



## Rent Control Policy Brief

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# Policy Brief: *Rent Control in the Bay Area*

In neighborhoods experiencing gentrification pressures, strategies for preserving non-subsidized affordable rental units are important. Rent control is perhaps the most well-known tool to control the price of un-subsidized (often called “naturally affordable”) housing.

Rent control (or rent stabilization) refers to the type of policy that puts a limit on the amount of rent private landlords may charge tenants, either by fixing it at a certain dollar amount, allowing it to increase by a specific percentage (often tied to the official rate of inflation) annually, or having the allowable increase set by a board each year. Some policies include restrictions on evictions and specific processes for landlords or tenants to petition for higher or lower increases, respectively.

In this policy brief, we discuss rent control and its implementation in the Bay Area, based on a review of the literature as well as primary data from surveys and stakeholder interviews.<sup>1</sup>

## Background on Rent Control

Nationally, rent control was an especially popular policy tool in the late 1960s through the early 1980s.<sup>2</sup> By the late 1970s, 170 municipalities had put rent control laws in place, “mainly in the Northeast and California where the rent pressures were most severe and tenant organizations were strongest.”<sup>3</sup> However, in the 1980s, an “emerging conservative onslaught” put tenants “on the defensive” and curtailed additional rent control ordinances, though cities that had passed rent control maintained a strong tenant voice.<sup>4</sup>

Many scholars have explored the subject. Some, writing primarily within an economics framework, conclude that rent control reduces the quality and quantity of rental housing, arguing that<sup>5</sup> when landlords cannot earn a competitive return on rents, they under-maintain their units and look for more profitable endeavors, exacerbating the rental housing shortage.<sup>6</sup> Moreover,

the less rental housing and the greater the rent gap between regulated and unregulated units, the less mobility renters have, since a move will likely result in much higher rents.<sup>7</sup>

On the other hand, other scholars have argued that the policy can contribute to population stability and security of tenure in the face of displacement pressures.<sup>8</sup> The limited mobility caused by rent control may be a logical trade-off in gentrifying areas because it allows vulnerable residents to stay in their neighborhoods by moderating their rent burdens.<sup>9</sup> For example, rents for unregulated units in gentrifying neighborhoods of New York between 1996 and 1999 increased by an average of 43.2%, while rents for regulated units increased by only 11.4%.<sup>10</sup> In terms of stability, 35.2% of renting households in New York stayed in the same unit from 1990 to 2000, while nationally, 13.6% stayed in the same unit.<sup>11</sup>

In California, due to the 1995 Costa-Hawkins act, all rent control ordinances must allow for vacancy decontrol, meaning any time a tenant vacates a unit, the landlord can increase the rent to market rates.<sup>12</sup> This gives landlords an “incentive to push out tenants, which can lead to unjust, or no-fault evictions” and an overall decline in the affordable housing stock.<sup>13</sup> The law also makes it impossible for jurisdictions to pass rent controls on any units built after 1995, on single-family homes, or on condominium units.<sup>14</sup>

## Rent Control in the Bay Area

As of 2015, seven Bay Area cities have rent control policies in place. They are summarized in Table 1 and Figure 1. Table 1 also shows the percent of renter households that lived in the same house for at least a year. These rates are on par or higher in cities with rent control than in the state overall, underscoring the finding that rent control can be a contributor to greater residential stability.

**Table 1: Cities in the Bay Area with Rent Control Ordinances**

City	Year Introduced, Last Modified	Allowable Rent Increases	Type (according to California Tenants' Rights Guide) <sup>17</sup>	Percent of Renters Who Lived in Same House 1 Year Ago (2014 5-year ACS) - 76% in CA overall
Berkeley	1980, 2005	65% of the Consumer Price Index (CPI). Once per year.	Strict	62% (figure is low likely due to large college population)
East Palo Alto	1983, 2010	80% of the CPI but not exceeding 10%. Once a year.	Strict	82%
Hayward	1980, 2003	5% max annual increase.	Weak	78%
Los Gatos	1980, 2004	5% max annual increase or 70% of the increase in the CPI, whichever is greater. Once a year.	Weak	73%
Oakland	1980, 2014	CPI; more if landlords have "banked" their rent increases. Once a year.	Weak	77%
San Francisco	1970	60% of CPI, not exceeding 7%.	Strict	80%
San Jose	1985	8% increase; 21% if the last increase was more than 24 months ago. Once a year.	Weak	78%

Source: UC-Berkeley Internal Analysis; (Portman and Brown 2013).

All the ordinances were passed between 1980 and 1985 except San Francisco's, which passed in 1970. A policy expert mentioned that many rent control laws include a provision that if the vacancy rate is above a certain level (5 or 6%), the law does not apply, "because if you've got a really soft market it's harder to argue that there's a public purpose."

Most policies use the Consumer Price Index, a measure of inflation, as the benchmark for the increase. In East Palo Alto for example, allowable rent increases are 80% of the Consumer Price Index in that year. Other cities have a set increase of 5% or 8%. All policies allow only one increase per year.

Another way these policies vary is in which units they cover. Statewide, no policy may cover all rental housing, and in San Francisco for example, units built after 1979 are exempt. Most of the policies in the Bay Area exempt units built after the policies were passed.

With the exception of Los Gatos and San Jose, all of these cities also have "just cause for eviction" laws in place, which severely restrict a landlord's authority to evict a tenant. Such provisions are essential to make rent control effective because, without them, landlords

can avoid rent control limits by evicting tenants at will, and then using vacancy decontrol to raise rent on the next tenant. In the opposite configuration, as one expert said, "if you have just cause and no rent control, then they'll just double the person's rent...the two have to go hand in hand."

How effective is rent control? The results are mixed and a full accounting is beyond the scope of this brief. One stakeholder from San Jose said, "rent control has been implemented in San Jose and is in force for qualifying units. However, because there is high tenant turnover and no eviction protections, it has not been effective in keeping rents down overall." In Oakland, a stakeholder commented that, though "there are weaknesses...at the end of the day, [it] is working." One weakness, cited by a different stakeholder, is enforcement; the city lacks a registry of rent-controlled units, making it difficult to track them and ensure compliance.

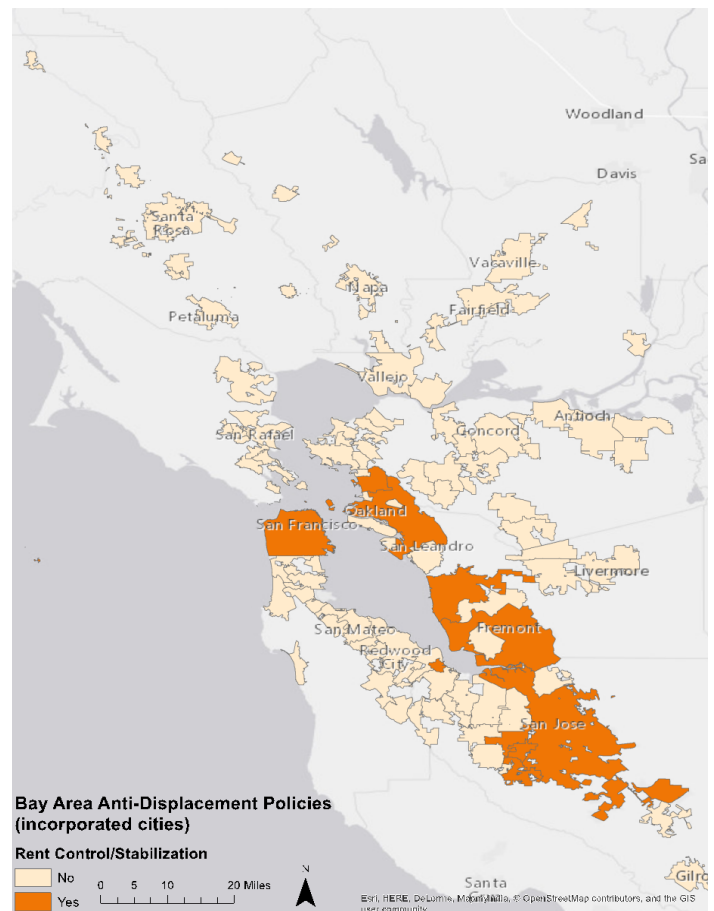
In terms of potential for improving rent control policies, one expert proposes shifting the onus of proving the legality of a rent increase from tenants to landlords. Another key component of a rent control policy, according to the expert, is anti-harassment provisions, disallowing owners from "effectively" evicting tenants.

Cities like San Francisco, which excludes units built after 1979 from being subject to rent control, could shift that cut-off to as late as 1995 (the year after which state law forbids rent control); in the Mission District of San Francisco, such a change would cover nearly 2,000 more units.<sup>16</sup>

There have been no new binding rent control ordinances passed in the Bay Area since 1985. However, murmurs of interest have emerged in San Mateo County<sup>17</sup> and in Richmond, where a rent control ordinance passed in August 2015 only to be repealed a few months later in the face of a petition campaign to repeal it.<sup>18</sup> Though passing new rent control ordinances appears to be very politically challenging, one policy expert believes the Bay Area may be experiencing another “moment” where such policies could get passed, “because the crisis is so sharp and happened so quickly.”

## Conclusion

Though rent control has proven to be a relatively effective tool in limiting displacement, few Bay Area cities have implemented it. Where they are in place, rent control policies suffer from state law limitations, like vacancy decontrol, which mean not all units stay affordable over the long run. Even so, a strong rent control policy, coupled with just cause evictions law and other tenant protections, can help address displacement.



**Figure 1: Rent Control Policies in the Bay Area**  
Source: UC-Berkeley Internal Analysis

Cover Photo Source: <http://www.socialistalternative.org/2015/09/16/bay-area-affordable-housing/>

<sup>1</sup> We reviewed both academic and practitioner literature on anti-displacement strategies. A survey on the effectiveness of anti-displacement strategies was sent to staff at all of the planning departments in the Bay Area as well as housing-related community based organizations; we refer to responses from this survey as “stakeholder” comments. Finally, we conducted interviews with many stakeholders, including community advocates, staff of community organizations, and individuals involved with local, regional, and state policy.

<sup>2</sup> Levy, Diane K., Jennifer Comey, and Sandra Padilla. 2006. “Keeping the Neighborhood Affordable: A Handbook of Housing Strategies for Gentrifying Areas.” Text. <http://webarchive.urban.org/publications/411295.html>.

<sup>3</sup> Keating, Dennis, and Mitch Kahn. 2001. “Rent Control In The New Millenium.” NHI Shelterforce Online. June. <http://www.nhi.org/online/issues/117/KeatingKahn.html>.

<sup>4</sup> Ibid.

<sup>5</sup> Keating, W. Dennis, Michael B. Teitz, and Andrejs Skaburskis. 1998. *Rent Control: Regulation and the Rental Housing Market*. New Brunswick, N.J.: CUPR/Transaction.

Ibid.

<sup>6</sup> Freeman, Lance, and Frank Braconi. 2004. “Gentrification and Displacement New York City in the 1990s.” *Journal of the American Planning Association* 70 (1): 39–52. doi:10.1080/01944360408976337.

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<sup>7</sup> Ellen, Ingrid Gould, and Brendan O’Flaherty. 2013. “Chapter 4. How New York and Los Angeles Housing Policies Are Different--and Maybe Why.” In *New York and Los Angeles: The Uncertain Future*. New York: Oxford University Press.



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<sup>8</sup> Freeman, Lance, and Frank Braconi. 2004. "Gentrification and Displacement New York City in the 1990s." *Journal of the American Planning Association* 70 (1): 39–52. doi:10.1080/01944360408976337.

<sup>9</sup> Ibid.

<sup>10</sup> Ellen, Ingrid Gould, and Brendan O'Flaherty. 2013. "Chapter 4. How New York and Los Angeles Housing Policies Are Different--and Maybe Why." In *New York and Los Angeles: The Uncertain Future*. New York: Oxford University Press.

<sup>11</sup> Levy, Diane K., Jennifer Comey, and Sandra Padilla. 2006. "Keeping the Neighborhood Affordable: A Handbook of Housing Strategies for Gentrifying Areas." Text. <http://webarchive.urban.org/publications/411295.html>.

<sup>12</sup> Great Communities Collaborative. 2007. "Preventing Displacement Policy Fact Sheet." <http://www.greatcommunities.org/wp-content/uploads/pdf/2007%2011%20Preventing%20Displacement%20Policy%20Fact%20Sheet.pdf>.

<sup>13</sup> Portman, Janet, and David W. Brown. 2013. *California Tenants' Rights*. Nolo.

<sup>14</sup> The California Tenants' Rights guide classifies California cities' rent control policies into groups: "Weak Rent Control" laws allow landlords to raise the rent generously, and even above the fixed amount unless a tenant protests to a rent board. These policies do not require landlords to register their units with the city. "Moderate-to-Strict Rent Control" laws require the landlord to "bear the burden of petitioning the rent board for an above-formula rent increase and of justifying the need for such an increase based on certain cost factors listed in the ordinance," include a just cause evictions ordinance, and require landlords to register units with the city. Portman, Janet, and David W. Brown. 2013. *California Tenants' Rights*. Nolo.

<sup>15</sup> Ibid.

<sup>16</sup> Chapple, Karen, and Mitchell Crispell. "Mission Accomplished? Revisiting the Solutions," November 9, 2015. <http://www.urbandisplacement.org/blog/mission-accomplished-revisiting-solutions>.

<sup>17</sup> Kinney, Aaron. 2015a. "San Mateo County: Affordable Housing Crisis Inspires Talks about Rent Control." March 2. [http://www.mercurynews.com/san-mateo-county-times/ci\\_27620755/san-mateo-county-affordable-housing-crisis-inspires-talks](http://www.mercurynews.com/san-mateo-county-times/ci_27620755/san-mateo-county-affordable-housing-crisis-inspires-talks).

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<sup>18</sup> Ioffe, Karina. 2015. "Richmond Rent Control Ordinance Formally Repealed." *ContraCostaTimes.com*, November 4. [http://www.contracostatimes.com/richmond/ci\\_29069078/richmond-rent-control-ordinance-formally-repealed](http://www.contracostatimes.com/richmond/ci_29069078/richmond-rent-control-ordinance-formally-repealed).