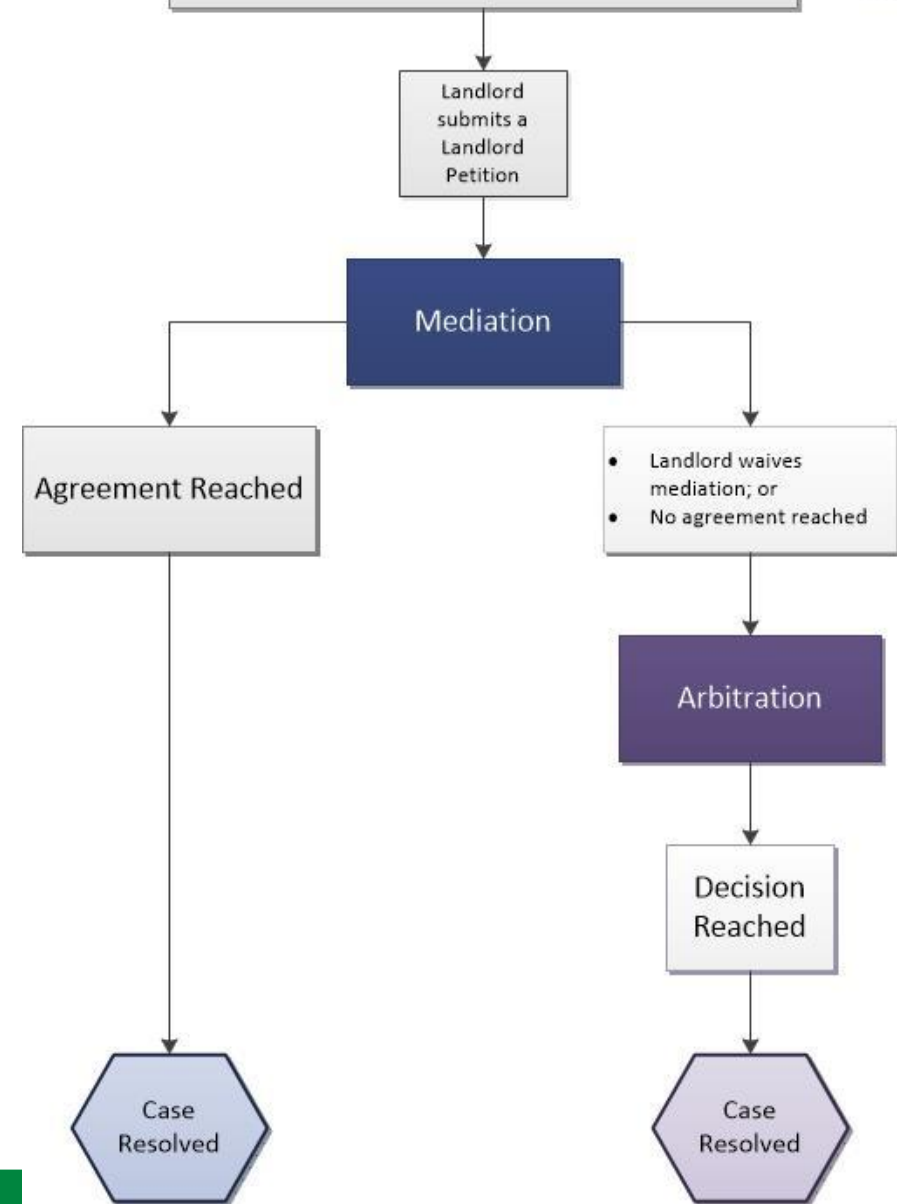
1. **Landlord** may file a petition for a rent increase in order to obtain a fair return at any time.
2. **Landlord** must file petition to pass through capital improvement costs within two (2) years of work completion
  - i. **Provisional Decision (optional)** – submitted prior to start of work
  - ii. **Final Decision (required)** – submitted after work is complete

**Landlord petition for rent increase greater than 5%:**

- Capital Improvement
- Fair Return

Landlords can seek a provisional decision for Capital Improvement costs prior to starting work.

# Landlord Petition Process





# Provisions to Protect Section 8 Voucher Holders

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## Prohibition Of Discrimination Related To Source Of Income

**Applies to:** All rental units (≈ 22,200 units)

1. Define sources of income to include lawful sources of income and rental assistance, homeless or security deposit assistance, or housing subsidy programs
2. Require that finance and income standards include all sources of income to qualify an individual for rental housing
3. Prevent discriminatory practices based on sources of income such as immediate dismissal of application

# Provisions to Protect Section 8 Voucher Holders

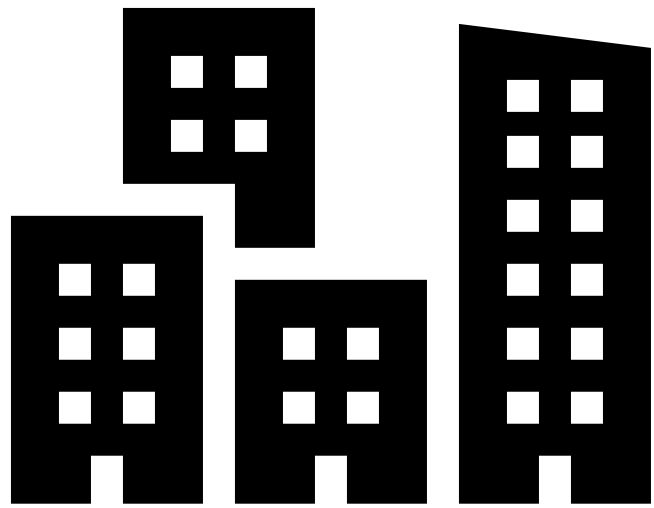
## Prohibition Of Discrimination Related To Source Of Income

### This provision **WOULD NOT**:

- Impact landlords' ability to charge market rent for their units
- Prevent a landlord from rejecting an applicant based on other factors such as rental or credit history

### This provision **WOULD**:

- Prevent a landlord from rejecting an applicant because of the housing choice voucher
- Prevent a landlord from stating in advertisements that tenants who receive rental assistance are not welcome to apply for a housing unit



# Filing Rent Increase and Termination Notices with the City



# Filing Rent Increase and Termination Notices with the City

**Applies to:** All rental units (≈ 22,200 units)

**Allows the City to collect data that will:**

- i. Identify and address rental housing issues more effectively
- ii. Propose solutions such as adopting/updating policies and/or investing in programs that specifically address those issues that are evidenced by data.



# Tenant Retaliation Protections

# Tenant Retaliation Protections

**Applies to:** All rental units (≈ 22,200 units)

- 1. Provide tenants with legal rights** if they are harassed or retaliated against by landlords.
- 2. Provide civil remedies** if policy is violated.
- 3. Provides more specificity** than State law regarding the types of bad business practices considered harassment in Section 12(b) of proposed ordinance.

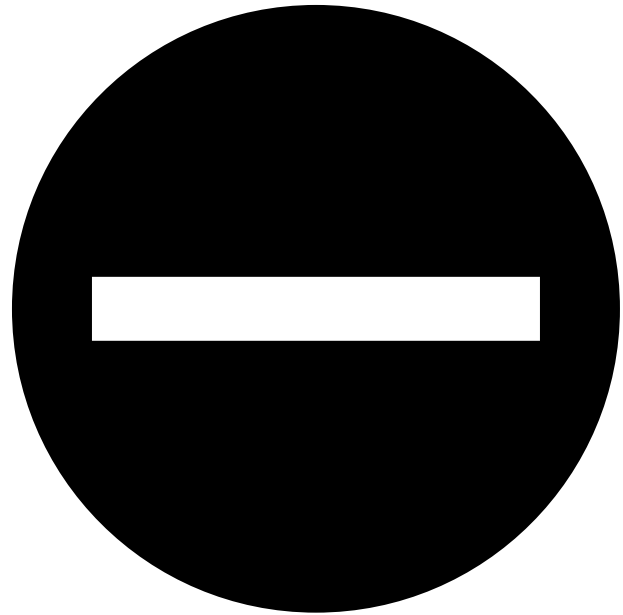


# Reincorporate Just Cause for Tenant Evictions

# Reincorporate Just Cause for Tenant Evictions

**Applies to:** All rental units ( $\approx$  22,200 units)

1. **March 5, 2019:** approved and extended to all rental units.
2. **Objective:** stabilize rent increases, provide tenant protections, prevent displacement and homelessness.
3. **Reincorporate into proposed new RRSO** to create comprehensive set of rental housing policies in a **single ordinance**.



# Excluded Provisions

# Excluded Provisions

## Provision

### A. Tenant Relocation Assistance Program

- i. Tenants would be eligible for an entitled to relocation assistance for permanent relocation due to no fault evictions.

## Reason Excluded

1. **Substantial opposition, concerns, and questions** related to tenant relocation program
2. **HHTF** decided to continue evaluating at a future time.

# Excluded Provisions

## Provision

## Reason Excluded

### A. Permanent Vacancy Decontrol

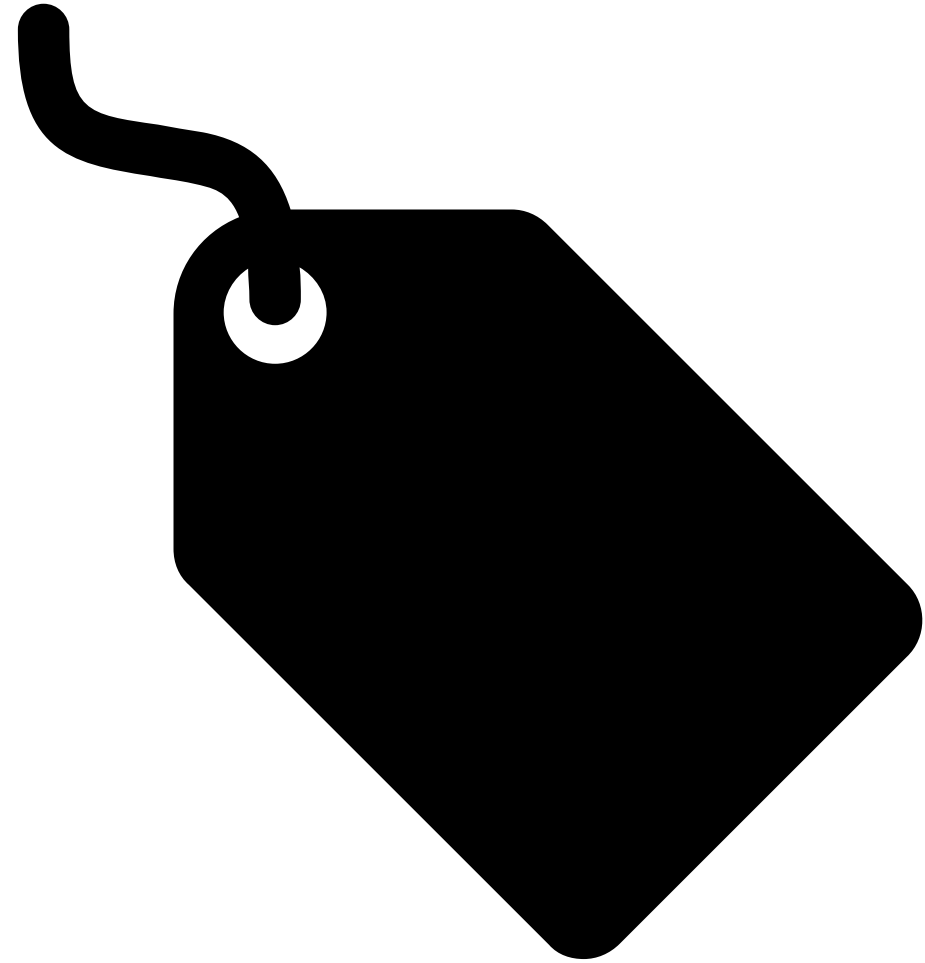
- i. Allowed a landlord to permanently remove a unit from rent increase limitation when a unit is voluntarily vacated by a tenant and after making a nominal improvement investment in the unit.

1. **February 19, 2019** City Council demonstrated support for eliminating permanent vacancy decontrol but wanted to wait for findings from Management Partners.
2. **Management Partners** study:
  - i. Verified that permanent vacancy decontrol may not be the best way to address current housing concerns
  - ii. Recommended a comprehensive set of housing policies that equitably address affordability and the needs of tenants/landlords.
3. **HHTF** unanimously supported elimination of permanent vacancy decontrol provision from RRSO based on Management Partners report.



# Program Budget and Fee

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# Rental Housing Program Administration

## Anticipated Increases to Program & Administrative Responses

### Expanded services:

- A. Response to increased public inquiries regarding applicability of RRSO to ≈ 22,200 units.
- B. Increased number of mediation/arbitration petitions expanded to serve ≈ 9,500 units.
- C. Develop new marketing materials and implement outreach plan.

### New administrative responsibilities:

- A. Receive and catalogue rent increase/evictions for ≈ 22,200 units
- B. Maintaining Rental Housing Database for ≈ 22,200 units
- C. Create and implement educational workshops/webinars for tenants and landlords

# Rental Housing Program Administration

## Proposed Budget Appropriation of \$359 K\*

1. **Staffing** - add (1) Program Specialist (\$154K) to work solely on Rent Review Program.
2. **Consultant Services:** increase of (\$159K) to cover professional services.
3. **Overhead Expenses** – increase of (\$46K) for supplies, postage, printing, public notice publication, correspondence, billing, etc.

\*It is anticipated that these costs will be offset by revenue generated by the Rental Housing Program Fees

# Rental Housing Program Fees

## Applicability

- A. Applies to:** All rental units (amount varies by unit type)
- B. Paid by:** Landlord and then half of the fee can be passed through to the tenant

## Description

- 1. Proposal:** Updated fee to be charged to all rental units.  
**Fee will vary depending on unit type** because effort and service provided to administer program will differ by unit type.
- 2. Objective:** Updated fee to recover expected expenses for updated RRSO program.  
Create a **new fund** to ensure no adverse fiscal impact to the General Fund.

FEE	MOBILE HOME	RENTAL UNIT	COVERED UNIT
Current	\$3.08	\$0.00	\$3.55
Proposed	\$5.00	\$19.00	\$40.00

# Rental Housing Program Fee Other Jurisdictions

- **The following are examples of rent review charges in neighboring jurisdictions:**
  - **City of Richmond:** \$207 for Fully Covered Rental Units, \$100 for Partially Covered Rental Units (single family homes, condos, new construction), and \$50 for Governmentally Subsidized Rental Units (Section 8 Voucher Program).
  - **City of Berkeley:** \$250 per unit and applies to all units subject to the City's Rent Stabilization Ordinance.
  - **City of Oakland:** \$68 applies to all units subject to the City's Rent Adjustment Program.
  - **City of San Jose:** \$77.30 per unit for all units subject to the Apartment Rent Ordinance, \$6.20 per unit for non-covered units.



# Next Steps Timeline

	Description	Date
City Council	<ul style="list-style-type: none"> <li>• Second Reading of the New RRSO</li> </ul>	June 25, 2019 @ 7:00 pm
City Staff	<ul style="list-style-type: none"> <li>• Prep marketing/education plan</li> <li>• Prep forms/notices</li> <li>• Update website</li> <li>• Update contracts with mediation consultant</li> <li>• Start staff recruitment for Program Specialist</li> </ul>	June 25 – July 25, 2019
City Staff	<ul style="list-style-type: none"> <li>• Notify landlords regarding the new RRSO</li> </ul>	By July 15, 2019
<b>N/A</b>	<ul style="list-style-type: none"> <li>• <b>Effective Date of the RRSO</b></li> </ul>	<b>July 25, 2019</b>
City Staff	<ul style="list-style-type: none"> <li>• Implement marketing/education plan</li> <li>• Implement Phase I of database</li> </ul>	Starting July 25, 2019

# Recommendations

That the City Council:

1. Introduces the proposed Residential Rent Stabilization and Tenant Protection Ordinance (RRSO);
2. Approves an increase the budget allocation to Administer the RRSO and the Mobile Home Space Rent Stabilization Program to cover the cost of administration of the new RRSO; and
3. Approves an increase in the Rent Review Fee to cover the cost of administration of the Ordinances.

# Questions

