



City Council Staff Report

From: City Manager

Report Type: ACTION ITEMS

Lead Department: Planning and Development Services

Meeting Date: November 27, 2023

Report #:2308-1904

TITLE

PUBLIC HEARING: Adoption of an Ordinance Amending the Palo Alto Municipal Code to Add Chapter 9.65 and Amend Chapter 9.72 to Establish a Mandatory Registry Program of Residential Rental Units in the City of Palo Alto; Provide Direction to Staff on the Rental Registry Program Implementation. CEQA Status – Exempt under CEQA Guidelines Section 15061(b)(3).

RECOMMENDATION

Staff recommends that the City Council take the following action:

1. Adopt an Ordinance (Attachment A) amending the Palo Alto Municipal Code (PAMC) to add Chapter 9.65 (Rental Registry Program) and amend PAMC Chapter 9.72 (Mandatory Response to Request for Discussion of Disputes Between Landlords and Tenants) to establish a mandatory rental registry program of residential rental units in the City of Palo Alto; and
2. Direct staff to implement the City's Rental Registry Program as detailed in this report or as modified by Council.

EXECUTIVE SUMMARY

Two years ago, the City Council directed staff to advance a number of renter protection policy initiatives, including expansion of tenant relocation assistance and eviction protections, security deposit limits, a fair chance ordinance, the subject rental registry program and other efforts.¹

Staff engaged renters, property owners/managers, landlords, the City's Human Relations Commission (HRC), the Planning and Transportation Commission (PTC), the Policy and Services Committee, and the Housing Ad Hoc to inform the recommendations in this report.

The attached ordinance amends the City's existing rental data collection efforts and broadens it into a new rental registry program. The ordinance sets forth the overall framework and basic requirements; however, many of the program implementation components are delegated to the City Manager. The City's implementation decisions significantly impact the amount of staff resources needed to support the program. Staff from planning and development services, the

¹ See Attachment B for a description of all initiatives with status updates.

city attorney's office, information technology, and the city manager's office, as well as administrative support staff will be needed to initiate and maintain this program at a basic level. A professional services contract to administer and support the online registry portal is also required. The need for additional regulations and resources expands significantly if the City Council were to direct an active role for the City in enforcing violations to the City's existing renter protection laws, beyond efforts to achieve compliance with the program's rental unit registration requirements.

At a basic level of implementation, most support departments and programs would be expected to absorb additional work within existing resources, which will likely require reprioritizing or delays in some other efforts. For planning and development services, which would oversee the program, at least two full time positions are needed for implementation.

Since the rental program is new, staff recommends a phased implementation approach that is expected to reduce, initially, to one, the number of new staff needed to support the program. This will provide an opportunity to work through anticipated but unknown technology and implementation challenges that inevitably arise when starting a new program. This approach is also expected to minimize potential user frustration while still providing the City with significant data collection to help inform future renter protection policy decisions. As the program scales, more resources will be expected, but efficiencies learned through initial implementation may mitigate the extent.

Based on the recommendations in this report, staff anticipates returning to Council with a contract for professional services in early 2024 to provide technical and online support for the program. At that time or during mid-year budget review, staff will seek Council authorization for one new full-time position. Rental registration, based on initial program cost estimates and the aforementioned recommendations, is anticipated to cost landlords approximately \$40 per unit, per year.

BACKGROUND

This report transmits an ordinance to establish a residential rental registry program for Palo Alto. The City Council on November 29, 2021, directed staff to work with the Policy and Services Committee to propose design and implementation strategies, including overall structure, fees, resources and timeline for implementation.

Staff also engaged renters and landlords in outreach events that are detailed in Attachment C. The HRC, PTC, Policy and Services and the Housing Ad Hoc have all reviewed a draft ordinance and provided feedback on program implementation, which has influenced the staff recommendations described below. A summary of this feedback is provided in Attachment D.

DISCUSSION / ANALYSIS

The attached ordinance codifies the City's authority to establish a rental registry program. The ordinance details why the ordinance is warranted, its purpose, defines certain terms, describes privacy expectations, when penalties may be assessed and basic registry requirements, including:

- Initial and annual registration for each residential rental unit in the City, including attached and detached single family homes, junior/accessory dwelling units (J/ADUs), duplexes and all multifamily units;
- Submittal information identifying the address of each rental unit; the name and contact information of the property owner, manager, or landlord; and additional information determined by the City Manager (see Attachment E and F for a complete list of additional information intended to be collected and reason for collection);
- Event-based registration that applies anytime during the year when applicable for notices to quit and for eviction notices sent to a renter (see discussion below);
- An affidavit attesting under penalty of perjury the accuracy of the information provided; and,
- Provisions to collect fees to offset the costs associated with the rental registry program.

In addition, the ordinance modifies existing code requirements in Palo Alto Municipal Code Chapter 9.72 that previously established a reporting requirement for rental property and directs responsible parties to the new rental registry requirements described above.

The ordinance establishes the overall framework and intent for requiring the rental registry program. However, the detailed administrative implementation requirements are deferred to the City Manager or their designee. This is to provide flexibility and the ability to make timely program adjustments in response to information learned from program implementation without having to update the ordinance.

Rental Registry Program Implementation

The administrative regulations will be prepared following the Council's action on the subject ordinance and posted on the City's website. Staff seeks the Council's endorsement on the recommended approach toward implementing some components of the rental registry program that are highlighted below. These recommendations are informed by feedback received from staff's research on the topic, including conversations with other jurisdictions and from the outreach efforts summarized above.

These recommendations are also guided by the stated intent for a registry program, which is to collect data that may help inform future rental protection policies, and is balanced to resource considerations, including new staff positions to support the program. Enforcement of existing renter protection policies is currently addressed through private rights of action in civil court. Data collected through this registry may reveal a violation of local renter protection regulations. As described further below, the City does not currently have a regulatory structure for enforcement and staff is not currently resourced to follow up on these potential violations. Council direction to proactively enforce violations would have significant budgetary implications.

Rental Registry Program Phasing

The registry is intended to capture all rental units in the City and staff recommends a phased approach for its initial implementation.

There are approximately 11,400 rental units in Palo Alto as detailed in Table 1. Nearly 300 rental property owners represent about 70% of the rental housing stock. The other 30% includes nearly 3,400 single family residential units, J/ADUs and duplexes.

Staff recommends for the first two years of the program that landlords or property managers be required to register all sites that have three or more rental units, excluding J/ADUs, and regardless of current occupancy or availability on the market. Staff supports this approach for the following reasons:

- Implementing a new online database and working with a new vendor to manage that system is bound to have glitches that will disrupt the experience and ease of use in the early phase of the program, despite efforts to mitigate such instances.
- Realtime beta testing with a limited number of registrants that represents a high percentage of overall rental units will enable the City to launch the program more quickly while keeping the inevitable implementation challenges and frustrations to a limited subset of individuals.
- Experience gained from the early implementation phase will allow staff and the vendor to make system adjustments, improve online instructions and provide meaningful outreach before extending the program to nearly 3,000 additional registrants, homeowners.

This approach also reflects the business nature of multi-family rental housing where landlords and property managers are more familiar with a rental regulatory environment and are likely better equipped to navigate the online registry program. Homeowners on the other hand may have only one or two units that they rent but it may not be a primary source of income and additional local regulatory procedures may be perceived as burdensome. Ironing out any technical challenges with this new system before opening it up to a large number of homeowners may help avoid future frustration, reduce the need for administrative support for the program and better position the City for more successful data collection.

Accordingly, the staffing recommendation below is impacted by this approach requiring fewer additional resources while also largely relying on existing staff levels.

Starting in year three, all property owners/managers and landlords would be required to register their rental units.

This recommendation was not specifically addressed with any of the stakeholders, rather it evolved subsequently based on earlier, related conversations about exempting homeowners or J/ADUs from the program or first program year and addressing concerns about fee collection or waivers.

Table 1: Distribution of Rental Households by Rental Unit Property Type in Palo Alto

	Mobile Home	Boat, RV, Van, etc.	Single Family Detached	Single Family Attached	Duplex	Triplex and Fourplex	Small Sized Rental Property (5 to 9 Units)	Medium Sized Rental Property (10 to 19 Units)	Medium Sized Rental Property (20 to 49 Units)	Large Sized Rental Property (50 or More Units)	Total
# of Units	38	0	2,890	558	135	941	1,557	1,289	1,636	2,379	11,423
% of Total Units	0.3%	0.0%	25.3%	4.9%	1.2%	8.2%	13.6%	11.3%	14.3%	20.8%	100%

Source: U.S. Census Bureau, 2016-2020 American Community Survey 5-Year Estimates, B25032 Tenure by Units in Structure: <https://data.census.gov/cedsci/table?q=units%20in%20structure&t=Housing%3AIncome%20%28Households,%20Families,%20Individuals%29%3AOwner%2FRenter%20%28Householder%29%20Characteristics&g=1600000U0655282&tid=ACSDT5Y2020.B25032>

Rental Program Fees and Fee Waivers

Staff recommends the rental registry ultimately be a fully cost recoverable program. Program costs include professional services from a vendor to develop and maintain the software and database and related customer support services. There are also staffing costs that will be needed to support registrants, engage with the vendor and follow up on program participation, as well as indirect costs.

The cost of the program upon full implementation is proposed to be distributed among the total number of rental units in the City resulting in a program fee of about \$40 per year, per unit.² This fee would increase annually based on the consumer price index or similar metric used by the City.

However, for similar reasons noted above supporting a phased implementation, staff recommends the City Council consider waiving the program's first year fee and begin assessing the fee in the second year for multi-family property owners/managers and landlords. Staff recommends a fee waiver for single family homeowners and registration of J/ADUs for program year three; resulting in full payment from all registrants in program year four and cost recovery.

There are several iterations the Council could consider and this does not need to be resolved immediately as staff will need to return with a fee resolution to establish the fee. The HRC, PTC and Housing Ad Hoc either made recommendations to exempt homeowners or J/ADUs if the owner also lived on the property or suggested limited term waivers. To the extent the program is not cost recovered through fees, the City Council would need to allocate General Fund resources to support any delayed or waived fee collection.

Notwithstanding any deferred or waived fees, the City would still seek to enforce compliance with the registration requirements and would assess penalties as described later in this report.

² Based on current fiscal year estimates.

The ordinance has a provision that precludes property owners/managers or landlords from passing the fee onto renters. However, unless the fee is clearly identified on the lease to be paid by the renter, it would be very difficult to document a violation and enforce this provision.

Rental Program Registration Form – Data Collection & Privacy

A draft registration form is included with this report as Attachment E. The form identifies the type of information the City would collect, which is intended to be minimal while still being meaningful for future analysis. This registration form will be used by the City's consultant to prepare the program software and website interface. Both the PTC and Housing Ad Hoc requested to see registration form before being launched publicly.

The HRC requested outlining program privacy mandates and how they will be facilitated. Staff and the consultant would address software privacy and security through authentication procedures and software design. The draft ordinance focuses on outlining the circumstances under which information collected by the program would be shared or distributed. The registry would have a landlord portal, a public portal, and a staff portal. Landlords would be able to access all rental unit information for their units only. Members of the public would be able to use their portal see if the City has or has not received mandated information (not the content), the type of reporting, and the date of that reporting. Renters may request information reported for their rental unit during their tenancy. City staff would be able to access all rental unit information but would report information in aggregate. The data collected through this program would be subject to the California Public Records Act. The City would be obligated to release existing data pursuant to a request.

Event-Based Reporting

Registrants would be required to renew their rental units annually. The draft ordinance also requires between renewals that the registry be updated when a notice to quit is sent to a renter and for evictions. This update must be made within 10 days and there is no proposed fee associated with this update.

There may be other events that the City has an interest in receiving timelier updates than annually. This may include rent increases or when a new tenancy is established, for instance. Any data point that the City collects that changes in a year could potentially be an event triggering an update.

Staff recommends initiating the rental registry program with the fewest number of event-triggering updates as necessary to advance the City's interests. Property owners/managers or landlords with several units will undoubtedly find frequent updates burdensome and time consuming. Also, the data collected is intended to inform future rental protection policies. It is anticipated it would take several years of data collection to begin to see trends or identify concerns in the rental market to inform future policy decisions. Moreover, unless the City is going to invest in substantial resources for proactive enforcement, there is little the City would do with event-based input received. The ordinance captures what staff anticipates are the most important events to identify disconcerting trends related to evictions. While the City is not

resourced to broadly enforce renter protection policies – if an irregular eviction event occurred and appeared inconsistent with local or state laws, staff would investigate and support enforcement of its rules if an eviction-related violation were documented.

This approach was generally supported by the HRC, PTC, and Housing Ad Hoc though there was some discussion about different reporting schedules such as quarterly or within 30 days for certain events. For simplicity staff recommends only annual reporting except as noted. As the City's interests or improved understanding of the rental market deepens, the event-based reporting requirements could change. In this regard, those that might favor more frequent updates could look at this approach as part of the early implementation efforts that could be expanded as needed.

Rental Program Costs & Resource Needs

The City issued a Notice of Intent to Award the contract to the firm 3Di in August 2023. Contract negotiations are still in progress and the final cost for consultant services and software are not yet fully fleshed out. Based on 3Di's initial proposal submitted to the City, there is an initial program buildout cost of approximately \$70,000, and approximately \$150,000 for 3 years of maintenance and software subscription. Therefore, to get the program software up and operating for three years, the cost is approximately \$220,000. Staff anticipates that this figure would adjust with the finalization of the contract scope, but it is not expected to change substantially. After receiving 3Di's proposal, staff learned from 3Di of their recent launch of a new online chat and call service that Palo Alto landlords could use if they had any basic data entry questions when registering their rental units. Staff intends to incorporate this service and cost when the contract is presented to Council early next year.

In general, the consultant software and professional services contract is anticipated to include the basic software tools necessary to administer the program. This includes an online portal, user interface design, user authentication, software maintenance, database storage, user guides, data analysis and visualization tools, reporting functionality, customer relationship management functionality, participation fee invoicing and collection, and penalty fee invoicing and collection. The software can translate the registration forms and other materials into many different languages. Other than offering the online chat and call service, the consultant would not be performing any community outreach, trainings, sending notices, quality control, data analysis, or reporting. The bulk of program administration and implementation would still need to be provided by City staff.

Staff conducted interviews with other local jurisdictions to understand how their rental unit registry programs operated, including staffing needs. The review of other cities found that staff was needed for a range of program administration roles. These included contract management, policy development, oversight, and day-to-day outreach/customer service for landlords, renters, and other stakeholders. Additionally, staff review of rental unit registrations for quality assurance and control, program implementation requirements, coordination with other City departments engaged in housing, and preparation of reports for policymakers.

A significant amount of staff resources is also anticipated for outreach to thousands of individuals, particularly homeowners, to provide program awareness and support not offered by the consultant.

Based on this information, staff anticipates it would require two full-time equivalent employees to implement the rental registry program upon full implementation. Notably, staff from other cities found it challenging to implement their equivalent registry program with only two dedicated employees and this includes cities that utilize software tools identified above.

Staffing costs over a three-year period, including salaries and benefits, is estimated to be in the range of \$340,000 to \$400,000 per year for two employees. This does not include overhead costs (supervision) or costs from the City Attorney's Office or other support departments or programs, such as code enforcement (related to registration requirements) that will likely be needed to support this program. Staff will evaluate these related costs during program implementation and may need to seek additional funding authorization to support the program.

Table 2: RRP Implementation 3-Year Cost Estimate		
Cost Type	Cost Description	3-Year Cost Estimate
RRP Software and Professional Services Contract	Initial RRP software build - approximately \$70,000; 3-years of maintenance and software subscription – approximately \$150,000	\$220,000
RRP City Staffing	2 FTEs (fully loaded costs, including salaries and benefits): \$340,000/year - \$400,000/year	\$1,020,000 - \$1,200,000
3-Year Cost Estimate Total		\$1,240,000 - \$1,420,000

Initially, staff requests that the City Council authorize the creation of one new position in the planning and development services department to support the staff recommended rental registry program described in this report. The department will utilize existing staff resources to provide supplemental support until the program expands toward full implementation. This approach has the benefit of phasing new resources and gives staff a chance to fully understand the workload impacts of this new program. The downside to this approach is that it may divert staff resources from other work the department performs.³

Based on the Council's direction with the program, staff would return with the staffing request either as part of the mid-year budget review or when the professional services contract is provided to Council early next year.

³ Specifically, staff responsiveness on the city's community development block grant program, limitations on staff's ability to apply for and secure land use related planning grants, and could forgo the monitoring and commenting on development projects in adjacent jurisdictions that may impact Palo Alto.

Enforcement and Penalties

As noted above, the City's approach to renter protection enforcement largely relies on private party action through civil court. Data received from the registry program may reveal potential violations that impinge on a renter's rights, or information collected (under penalty of perjury) may be inaccurate. The City's code enforcement program and city attorney's office are not sufficiently staffed to take on proactive renter protection enforcement or follow up on most alleged renter protection violations. If this is the City Council's interest or intent, staff would need to return to Council with an appropriate regulatory framework and estimate of the additional resource and staff costs associated with that direction. It is anticipated that in addition to line staff support, management positions may also be needed.

Staff does anticipate working with the vendor and following up with property owners who are believed to have rental units and who have not registered those units. In this regard, the City's code enforcement efforts would be limited to trying to achieve compliance with the registration requirements and not the policy implications from the data collected. The workload impact from this action depends in part on program awareness and lawful compliance from responsible parties.

Initially, staff anticipates it can accommodate the increased code enforcement workload based on the phased approach recommended in this report. Achieving compliance with the registration requirements is expected to be substantially more challenging when staff needs to engage individual property owners renting one, two or three units. The staff resource demand is expected to be greatest for this subset of landlords principally because renting units at this small scale is likely an ancillary endeavor that may not receive the same focus or attention as it would for a professional property manager responsible for several units.

The administrative penalty structure and amount is set by the City Council through resolution on a regular basis. City Council last updated the City's Administrative Penalty Schedule and Civil Penalty Schedule in September 2023.⁴ The applicable penalty fee for not registering a rental unit would be \$50 dollars per violation (per unit not registered or registered in error), which is similar to the anticipated amount of the annual registration fee. A second and third violation within 36 months would be \$75 and \$100 dollars, respectively in addition to any unpaid balances. Other cities have set their administrative penalty schedule at a higher amount, such as \$100 for the first violation. If the City Council felt a higher penalty were warranted, it could direct staff accordingly.

The ordinance includes a penalty fee waiver if the City found there was good cause for failing to properly register a unit.

⁴ City Council Resolution No. 10122: <https://portal.laserfiche.com/Portal/DocView.aspx?id=67917&repo=r-704298fc&searchid=b18813c0-7ea0-4e75-8e9e-c3293c51a431>.

TIMELINE

The next steps for the rental registry program if the Council approves the attached ordinance and endorses the staff recommended implementation strategy, includes the following:

- December 2023: Adopt ordinance on second reading;
- January/February 2024: Council to consider professional services contract and authorize new full time equivalent employee (or at mid-year budget review);
- Spring 2024: Staff publishes the rental registry administrative implementation requirements – City Council action on administrative fee schedule identifying the registration costs and any changes to the penalty fee schedule, as appropriate;
- Spring through Summer 2024: staff and consultant work on various components to implement the registry program, including continuing community awareness efforts;
- September 2024: Anticipated launch of rental registry program and start of two month enrollment period.

Staff anticipates providing the Council with annual update reports, or more frequently if needed, during the first several years of implementation and ongoing to report on data collected through the registry program.

FISCAL/RESOURCE IMPACT

The recommendation in this report will have a fiscal impact requiring both consultant and staff resources. The rental registry program is anticipated to achieve full cost recovery upon the fourth year of implementation.

In the first year of the program, consultant expenses are required for the initial set up and ongoing operational support, estimated to be \$70,000 and \$68,000, respectively. Operational support will include both online and telephone support for registrants. Additionally, staff resources will require 1.0 full-time equivalent employee, and salary and benefits is anticipated to cost approximately \$200,000 per year, adjusted annually in accordance with Council approved wage and benefit increases. First year implementation costs will be offset by Council's appropriation in the FY2024 operating budget of \$100,000 to support program implementation.

Resource impacts are also anticipated for internal service departments, including the city attorney's office, planning, code enforcement, information technology and the city manager's office, as well as administrative services. Additional general expense costs may be required for outreach and engagement are also expected. It is anticipated these costs will be absorbed within the Planning and Development Services appropriated budget but may impact progress on other department or Council Priorities

Starting in the second year of implementation, program revenue will be generated when landlords pay an approximated fee of \$40 to register each unit annually. Based on the staff recommendation, approximately 6,800 units will be required to register, generating an estimated \$270,000. In the third year, revenue is expected to remain at the same level of the prior year. Although the program would be expanded to include more units, the new units would also benefit from a fee waiver. By the fourth year, the City expects all units to register and will generate program revenue to be approximately \$513,000 annually thereafter, as adjusted by cost indices.

In summary, based on the foregoing assumptions, the impact to the general fund is estimated to be as follows based on current dollars and costs:

Rental Registry Program	Year 0 FY23-24	Year 1 FY24-25	Year 2 FY25-26	Year 3 FY26-27	Year 4 FY27-28
Revenue Source	\$ 100,000	\$ -	\$ 270,000	\$ 270,000	\$ 460,000
<i>Program Fees</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ 270,000</i>	<i>\$ 270,000</i>	<i>\$ 460,000</i>
<i>General Funds</i>	<i>\$ 100,000</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ -</i>
Expense	\$ 188,000	\$ 268,000	\$ 268,000	\$ 468,000	\$ 468,000
<i>Consultant</i>	<i>\$ 138,000</i>	<i>\$ 68,000</i>	<i>\$ 68,000</i>	<i>\$ 68,000</i>	<i>\$ 68,000</i>
<i>Staff*</i>	<i>\$ 50,000</i>	<i>\$ 200,000</i>	<i>\$ 200,000</i>	<i>\$ 400,000</i>	<i>\$ 400,000</i>
Net Impact	\$ (88,000)	\$ (268,000)	\$ 2,000	\$ (198,000)	\$ (8,000)

* Year 0 is prorated to ¼ of the total costs due to hiring lead time.

As staff finalizes the professional services contract and develops a better understanding of staff workload implications, these estimates will be adjusted to achieve cost neutrality.

Resources to support the rental registry program will be brought forward in the FY2024 Mid-Year Budget Review and FY2025 Proposed Operating Budget process.

POLICY IMPLICATIONS

Pursuing renter protection policy work is consistent with the goals in the City's 2030 Comprehensive Plan to provide adequate housing for all. Additionally, the renter protection policy work is consistent with the list of policies and programs in the 2023-2031 Housing Element. The registry provides one means to affirmatively further fair housing within Palo Alto, as well as promote certainty, stability, and fairness in the rental market. The rental registry program provides an opportunity to collect information to inform future rental protection policy initiatives.

STAKEHOLDER ENGAGEMENT

Staff conducted community outreach and stakeholder engagement as summarized in this section and outlined in Attachment C. Additional community feedback is anticipated at future City Council meetings. Ahead of the November 27, 2023 City Council meeting, staff sent notice of this meeting via emails to rental policy email contact lists, posted information on the City's webpage,⁵

⁵ Rental Registry Program webpage: <https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Housing-Policies-Projects/Rental-Registry-Program>.

and published a newspaper ad on November 17, 2023. Notice of this meeting was also distributed through social media channels, including the City's digital newsletter, Uplift Local.

ENVIRONMENTAL REVIEW

This project is exempt from the provisions of the CEQA, pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

ATTACHMENTS

Attachment A: Draft Rental Registry Program Ordinance

Attachment B: Renter Protection Work Status Update

Attachment C: Rental Registry Program Community Outreach Stakeholder Engagement

Attachment D: PS HRC PTC and HAH Feedback Summary

Attachment E: Draft Example of an Initial Rental Unit Registration Form - November 2023

Attachment F: Draft Rental Market Policy Questions

APPROVED BY:

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