

RENT STABILIZATION RULES AND REGULATIONS FOR MOBILE HOME PARK SPACE TENANCIES PURSUANT TO THE 1988 RENT STABILIZATION AND EVICTION FOR GOOD CAUSE ORDINANCE OF THE CITY OF EAST PALO ALTO

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500 - EXEMPTION REGULATIONS

EXEMPTION PROCEDURES

500.A-E (RESERVED)

500.F EXEMPTION FOR SUBSTANTIAL REHABILITATION

(Adopted October 8, 1986)

A. Purpose

The purpose of this regulation is to provide a procedure for exemption of properties under Section 5(F) of the Ordinance.

B. Definitions

(Amended June 26, 1991)

Administrator shall mean the Rent Stabilization Program Administrator or his/her designee.

Family shall mean two or more persons related by blood marriage, or operation of the law.

Income Verification Statement is a certificate, issued by the Administrator to each tenant who proposes to live in the unit, that certifies the income qualification of the tenant.

Low- or Moderate-Income Family or Individual is a family or individual whose adjusted income does not exceed 80% of the median income for the City of East Palo Alto as determined by the Secretary of Housing and Urban Development.

Low- and Moderate-Income Rental Unit is a dwelling unit that is occupied by families or individuals of low and moderate income.

Rehabilitation Expenditures shall mean amounts chargeable to capital account for depreciable property in connection with the rehabilitation of an existing building for low- or moderate-income rental housing.

Substantial Rehabilitation (Amended February 9, 1993. Refer to Addendum.) A unit shall be considered substantially rehabilitated if rehabilitation expenditures for that unit:

1. Are equal to or greater than 50% of the purchase price of the rehabilitated unit.

For multiple unit dwellings, the purchase price of a unit is defined as the total purchase price of the building divided by the number of units in the building.

2. Are equal to or greater than \$5,000 during any 12-month period beginning on or after January 1, 1991.

To be deemed "substantially rehabilitation", the rehabilitation expenditures shall be primarily structural in nature as opposed to expenditures capable of being expensed for tax purposes or cosmetic improvements. To qualify as an exemption under Section 5.1.F of the Rent Stabilization Ordinance No. 076, or any successor ordinance containing the same provision, the rehabilitation expenditures must be approved by the Board prior to their being incurred. An exemption issued pursuant to this section shall be permanent.

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- C. Rental units that have been substantially rehabilitated and are occupied by low- and moderate-income tenants are exempt from the application of the Rent Ordinance, except Section 13 (Just Cause Eviction).
- D. The landlord of any rental unit who claims exemption pursuant to this regulation shall file an Application for Exemption. The landlord shall supply the amount of rehabilitation expenditure, the type of rehabilitation work, the name of the tenants who will be occupying the unit, and such other information as the Administrator requires to investigate and verify the claimed exemption.
- E. A rental unit that is exempted pursuant to this regulation shall not be issued an exemption certificate without the completion of the rehabilitation work and occupancy of the unit by the low- or moderate-income tenant.
- F. An exemption granted under this regulation is applicable so long as the low- or moderate-income tenant occupies the unit. The landlord shall notify the Rent Board every six months about the status of the unit. Nothing in this regulation shall prevent the Administrator from conducting an investigation of the status of the unit at any time.
- G. The Rent Board Administrator shall certify the adjusted gross income of low- and moderate-income tenants before the issuance of an Exemption Certificate to the landlord.
- H. If the Administrator determines that a unit would not be entitled to exemption pursuant to this regulation and the landlord disagrees, the landlord may file a Request for a Hearing on Exemption Status within 15 days of the decision of the Administrator.

501. DETERMINATION BY THE RENT STABILIZATION BOARD THAT A PROPERTY IS EXEMPT.

A property shall not be considered exempt from the Rent Stabilization Ordinance until the landlord(s) of said property has/have applied for, and received, a determination by the Rent Stabilization Board that such property is exempt.

Upon determination by the Board that a property is exempt from rent control, the exemption shall be deemed to relate back to the date upon which the application for exemption was filed provided that the conditions entitling an applicant to an exemption existed, and have continued to exist, at all times since that date.

502. APPLICATION FOR A CERTIFICATE OF EXEMPTION

The Application for a Certificate of Exemption must be filed on Board-approved forms. Appropriate documentation must be attached to the application in order to support the exemption claim.

503. FINAL DETERMINATION TO THE PROPERTY EXEMPT/NON-EXEMPT (Amended May 13, 1987)

As soon as practical after the filing of a completed exemption application, and in no event later than thirty (30) days from the date of filing, the Program Administrator shall make a final determination as to the exempt or non-exempt status of the property.

- A. The Administrator shall dismiss an exemption application without prejudice if the landlord fails to provide the requested supporting documentation within 15 days of mailing of a written request for such information.
- B. In the event that the Administrator determines the property to be non-exempt more than sixty (60) days after the date of filing a complete exemption application, the Board shall not thereafter find the landlord liable for any violations of the Rent Stabilization Ordinance that may have occurred prior to such determination but after the 60th day.

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504. RENEWAL OF EXEMPTION STATUS

Renewal of exemption status must be applied for each year. Failure to renew a unit's exemption does not excuse the landlord from any violations of the Ordinance that occurred while the property was not exempt

505. DOCUMENTATION REQUIRED TO PROCESS APPLICATION

The following is a list of items that must be submitted with exemption applications:

- A. Where a property is exempted because the landlords own less than five rental units in East Palo Alto – Grant deeds on all properties which are owned within city limits
- B. For units which are exempted because they are owned or leased by a government agency, – The current contract with Housing and Urban Development, or with the San Mateo County Housing Authority, for each exempted unit
- C. For units exempted because of substantial rehabilitation – Signed off building permits, canceled checks, copies of contractor invoices, and a list of tenants for all exempted units

The landlord must state, under penalty of perjury, that all tenants meet the income guidelines required for exemption. No exemption shall be approved, however, until the Administrator certifies the qualifications of the new tenants.
- D. For units that are exempted in nonprofit or limited equity housing cooperatives – A copy of the articles of incorporation
- E. For units that are exempted because they are rented to transient guests – A business license identifying the property as a hotel, motel, inn, tourist home, rooming house or boarding house
- F. For exempt units in a hospital, skilled nursing facility, or other health facility or home for the aged – A business license identifying the use of the property
- G. For units in multi-family structures that are exempt because of owner occupancy – The owner must provide, under penalty of perjury, a statement that he/she or a relative who is of the immediate family lives in the unit and at least two (2) pieces of business correspondence addressed to that person at the exempted unit

506. REGISTRATION OF PREVIOUSLY EXEMPTED UNITS

- A. Any property that has been exempted by virtue of Section 505 above and which no longer qualifies for exemption, must register with the Rent Stabilization Program within 60 days of the change, except for units exempted under 505.G, above.
 1. Units which fail to register, as required above, shall be assessed a penalty of 100% of the registration fee every 90 days until registered, except for those that are exempted because of Section 505.G above.
 2. Units that no longer qualify for an exemption under 505.G and that do not register within 30 days of the change of status, will be assessed a \$100 penalty per quarter until such time as they are registered.

507. APPEAL OF ADMINISTRATOR'S DETERMINATION

(Amended March 9, 1993. Refer to Addendum.)

- A. An appeal of the Administration's exemption determination must be filed within 15 days from the date the decision is mailed to the affected landlord.

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The Rent Stabilization Board appeals panel will make a final determination on the exempt status of the property within 30 days from the date of the appeal.

508-599. (RESERVED)

600 - RULES OF ORDER FOR BOARD MEETINGS

601-626.C (Deleted pursuant to RSB Resolution No. 11-07, adopted July 13, 2011)

626. D. **Alternates: (Amended February 14, 1995. Refer to Addendum.)**

1. If a regular Board Member is absent:
 - a. The alternate may be seated immediately, if needed, to meet the quorum requirements.
 - b. The alternate may be seated after 7:45 p.m., if the regular Board Member is absent.
2. After an alternate is seated, he/she remains seated for the entire meeting and is paid at the regular rate.

627. **PROMULGATION OF BOARD REGULATIONS**
(Amended December 22, 2010)

A. Regulations are effective after the second reading. The second reading must be held no sooner than seven days after the first reading.

B. Proposed Regulations

Staff must prepare and send out notice at least fourteen (14) days prior to Board workshop/discussion or hearing. The notice must be:

1. Published in the newspaper;
2. Mailed to persons requesting notice; and
3. Sent to potentially interested persons and/or groups.

C. Notice

The notice must include date, place, nature of proceedings (i.e., Board discussion, workshop, public hearing, etc.):

1. Summary and effect of proposed action;
2. Staff support person;
3. Deadline for comment; and
4. Where to obtain full text.

D. Hearings

The hearing may be formal or informal (i.e., workshop, Board discussion, or public hearing).

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This is at the discretion of the Board. If the hearing is formal, staff must follow appropriate procedures (i.e., 10-day notice sent to all parties listed in 603 of the regulations). The full text of the regulation has to be available for at least 5 workdays prior to Board adoption. Major changes have to be noticed again and public comment also must be permitted.

E. Emergency Regulations

Emergency regulations must include a written statement that contains a description of the specific facts and clearly defines the need for immediate action. An emergency regulation is effective upon adoption. The regulation can only stay in effect for 180 days unless the Board goes through the regular process prior to that date. The staff should make a reasonable effort to notify the public prior to the adoption of emergency regulations.

628. (Deleted pursuant to RSB Resolution No. 11-07, adopted July 13, 2011)

700 - SECURITY DEPOSITS

701. SECURITY DEPOSITS

- A. Any security deposit or payment, as that term is defined in Section 7 of the Ordinance, shall be placed by the landlord in an interest bearing account at an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation until such time as it is returned to the tenant or entitled to be used by the landlord pursuant to Section 1950.5 of the California Civil Code.
 - 1. If the landlord pays management or trust fees to the bank on the account where deposits are held on behalf of the tenants, the landlord may deduct such fees from the interest payable to the tenants. Such fees must be divided evenly over the affected units. An accounting of such fees must be provided to the tenants if requested by the tenants.
- B. The landlord shall clearly designate the account in a fashion that indicates that the monies deposited therein are held in a fiduciary capacity for the benefit of the tenants.

702. PAYMENT OF INTEREST ON SECURITY DEPOSITS

(Adopted May 13, 1987)

- A. Once each year, in December, the landlord shall return to each tenant the actual amount of interest earned by said security deposit either as a rent rebate or cash payment. The landlord shall furnish the tenant with a clear statement indicating the amount of each deposit or payment held on behalf of the tenant, the rate of interest paid by the financial institution on the deposit or payment, the time period in which the interest was earned, and the amount in dollars and cents of interest paid.
 - 1. If the landlord chooses to refund interest as a rent rebate rather than as a cash payment, notice must be given to the tenant in December of the actual amount of interest payable to the tenants. This notice shall clearly advise the tenant to credit his January rent payment by the amount of interest earned.
- B. Upon written request of the tenant, the landlord shall obtain and furnish to the tenants written verification from the financial institution of the account information and the amount of interest payable on the sum left for the tenant.
- C. The landlord shall return to the tenant all interest earned on said security deposit which has accrued from April 27, 1984 or the date of commencement of tenant, whichever is later, until the date upon which the payment was made.

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- D. (Adopted May 13, 1987) A tenant who has not received security deposit interest either in the form of a cash rebate or rent credit by January 31st of each year may deduct 10% of the security deposit from his one-month rent by giving 30 days notice to the landlord. The tenant must file a copy of the notice with the Rent Stabilization Board within 5 days of service to the landlord. If the landlord wishes to contest, he or she shall file a petition with the Board within 10 days of the receipt of the notice of rent reduction. A tenant who wishes a cash rebate of his security deposit interest shall file a petition with the Board.

703. PAYMENT OF INTEREST WHERE FUNDS ARE NOT DEPOSITED

If the landlord fails to place the payment or deposit at an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, the landlord shall nevertheless pay interest on said deposit or payment to the tenant. The interest due the tenant shall be the greater of the following:

1. The passbook rate which would have been paid by such an institution had the monies been properly deposited.
2. The legal rate of interest established by the State of California.
3. The interest actually earned by the deposit or payment in this use to which the landlord put the monies.

Payment of interest pursuant to Regulation 703 shall not relieve the landlord of any of the penalties or disabilities otherwise imposed by Regulation or the Rent Stabilization and Eviction of Good Cause Ordinance and any amendments thereto.

704. AMOUNT OF SECURITY DEPOSITS AND INCREASES THEREOF

- A. The amount of security deposits or payments charged or demanded of a new tenant shall not exceed that permitted by California Civil Code Section 1950.5 computed on the basis of the lawful rent ceiling for the unit at the commencement of tenancy.
- B. Increases in the amount of security deposits or payments demanded of a present tenant may not be increased until the landlord has filed a petition for individual rent adjustment and that petition has been granted by the Hearing Examiner.
- C. Increases in the amount of security deposits or payments which have been granted by the Hearing Examiner shall not take effect until the tenant has been given 30 days written notice and that notice period expires.

800 - RENT REGISTRATION

801. PROPER FILING OF THE RENT REGISTRATION STATEMENT

- A. A rental unit is properly registered in accordance with Section 8 of the Rent Stabilization Ordinance if the landlord or landlord's representative has:
 1. Filed with the Board a completed registration statement on forms provided by the Board including all of the information required for the individual units and the information concerning the entire parcel.
 2. Paid to the City of East Palo Alto all required registration fees and penalty fees due

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for the unit and property parcel and;

3. Fully completed registration for all covered units on the same property parcel.
- B. A landlord who asserts that he or she is unable to supply required information may request review of his or her registration status by the Rent Stabilization Program Administrator or the Administrator's designee. The Administrator or designee shall determine whether good cause exists to find the landlord properly registered, notwithstanding the lack of required information. The request for review shall be made on a form approved by the Board and shall include, without limitation, a declaration under penalty of perjury fully describing the landlord's efforts to obtain the missing information. The Board may specify the nature and extent of the efforts, and documentation thereof which is required. The Administrator or designee shall determine whether or not the inability to provide the required information resulted from circumstances beyond the control of the landlord. If it is determined that the landlord was not at fault and that the missing information cannot now be produced nor reasonably reconstructed from any available information, the landlord may be found to be properly registered notwithstanding the lack of information. If the reason for the unavailability was within the landlord's control, no relief shall be granted unless the landlord demonstrates that he or she has otherwise substantively complied with the Ordinance and that the landlord has made all reasonable effort to obtain or reconstruct the information which is unavailable. The Administrator shall submit a copy of the determination upon review to the Board for review and approval. A copy of the Board's decision shall be mailed to the landlord and to the tenants of the affected property. The Board may establish an appropriate fee for the filing of a request for review of registration status.
- C. In designating a rental unit as properly registered the Boards intent is to facilitate the rent registration and individual adjustment of rent ceiling processes and the dissemination of information regarding the registration of rental units. Such designation shall not be construed as the Board's certification of the lawful base rent, current lawful rent ceiling, or any other information provided on the rent registration statement. Nothing in this regulation shall preclude the Board nor any person from challenging the accuracy of any information provided in any registration statement or declaration in the context of any proceeding or action.
- D. As used in this Regulation, "rent registration statement" shall include the initial registration statement, any required annual registration statement, and any supplemental registration statement approved and required by the Board. This subsection is intended to clarify the existing requirements concerning filing of initial, annual, and supplemental registration statements.

802. FALSIFIED REGISTRATION STATEMENTS

(Adopted May 13, 1987)

If it is established that the rent level in the registration statement has been willfully falsified the units shall be deemed unregistered from the date where the false statement was filed, until such time as the proper and correct statements are filed.

- A. As used in this section, "registration statement" shall include the initial registration statement, any required annual registration statement, and any supplemental registration statement approved and required by the Board. .
- B. Penalties for non-registration pursuant to Section 802, above, shall be at the rate of 100% of the registration fee per quarter for the entire time the unit was deemed unregistered.

803. FALSIFICATION OF THE REGISTRATION NO ATTRIBUTABLE TO THE PRESENT OWNER)

(Adopted May 13, 1987)

If it is determined that the falsification of the registration statement is not attributable to the present owner, penalties shall not be assessed against the present owner.

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804. REGISTERED IF LANDLORD MAKES A GOOD FAITH EFFORT TO LOCATE FORMER TENANT

(Adopted May 13, 1987. Refer to Addendum.)

A unit may be deemed property registered if the landlord makes a **good-faith effort** to locate former tenants and refund monies owed, but is unable to locate the former tenants, such good-faith effort shall include a legal advertisement placed in the local newspaper.

805. BASE RENT CEILING UNCERTAINTY

Landlords who are uncertain about the amount of the lawful rent on April 1, 1985 shall attach a statement to the registration form explaining the reasons for their uncertainty.

806-829 (RESERVED)

830. RENT REGISTRATION STATEMENTS: PUBLIC AVAILABILITY

The Rent Registration Statements submitted to the Board shall be public records open to inspection by members of the public.

831-877 (RESERVED)

878. BILLING OF REGISTRATION FEE

(Adopted May 13, 1987)

Program staff shall send out a billing for registration fees no later than June 1 of each year. Billings shall be mailed to the last known address of each landlord, using the tax assessor's roll and program records.

- A. Landlords are required to send written notification to the Rent Stabilization Program within 30 days of management or ownership changes or a change of mailing address.
- B. A landlord who fails to notify the program, in writing, of a change of ownership and/or address within 30 days shall not be eligible for waiver of any penalties which accrued on the property because it was not registered.

879. REGULATION GOVERNING THE MANNER OF PAYMENT OF 50% OF REGISTRATION FEES BY TENANTS

Section 1

The 50% registration fee which the landlord is permitted to pass along to a tenant shall be, collected in 12 equal monthly installments. However, tenants share of the registration fee for 1984-85 shall be paid as follows: An eight dollars and seventy-five cents (\$8.75) for the month of January, and one dollar and twenty-five cents (\$1.25) for each subsequent month thereafter until June, share of the registration payment only after the landlord gives the tenant at least thirty (30) days notice and the notice period has expired.

Section 2

The monthly installment fee shall be added to the monthly rent and shall be collected together with the rent.

Section 3

The landlord, upon payment of the annual registration fee, shall give each tenant a written notice of the first day on which the first installment shall be due.

Section 4

No registration fee pass through is permitted beyond the year for which the registration fee is applicable.

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Section 5

If a tenant vacates the unit, the new tenant shall pay the remaining balance of the registration fee beginning the date of his/her occupancy of the unit.

880. REGISTRATION FEE DUE DATE

Pursuant to Section 8(D) and 8(F) if the Rent Stabilization Ordinance the first annual registration fee of \$30 per unit is required to be paid by July 1, 1984. The fee is considered paid on the date it is received in the Board office or the bona fide postmark date whichever is earlier. Subsequent registration fees will be due and payable on July 1, 1985 and July 1 of each calendar year.

881. DELINQUENT REGISTRATION FEES AND PENALTIES

A. If the full fee is not paid by July 1 of each year, it is delinquent and a penalty equal to 100% of the registration fee per unit will be assessed on July 2 and for every 90 days that the fees remain unpaid. Although partial payments will be accepted, rental units will not be considered to be properly registered until the full fee, including any penalty, has been paid and all required registration forms have been submitted to the Board offices.

882. REGISTRATION FEE

The registration fee provided by this section is to finance the reasonable and necessary expenses of the East Palo Alto Rent Stabilization Board.

883. REGISTRATION STATUS AND THE ANNUAL GENERAL ADJUSTMENT

The landlord is not entitled to any upward adjustment of the rent based on the annual general adjustment for any property for which there is an unpaid registration fee or for which registration forms have not been completed and filed with the Rent Stabilization Board.

884. REGISTRATION STATUS AND THE INDIVIDUAL RENT ADJUSTMENT

For any property for which there is an unpaid registration fee or for which registration forms have not been completed and filed with the Rent Stabilization Board: No petition, application, claim, or request will be accepted from any landlord; no hearing or other proceeding shall be scheduled or take place on any such petition, application, claim or request; and no rent increases granted by Hearing Examiners or the Board shall take effect.

885. WAIVER OF PENALTIES FOR DELINQUENT REGISTRATION (AMENDED)

- A. The Administrator shall make the determination on all penalty waiver requests. The following shall be considered good cause for a full waiver of penalties:
1. The billing address of the landlord has not been corrected after the owner has notified the Board, in writing via certified mail, of a change of address.
 2. The determination of whether or not a property was subject to the Ordinance requires an analysis by the City Attorney. Penalties shall be waived from the date of the first written contact with the Board in which the issue was raised. No waiver will be granted, if there is already a legal opinion on the issue and/or the issue has no substantial merit.
 3. Improper crediting of payments by City staff.
 4. If a landlord responds within 15 days of the first notice of delinquency or penalty billing sent by the program.
 5. Errors in billing or reconciling accounts that are directly attributable to City staff.

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- B. Registration penalties must be paid in full before waiver applications can be processed. The Program Administrator may waive this requirement at his/her discretion.
- C. Time for Decision: The Program Administrator shall make a final determination on all waiver requests within 30 days of submission of a completed waiver application, including supporting documentation and penalties.

886. PENALTIES ACCRUED AFTER SUBMISSION OF A WAIVER APPLICATION (Amended May 13, 1987)

- A. Penalties shall not accrue past the date where registration forms and fees are submitted to the Board. If penalties are not paid at the tune the waiver application is submitted, interest shall accrue on penalties if not paid within 30 days of a final waiver determination.

887. APPEAL OF ADMINISTRATOR'S DETERMINATION (AMENDED MARCH 9, 1993. REFER TO ADDENDUM.)

- A. A landlord may appeal the Administrators determination on his/her waiver application within 15 days from the date the decision is marled to the landlord. Such appeal must be in writing.
 - 1. The Rent Stabilization appeals panel shall review all appeals. An appeal decision must be rendered within 30 days for the submission of the appeal.

1000. (Formerly Base Rent Determination. Deleted March 9, 2011)

1200 - INDIVIDUAL RENT ADJUSTMENTS

1201. PETITIONS (Amended. Refer to Addendum.)

Any person seeking an individual rent ceiling adjustment under Section 12 of the Ordinance must file a petition under the provisions of this Chapter. Upon receipt of a petition by a landlord and/or tenant, the rent ceiling of individual controlled rental units may be adjusted upward or downward in accordance with the procedures set forth elsewhere in this Chapter. The petition shall be on the form provided by the Board.

1202. PREVIOUS RECENT HEARING

Notwithstanding any other provision of this Chapter, the Board or Senior Hearing Examiner may refuse to hold a hearing and/or grant an individual rent ceiling adjustment for a rental unit, if an individual hearing has been held and decision made with regard to the rent ceiling for such unit within the previous six months.

1203. PETITION FILING FEE

- A. The filing fee **for each individual rent adjustment landlord petition** shall be paid in two installments:
 - 1. Except as provided in Section 1248, the first installment, to be paid at the time the completed petition is submitted to the Board, is \$75 for the first unit and \$35 for each additional unit in the same building.
 - 2. The second installment of the filing fee for the landlord petition, to be paid at least four business days prior to the scheduled date of the hearing, is \$25 for the first unit and

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\$35 for each additional unit consolidated for hearing with the first unit. The second installment of the filing fee may be waived if a settlement is reached prior to the hearing. No hearing shall be held until the requirements of this subsection have been met.

- B. The filing fee for each individual rent adjustment tenant petition, with the exception for petitions filed solely on the basis of violation of rent ceilings, shall be paid in two installments:
 - 1. The first installment to be paid at the time the completed petition is submitted to the Board, is \$35 for the first unit and \$25 for each additional unit in the same building.
 - 2. The second installment of the filing fee for the tenant petition, to be paid at least four business days prior to the scheduled date of the hearing, is \$25 for the first unit and \$10 for each additional unit consolidated for hearing with the first unit. The second installment of the filing fee may be waived if a settlement is reached prior to the hearing. No hearing shall be held until the requirements of this subsection have been met.
- C. Filing fees are non-refundable.
- D. The filing fee for individual rent adjustment tenant petitions filed solely on the basis of violations of rent ceilings shall be \$15. The Hearing Examiner will order a refund of the filing fee if the petitioner prevails.

1204. WAIVER OF PETITION FILING OR APPEAL FEE (Amended July 8, 1987)

Petitioners shall apply for a filing or appeal fee waiver by submitting the appropriate declarations and any other information supporting their request on a form provided by the Board at the time that the filing fee is due under Section 1209.

The Program Director shall promptly make a determination and notify the petitioner in writing. If the petitioner's request is denied, the notice shall specify the basis for denial and state that the petitioner must remit the required filing fee in order for the petition to be accepted. The petition will not be considered as properly filed under Section 1207 until the required fee has been paid or a waiver has been granted.

The filing or appeal fee for individual rent adjustment petitions shall be waived for:

- A. Petitioners who declare, in writing under penalty of perjury, that they are receiving benefits pursuant to:
 - 1. The Supplementary Security Income (SSI) and the State Supplemental Payments (SSP) Programs (Sections 12200-122052 of the Welfare and Institutions Codes)
 - 2. The Aid to Families with Dependent Children (AFDC) Program (42 U.S.C. 601-644)
 - 3. The Food Stamp Program (U.S.C. 2011-2027)
 - 4. Section 17000 of the Welfare and Institutions Code (general assistance, county aid, and relief to indigents)
 - 5. The receipt of benefits pursuant to the State of California Disability Insurance Program or a private disability insurance policy or program

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6. The receipt of benefits pursuant to the State of California Unemployment Insurance Program.
- B. Petitioners who declare in writing under penalty of perjury that:
 1. Their gross income is equal to or less than:
 - \$ 9,039/yr for a family of 1
 - \$ 12,197/yr for a family of 2
 - \$ 15,355/yr for a family of 3
 - \$ 18,513/yr for a family of 4
 - \$ 21,671/yr for a family of 5
 - \$ 24,829/yr for a family of 6
 - \$ 27,987/yr for a family of 7
 - \$ 31,145/yr for a family of 8

(For each additional family member over 8, add \$3,158/yr)
- C. Petitioners who do not have sufficient income or liquid assets to pay for the common necessities of life and also pay the fees.

1205. FILING THE PETITION

Petitioner shall submit all of the following to the Board for filing:

- A. The completed petition
- B. One copy of the petition for each rental unit involved in the petition
- C. Stamped envelopes with sufficient postage to mail each copy, a petition response form, and a brief description of the hearing process to each opposing party
- D. Address labels (provided by the Board) filled out with the names and addresses of each party, including the petitioner(s) involved in the petition – one label per rental unit, listing all known tenants in that unit, should be filled out
- E. Filing fees pursuant to Section 1203

1206. ACCEPTANCE OF LANDLORD PETITIONS

- A. No landlord petition for an individual rent adjustment will be accepted for filing unless the unit for which the adjustment is requested has been properly registered for at least 30 days. A unit is considered properly registered only, if the completed registration statement has been filed with the Board and the registration fee (plus any penalty) has been paid in full.
- B. No landlord petition for an individual rent adjustment will be accepted for filing unless the landlord has completed the provisions of the petition form certifying that all security deposits for which the adjustment is requested have been placed in an interest bearing account at an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or by the Federal Deposit Insurance Corporation.

1207. PROPER FILING

(Adopted Section E, January 14, 1992)

- A. Proper filing of a petition is the responsibility of the petitioner. The Board staff will make a preliminary review of each petition after it has been submitted. Petitions that illegible, incomprehensible, erroneously completed, incomplete, or for which the required fees have

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not been paid will not be considered properly filed.

- B. In cases where tenant petitions are filed for rent adjustments due to (1) breach of implied warranty of habitability; (2) decrease in services provided by landlord; or (3) deterioration of the rented premises, the tenant/petitioner shall set forth in the petition the date on which the landlord was given notice of the conditions or problems providing the basis for tenants petition and whether the landlord was notified verbally or in writing. If the landlord was notified in writing, a copy of the letter, notice, or other writing, if available, should be attached to the tenant's petition. (Amended January 14, 1992. Refer to Addendum.)
- C. If the Board staff determines that all of the material information required on the petition forms has been provided, the required fees have been paid or waived, and the provisions of Sections 1205 and 1206 have been fulfilled, then the petition shall be considered properly filed, and the date of filing of the petition shall be the date of the receipt of such a completed petition by the Board.
- D. If the Board staff determines that the requirements for proper filing of the petition have not been fulfilled, the date of filing of the petition shall be the date on which such requirements are fulfilled, as determined by the Board staff.
- E. No individual rent adjustment proceedings will be held by the hearing Examiner or Board for petitions that are not properly filed.

1208. SUPPLEMENTAL INFORMATION

- A. The petitioner shall notify the Board and each opposing party of any material change in the information set forth in the petition, especially a change in the identity of any opposing party, as soon as possible prior to the hearing. When there is a change in the opposing party, the petitioner shall comply with the requirements of Section 1205 (b, c, d). Notice and proof of service shall be in accordance with Section 1210.
- B. Once the petition has been filed, no change will be permitted in the amount of rent adjustment requested, except for extraordinary circumstances constituting good cause, as determined by the Hearing Examiner.
- C. Changes in or additions to the information set forth on the petition may be grounds for a continuance, and may constitute good cause for delaying final Board action under Section 1243 of these regulations.

1209. PARTIES

Parties are the landlord of the affected property, the tenants in each affected rental unit (with all the tenants in one unit constituting one party), and any representatives designated pursuant to Section 123.4. The person listed as the landlord in a tenant petition for tent adjustment shall be the landlord party, unless the Board is notified to the contrary.

1210. NOTICES OF OPPOSING PARTIES AND BOARD

- A. Manner of Notice. Notice(s) to opposing parties shall be served by first class or certified mail, or by personal service on the party or the party's representative of record. Personal service shall be performed according to State law. Notices of the Board shall include a proof of service that proper notice was given to the opposing parties, by means of a written declaration by the server under penalty of perjury, stating the names and addresses of parties served and the date and manner of such service.
 - 1. NOTIFICATION REQUIREMENTS IN INDIVIDUAL RENT ADJUSTMENT PETITIONS HAVING NO ADVERSE PARTIES (Adopted October 8, 1986)

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For petitions where no adverse party is identified, or where rent adjustments resulting from a Hearing Examiner decision would not affect the present occupant of the rental unit, the notification requirements set forth above shall be waived.

- a. The petitioner shall provide the Administrator with a list of all tenants as of the filing date of the petition.
 - b. The Rent Stabilization Program Administrator shall mail an Advice to Tenant or Landlord to all affected units, whether or not they are listed as vacant, indicating that the petition has been filed and stating that the petition does not adversely affect the tenant. The advice shall also afford the tenant or landlord an opportunity to request a copy of the petition from the Rent Board Offices.
- B. Notice After Petition Filed. The Board shall notify the opposing party(ies) of the filing of a petition and send each opposing party a copy thereof, including a response form, and a brief description of the hearing process.
- C. Other Notices. The Board shall send a copy of all notices and parties shall send a copy of all documents or communications filed with the Board after the filing of the initial petition, except for documents or communications which are filed during the hearing or are confidential, to each party.

1211. RESPONSE TO PETITION

- A. A party wishing to respond to the petition may do so on the form provided within 10 days of the mailing date of the notice in Section 1210(B). Failure to respond does not constitute a default or a waiver of any rights pursuant to these regulations.
- B. Response to Petitions filed for Violations of Rent Ceilings. In response to a petition filed solely on the basis of violations of rent ceilings, the landlord may defend as to the issue of violations of rent ceilings, but may not counterclaim for an increase of the lawful rent ceiling. To make such counterclaims the landlord must file a separate petition in accordance with Chapter 12 and Section 1202 shall not prevent such a petition from being accepted.

1212. CONSOLIDATION

- A. All landlord petitions pertaining to tenants in the same building and all petitions filed by tenants occupying the same building shall be consolidated for hearing unless there is a showing of good cause not to consolidate such petitions.
- B. In its discretion, the Board or the Hearing Examiner may consolidate petitions pertaining to different buildings on the same property or different properties of the same landlord.

1213. CONFIDENTIALITY

(Amended February 9, 2000. Refer to Addendum.)

- A. Application for the waiver of filing fees due to economic hardship under Section 1204 shall be confidential even as to the opposing party. All other documents filed in connection with an individual rent adjustment proceeding shall be a public record, unless a party receives a determination by the Hearing Examiner that a particular document shall be confidential. For any such determination of confidentiality to be made it must be demonstrated that the document in question is exempt under the California Public Records Act (Government Code Sections 6250 et seq.) or that the public interest by not making the document public clearly outweighs the public interest served by disclosure of the document. Unless specifically directed by the Hearing Examiner, documents determined to be confidential will be available for inspection by the opposing party but not by the general public.

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- B. A party seeking a determination that a particular document shall be treated as confidential shall make such a request in writing. The request shall be made at the time that the document in question is offered by evidence or is otherwise required to be produced. The examiner may determine that only a portion of the document is to be treated as confidential and may make such rulings regarding disclosure to both the opposing party and the general public as are consistent with this Section. The request and the ruling thereon shall be included in the record.

1214-1220. (RESERVED)

1221. HEARING EXAMINER

A Hearing Examiner shall conduct a hearing to act upon the individual adjustment petition, except as provided in Section 1222. The Hearing Examiner shall have the following powers with respect to cases assigned to him/her.

- A. to administer oaths and affirmations.
- B. to grant requests for subpoenas and to order the production of evidence.
- C. to rule upon offers of proof and receive evidence.
- D. to regulate the course of the hearing and rule upon requests for continuances.
- E. to call, examine, and cross examine witnesses and to introduce evidence into the record.
- F. to make and file decisions on petitions in accordance with this Chapter.
- G. to take any other action that is authorized by this chapter.

1222. BOARD ACTION

The Board, on its own motion or on the request of any party, may hold a hearing on any individual adjustment petition without the petition first being heard by a Hearing Examiner.

For purposes of these regulations, the Board shall be considered a Hearing Examiner when holding a hearing under this Section. In the event that the board elects to hold a hearing, the decision of the Board shall be the final decision of the Board, except as provided in Section 1244.

1223. NOTICE OF HEARING

Notice of the time, date, and place of hearing shall be mailed to all parties no later than ten days before the scheduled date of the hearing.

1224. CONTINUANCES

- A. The date and time of the hearing may be continued, if the Senior Hearing Examiner (before the hearing) or the Hearing Examiner (at the hearing) finds good cause to do so. Such good cause shall be stated in the record and may include, but is not limited to, the failure of a party to receive notice, the illness of a party or witness or other emergency which makes it impossible to appear on scheduled date, or the failure of a party to provide the Hearing Examiner with the required pertinent information in a timely manner. Mere inconvenience or difficulty in appearing shall not constitute good cause. Continuances may also be granted upon consent of all parties.
- B. Requests for continuances shall be made as soon as possible. A written request for a continuance and the reasons for it must be received by the Board and all other parties of least 48 hours prior the scheduled hearing, unless good cause is shown for a later request. The written request shall contain acceptable alternative dates and an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a

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continuance. The request shall be served on both the Board and all opposing parties in accordance with the requirements of Section 1210.

- C. The Hearing Examiner may deny a request for a continuance if it has not been made in compliance with subsection (B) of where a continuance has previously been granted to the requesting party in the same case.
- D. The Board shall notify the parties if a continuance is granted and the time date and place of the rescheduled hearing.

1225. DISQUALIFICATION OF HEARING OFFICER OF BOARD MEMBER

- A. No Hearing Examiner or Board member shall take part in any hearing or appeal on a petition for an individual rent adjustment in which she/he has a personal financial interest in the outcome (such as being the landlord or, or a tenant residing in, the property that is involved in the petition), or a personal bias for or against any party. The Hearing Examiners or Board members general status as a landlord or tenant, or her/his political or philosophical beliefs shall not constitute personal bias.
- B. The Hearing Examiner or Board Member shall disclose to all parties any prior communication with a party concerning the subject of the petition, as well as any possible or apparent personal financial interest or personal bias.
- C. The Hearing Examiner or Board Member may disqualify himself/herself at any time. In addition, any party may file a written request for disqualification stating the grounds, with the Administrator (for Hearing Examiners) or the Board Chairperson (for Board members) at least 72 hours prior to the hearing. However, if the identity of the Hearing Examiner or board member was not known soon enough to allow this, the written request shall be filed as soon as possible but in no event later than the taking of any evidence at the hearing. Any such request shall be rules upon prior to the taking of any evidence at the hearing.

1226. SUBPOENAS

The Hearing Examiner may by order or subpoena require that either party or any other person provide her/him with any books, records, papers, or other evidence deemed pertinent to the petition or that any witnesses appear and testify. All documents required under this provision shall be made available to the parties prior to the hearing at the office of the Board. Parties to the hearing shall have the right to request the examiner to issue subpoenas on their behalf, but the responsibility for service of such subpoenas remains with the requesting party. The subpoena shall disclose on its face at whose request it has been issued and that it is issued in the name of the Board.

1227. BUILDING INSPECTION

If the Hearing Examiner finds good cause to believe that the Boards current information does not reflect the current condition of the rental unit, the examiner may order a building inspection. A party may also request the examiner to order such an inspection prior to the hearing.

1228. EVIDENCE

This Hearing Examiner need not conduct the hearing according to technical courtroom rules of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of any common law or statutory rule which might exclude such evidence in court proceedings. The Hearing Examiner may exclude unduly repetitious or irrelevant evidence.

1229. STIPULATIONS

The parties, by written stipulation filed with the Hearing Examiner, may agree upon some or all of the facts or evidence involved in the hearing. Stipulations may also be made orally at the hearing.

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The Hearing Examiner may require additional evidence on any matters covered by stipulation.

1230. PENALTY FOR FILING FALSE INFORMATION

If a party has knowingly or recklessly given false or misleading information in relation to an individual rent adjustment proceeding, the Hearing Examiner or the Board appeals panel may dismiss the petition at any point in the proceeding if the offending party is the petitioner. The Hearing Examiner may refuse to accept for filing any subsequent petition from the offending party for any unit for one year from the date of the offending act, subject to review by the Board.

1231. EX PARTE COMMUNICATIONS

There shall be no communications regarding any pending case outside of the hearing between the Hearing Examiner assigned to the case and any party, representative, or witness in any case pending before the examiner until the examiner has completed the written decision in that case, except for discussions about request(s) for continuances, building inspections or determinations of confidentiality, pre-hearing discussions pursuant to Section 1232 where both parties or their representatives have an opportunity to be present, or orders by the examiner to produce evidence pursuant to Section 1226. There may be communications on any matters with other Board staff.

1232. AGREEMENT PRIOR TO HEARING (Amended . Refer to Addendum.)

- A. The parties may make a pre-hearing agreement. The Board staff may contact the parties in an effort to clarify the issues and/or to reach agreement on the individual adjustment prior to the hearing. Any agreement between the parties prior to a hearing must be approved by the Hearing Examiner in accordance with the provisions of this chapter
- B. Parties shall submit any proposed joint agreement in writing to the Board. The Hearing Examiner shall approve or reject the agreement as soon as possible. Written notice of the determination shall be mailed to the parties. The notice shall contain the reasons for any rejection. The agreement and its approval or rejection shall be entered into the record.
- C. Parties who prior to a hearing reach an agreement on an individual adjustment which is approved by the Hearing Examiner shall be deemed to have waived their rights to a hearing or appeal on the petition. Such an approved agreement shall also be deemed a hearing for the purpose of Section 1202 of these regulations.

1233. OPEN HEARINGS

All individual rent ceiling adjustment hearings shall be open to the public.

1234. RIGHTS OF PARTIES

All parties to hearing shall have the right to appear at the hearing and present evidence and argument in person, and/or have assistance from attorneys, legal workers, recognized tenant organization representatives or any other designated persons. Any such representative shall file a written statement with the Board that he/she is assisting the named party, with the name, address and phone of the representative. All parties shall also have the right to call, examine, and cross examine witnesses, to request the examiner to issue orders or subpoenas for witnesses or evidence, and to exercise any other rights conferred by the Ordinance or this Chapter.

1235. TAPE RECORDING

Any party may have the hearing tape recorded or otherwise transcribed at her/his own expense.

1236. HEARING RECORD

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The record or the hearing shall include the following: all exhibits, papers, and documents required to be filed or accepted into evidence during the proceedings; a list of participants present; a summary of all testimony accepted a statement of all material officially noticed; all recommended and final decisions, orders, and/or rulings; and the reasons for each final decision, order and/or ruling. This official record shall constitute the exclusive record for the decision on the issues raised at the hearing.

1237. AVAILABILITY OF RECORD

The Board shall make a copy of the official record available for inspection and copying by any person, at a reasonable copying cost.

1238. QUANTUM OF PROOF.

No individual rent ceiling adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing.

1238.1 DETERMINATION OF EXISTENCE OF CONDITIONS BY HEARING EXAMINER NOTICE TO LANDLORD.

(Adopted January 14, 1992)

In cases where tenant petitions are filed for rent adjustments due to (1) breach of implied warranty of habitability, (2) decrease in services provided by landlord, or (3) deterioration of the rented premises the Hearing Examiner or the Board shall determine from the evidence presented whether the conditions or problems set out in tenants petition exist or existed. If the Hearing Examiner of the Board finds that the conditions or problems exist or existed, then the Hearing Examiner or the Board shall determine the date on which the landlord was notified or actually knew or reasonably should have known that the conditions or problems existed.

1239. LIMITATION OF RENT ADJUSTMENT

For any unit, the amount of rent adjustment granted shall not exceed the amount requested in the petition.

1240. FINALITY OF DECISION

The Hearing Examiners decision shall be the final decision of the Board in the event of no appeal to the Board.

1241. FAILURE TO ACT WITHIN 110 DAYS

(Repealed June 10, 2009)

If the Board fails to render a final decision on a landlords petition for a rent adjustment within 110 days from the date of filing, the petition shall be deemed granted in the amounts requested in the petition on the 111th day following the date of filing the petition.

1242. PROCEDURE FOR AN APPEAL TO THE BOARD

1. Any party may appeal the decision of the Hearing Examiner to the Appeals Panel for the Board within 10 days after the mailing of the Notice of the Decision of the Hearing Examiner. A proof of service by mail shall be attached to the Notice of the decision of the hearing Examiner.
2. The Board shall establish two appeals panels to hear appeals. Each panel shall consist of three Board members and one alternate. The panel and the alternate shall be drawn from a drawing consisting of all board members.

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3. Any appeal shall be in the form provided by the Board and must state why appellant believes there was either error or abuse of discretion on the part of the Hearing Examiner. Appellant shall file two copies of the appeal with the Board with proof of mailing a copy of the appeal to the opposing party(ies).
4. At the time of the filing of the appeal, appellant(s) shall pay an appeal fee in the amount of \$100.00. The appeal fee for a consolidated appeal shall be a basic fee of \$100.00 plus an additional \$5 for each additional consolidated under the appeal. The appeals fee may be waived pursuant to fee waiver regulations of the Board. The Board may refund to a successful appellant, part or all of the appeal fee.
5. The Board or staff may order that appeals relating to the same building or property, or different properties of the same landlord, be consolidated.
6.
 - a. On appeal, the Board panel may affirm reverse, remand or modify the decision of the Hearing Examiner. The Board panel may conduct a new (de novo) hearing or may act on the basis of the record submitted to the Hearing Examiner.
 - b. In those cases where the board is able to determine on the basis of the documents before it that the hearing officer has erred, the board may remand the case for further hearing in accordance with its instructions without conducting an appeal hearing. Both parties shall be notified as to the time of the rehearing, which shall be conducted within thirty (30) days of remanding by the board. In those cases where the board is able to determine on the basis of the documents before it that the hearing officer's findings contain numerical or clerical inaccuracies, or require clarification, the board may continue the hearing for purposes of re-referring the case to said hearing officer in order to correct the findings.
7. At least ten days prior to the date set for board action, a staff report shall be prepared on the appeal. The Board may retain outside expert opinion on any issue brought up by the appeal and have said information included in the staff report. The staff report shall contain a written recommendation to affirm, reverse or modify the decision of the Hearing Examiner and all pertinent facts upon which the recommendation is based.
8. At least seven days prior to the date set for Board action all names shall be notified by mail of the date, time, and place set for Board action on appeal. A copy of the staff report shall be mailed along with notice.
9. The Hearing Examiners decision shall not be stayed pending appeal. On matters not appealed before the board the decision of the Hearing Examiner, shall be final. If the Board panel reverses or modifies the Hearing Examiners decision the panel shall order the appropriate party to make retroactive payments over a reasonably appropriate period to restore the parties to the position they would have occupied had the Examiner's decision been the same as that of the panel.
10. Each party appearing before the board shall be entitled 5 minutes to address the board on his/her position based on the record before the board.
11. If the Board determines to hold a new (de novo) hearing, the hearing shall be conducted in the manner set forth in the Ordinance governing the hearing before the Hearing Examiner.
12. The Board's decision to affirm, reverse, or modify the decision of the hearing officer shall be supported by written findings of fact and conclusions of law.

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1243. TIME FOR DECISION

The Board shall take final action on any individual adjustment petition within 120 days following the date of proper filing, unless the conduct of the petitioner or other good cause is responsible for the delay. Good cause may include, but is not limited to, continuances granted, the submission of additional information by the petitioner, the filing of a motion for reconsideration, or a request by petitioner to disqualify the Hearing Examiner or Board member(s).

1244. NOTICE FOR RENT INCREASES

Allowable rent increases pursuant to an individual upward adjustment of the rent ceiling shall become effective only after the landlord, following the decision of the Hearing Examiner or Board, gives the tenant at least a thirty (30) day written notice of such rent increase and the notice period expires.

If the Hearing Examiner or Board makes a downward individual adjustment of rent ceiling, the rent decrease pursuant to such adjustment shall take effect on the date of the next regularly scheduled rent payment but no later than thirty (30) days after the date of the decision by the Hearing Examiner or Board.

1245. ALLOCATION OF PETITION FEES

The Hearing Examiner may as part of each decision order the respondent(s) to pay to the petitioner, over an appropriate period of time, a portion of the petition fee fairly allocable to the affected unit(s). In determining the portion to be paid by the respondent(s), the Hearing Examiner shall consider the good faith and cooperation of the parties, and the relationship between the amount of rent adjustment requested in the petition or other offers made by the parties and the final amount of the adjustment granted.

If the parties agree upon a pre-hearing settlement, which is approved pursuant to Section 1232, then the respondent(s) shall pay one half of the fee to the petitioner over an appropriate period of time not to exceed 12 months.

If a petition is found to be frivolous, no portion of the fee shall be paid by the respondent(s).

1246. FAST TRACK REVIEW AGREEMENT PRIOR TO HEARING

- A. Petitioners seeking an individual rent ceiling adjustment under Section 12 of the Ordinance may request consideration of the petition under the Fast Track Review procedure. Requests for Fast Track Review shall be made on a form provided by the Board at the time of filing of the individual rent ceiling adjustment petition.
- B. The filing fee for petitions filed with a request for Fast Track Review shall be \$35.00 for each unit included in the petition, which shall be paid at the time of submission of the petition.
- C. A petition shall be eligible for Fast Track Review only if all the following conditions are fulfilled.
 - 1. Petitioner submits at the time of filing of the petition and the Fast Track Review request, a written agreement between the parties to the petition on the rent ceiling adjustment requested. Such agreement shall be on a form provided by the Board and shall be signed by all parties to the petition. If there is no respondent to the petition the petitioner shall submit a written declaration, under the penalty of perjury, stating the reasons for the non-existence of the respondent,
 - 2. The grounds for the rent ceiling adjustment requested are limited to one or more of

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the following:

- a. Recent Rent Changes (Section 1274)
 - b. Changes in Number of Tenants (Section 1276)
 - c. Capital improvements that are necessary to arrange the property into compliance or maintain compliance with applicable local code requirements affecting health and safety (Section 1267)
 - d. Replacement of appliances (Section 1267)
 - e. Decreases in space or services (Section 1275)
3. The requested rent ceiling adjustment appears to be in conformance with the Ordinance and Section 12 of the Boards regulations.
 4. The documentation of the grounds for the requested adjustment is submitted together with the petition and Fast Track Review request and such documentation appears to be adequate.
- D. The Senior Hearing Examiner shall determine the eligibility of a petition for Fast Track Review, according to the provisions set forth in this regulation, no later than five (5) business days after the submission of the petition and Fast Track Review request, unless said period is extended for good cause by the Senior Hearing Examiner.
 - E. Upon determination by the Senior Hearing Examiner that a petition is eligible for Fast Track Review, he/she shall approve or reject in accordance with Board regulations and the Ordinance the rent ceiling adjustment requested no later than thirty days after the filing of the petition unless said period is extended for good cause by the Senior Hearing Examiner. The parties shall be mailed notice of the approval or rejection in accordance with Section 1232.
 - F. If the Senior Hearing Examiner finds that the petition or agreement submitted by the parties violates the Ordinance or Regulations the Senior Hearing Examiner shall allow the parties an opportunity to amend the petition and agreement comply with the Ordinance and Regulations.
 - G. If the rent ceiling adjustment requested is approved by the Senior Hearing Examiner, the petition filing fee shall be allocated in accordance with Section 1232(C), regarding agreements prior to the hearing.
 - H. All parties to an agreement submitted with a Fast Track Review request must sign and submit a waiver of their right to a hearing and appeal to the Board as part of such request. Such waiver shall be made on the condition the agreement is approved by the Senior Hearing Examiner.
 - I. If the petition is found to be ineligible for Fast Track Review or the agreement is rejected petitioner may request the petition be considered under the normal filing process by remitting to the Board the balance remaining on the filing fee as set forth in Section 1203 within ten (10) calendar days after notice of such ineligibility or rejection is mailed to the petitioner. Failure to do so will result in the petition being dismissed.

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1249. (Adopted May 10, 1994. Refer to Addendum.)

1250 - 1260. (RESERVED)

1261. DEFINITIONS

For purposes of individual rent adjustment proceedings, the following definitions shall be used:

- A. Net Operating Income equals Gross Income less Operating expenses.
- B. Gross Income equals the following:
 - 1. Gross rents, computed as gross rental income at 100% paid occupancy; plus
 - 2. Interest from rental deposits, unless directly paid by the landlord to the tenants (interest shall be imputed at the rate of 5½% of all deposits unless such deposits earn greater interest); plus.
 - 3. Income from laundry facilities, cleaning fees or services, garage, and parking fees; plus
 - 4. All other income or consideration received or receivable for or in connection with the use or occupancy of rental units and housing services, garage and parking fees; minus
 - 5. Uncollected rents due to vacancy and bad debts to the extent that the same are beyond the landlords control. Uncollected rents in excess of 3% of Gross Rents shall be presumed to be unreasonable unless established otherwise. Where uncollected rents must be estimated, the average of the preceding 3-years experience shall be used or some other comparable method.

C. Operating Expenses

- 1. Operating expenses shall include the following:
 - a. Real Property taxes
 - b. Utility costs
 - c. Management expenses (contracted or owner performed) including necessary and reasonable advertising, accounting, insurance and other managerial expenses, and allowable legal expenses.
 - d. Owner-performed labor, which shall be compensated at the following hourly rates upon documentation being provided showing the date, time, and nature of the work performed:

General Maintenance	\$ 7.00/hr.
Skilled Labor	\$13.00/hr.

Notwithstanding the above, a landlord may receive greater or lesser compensation for self labor if it can be shown that the amounts set forth above are substantially unfair in a given case.

There shall be a maximum allowance under this paragraph of 5% of gross rental income, unless the landlord shows greater services for the benefit of tenants.

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- e. License and registration fees required by law to the extent same are not otherwise paid by tenants.
 - f. Capital expenses with a total cost of less than \$100 per year per benefited unit, and the amortized portion of other capital expenses otherwise allowed by regulation.
2. Operating Expenses shall not include:
- a. Avoidable and unnecessary expense increases since the base year.
 - b. Mortgage Principal and interest payments that are not allowed under Section 12 of the Ordinance.
 - c. Any penalties, fees, or interest assessed or awarded for violation of this or any other law.
 - d. Legal fees as provided in subsection (d).
 - e. Depreciation of property.
 - f. Any expenses for which the landlord has been reimbursed by any security deposit, insurance settlement, judgment for damages, settlement, or any other method.

1262. CAPITAL IMPROVEMENT DEFINITIONS

(Adopted July 8, 1987)

- A. Capital Improvement: An item that is chargeable to the capital account with a useful life of at least 2 (two) years and has one or more of the following characteristics:
 - It is depreciable using the IRS straight-line method.
 - It prolongs the useful life of the rental structure
 - It replaces another capital improvement.
- B. Maintenance: All items which do not meet the above criteria and which qualify under Section 12.C.2.4 of the Ordinance shall be deemed maintenance items and are included as part of operating expenses.
- C. Approved Capital Improvements: Capital improvements that have been approved by a Hearing Examiner.

1263. RIGHT TO PETITION

(Adopted July 8, 1987)

A landlord may petition the Rent Stabilization Board for a rent increase in an amount sufficient to permit him to recover the cost of proposed or mandated capital improvements.

1264. METHOD OF FILING

(Adopted July 8, 1987)

- A. A landlord must file a capital improvement petition for rent adjustment before the commencement of capital improvement work, except in the following instances:
 1. The capital improvement is immediately required by State or local law to maintain the health and safety of the tenant.

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2. The capital improvement was commenced prior to the adoption of this regulation, including improvements made on or after July 1, 1983, but in no event later than August 1, 1987.

B. Filing Time:

1. If a landlord makes capital improvements in accordance with Section 1264.A.1, above, a petition for rent adjustment must be filed within 90 days of the completion of the work.
2. If a landlord has made repairs in accordance with Section A.2, above, a petition must be filed for rent adjustment within 90 days of the adoption of this regulation, but no later than December 1, 1987.

- C. A landlord must file a capital improvement petition on Board-approved petition forms and must submit the petition, along with the appropriate filing fee to the program administrator or his/her designee. The landlord must provide one copy of the petition for each unit involved in the petition at the time of filing.

1265.

GROUND FOR APPROVAL

(Adopted July 8, 1987)

- A. The Hearing Examiner shall approve a capital improvement increase only:

1. If the landlord is in substantial compliance with the Rent Stabilization Ordinance.
2. If she/he finds that the improvement protects or enhances the health/safety and security of the affected tenants(s) or the habitability of the rental unit(s), unless the tenants express support for improvements which do not meet the above criteria.
 - a. The Hearing Examiner shall take into account tenant objections on the necessity of improvements that do not meet the above criteria, and adjust, if necessary the amount of increase allowable.
3. If the landlord has obtained all required building, electrical, plumbing, or other permits before starting and/or completing the capital improvement.

- B. The Hearing Examiner shall have discretion to allow up to a 60-day continuance to a landlord to bring the rental property into compliance with the Rent Stabilization Ordinance or State and local health and building codes. If at the end of 60 days, the landlord is still not in compliance, the Hearing Examiner shall dismiss the petition without prejudice.

1. In no event shall the petition filing fee be refunded to a landlord if a petition is dismissed in accordance with Section 1265.8, above.

C. Tenant Hardship

1. A tenant may file a petition objecting to proposed capital improvements on the ground that the resulting rent increase will cause severe financial and economic hardship to the tenant.
 - a. For the purposes of determining hardship, all sources of income available to the tenant shall be considered, including the incomes of household members other than the tenants of record.
2. If the Hearing Examiner makes a written finding that a proposed improvement will cause severe financial hardship to the tenant, the Hearing Examiner shall, at his

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discretion, take any of the following actions:

- a. Initiate mediation between the affected tenant and the landlord to decrease the number of proposed capital improvements and if no agreement is reached between the tenant and landlord, make a written determination with supporting findings of fact as to which proposed capital improvements shall be undertaken. All proposed capital improvements required to bring the building up to health and safety codes will be permitted to be carried out.
- b. Delay the rent increase resulting from approved capital improvements for one (1) year following the completion of the work and certification by the Program Administrator of the completion.

1266. CALCULATION OF RENT INCREASES

(Adopted July 8, 1987)

- A. Cost of Improvement: The cost of a capital improvement is defined as the actual purchase price of the improvement (including labor cost and permit fees), plus real or imputed interest.
- B. Real Interest: Real interest shall be the actual and reasonable amount of interest and other charges paid to the lender in connection with a loan taken to finance a capital improvement.
- C. Imputed Interest: If the landlord has financed a capital improvement with his/her own funds, the amount of imputed interest shall be deemed to be the amount of interest the landlord would have incurred if she/he had financed the improvement with a three-year loan at the rate of interest outlined below:
 1. The rate at which imputed interest will be allowed shall be determined quarterly, on January 1, April 1, July 1, and October 1 of each year. The rate of Interest will be the 90-day average prime rate at Bank of America, Wells Fargo Bank, and California First Bank plus a factor of three (3) points. This rate of imputed interest shall be in effect for the entire quarter, until a new interest rate is calculated by the Board.
 2. The total interest attributable to an improvement under this section shall then be amortized over the life of the improvement for the purposes of determining rent increases.
- C. Allowance for Code Improvements

The Hearing Examiner shall allow one hundred and ten percent (110%) of the cost of the planned or completed capital improvement (as defined in Section 1266.A., above), where the improvement is necessary to bring the property in compliance with State and local code requirements affecting health and safety. The 110% allowed shall then be amortized over the life of the improvement, up to 120 months.

- E. Method for Calculating Rent Increases

The Hearing Examiner shall calculate a unit's rent increase by taking the cost of the improvement, dividing by the number of years listed in the amortization schedule for that improvement, dividing by the number of affected units and dividing by 12.

1. In the case of common area improvements which benefit multiple units, the cost of the improvement shall be divided equally between the units or on the basis of square footage, at the landlord's discretion.

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1267. AMORTIZATION OF CAPITAL IMPROVEMENTS
(Amended July 8, 1987)

A. The cost of a capital Improvement shall be amortized according to the schedule listed below, unless there is a specific finding that a different time period is more appropriate in a particular instance. Capital improvements not listed below shall be amortized according to the depreciation period outlined in the Internal Revenue Code.

B. Amortization Schedule

Improvement	Years
Air Conditioners	10
Improvement	Years
Appliances	5
Refrigerator	5
Stove	5
Garbage Disposal	2
Water Heater	5
Dishwasher	5
Microwave Oven	5
Cabinets	10
Carpentry	10
Doors	10
Electrical Wiring	10
Elevators	20
Fencing	
Chain	10
Block	10
Wood	10
Fire Alarm System	10
Fire Escape (Metal)	10
Flooring	
Hardwood	10
Asbestos Tile & Linoleum	5
Carpet	5
Gates	
Chain Link	10
Wrought Iron	10
Wood	10
Heating	
Central	10
Gas (Wall)	10
Electric	10
Insulation	10
Landscaping	
Planting	10
Sprinklers	10
Locks	5
Plumbing	
Fixtures	10
Pipes	10
Painting	
Exterior	5
Pumps	
Sump	10
Paving	

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Asphalt	10
Cement	10
Plastering	10
Roofing	
Shingle, Asphalt	10
Built-Up, Tar & Gravel	10
Tile	10
Security Entry Telephone Intercom	10
Stucco	10
Windows	
Shades	5
Screens	3
Awnings	5

1268. REPLACEMENT OF IMPROVEMENT WHICH DO NOT SURVIVE THEIR USEFUL LIFE
(Adopted July 8, 1987)

- A. In determining the amount of rent increase allowable for a capital improvement, the Hearing Examiner shall take into account whether or not the capital improvement replaces one which did not survive its useful life and shall adjust the increase according to the following schedule.
 - 1. For improvements which require a building, electrical, or plumbing permit:
 - a. The Building Inspection Services Division of the City of East Palo Alto, a licensed contractor or testing agency of the State of California shall evaluate the cause of the destruction of the original improvement. The contractor must be someone other than the person who did the original capital improvement.
 - b. If it is determined that the improvement was made without the required permits from the Building Inspector of the City of East Palo Alto, there shall be no rent increase allowed to replace the destroyed capital improvement.
 - c. In the case of inferior workmanship, the landlord shall be required to show why the replacement cost of the improvement cannot be recovered from the original contractor.
 - 1) If the cost of the replacement cannot be recovered from the original contractor, 50% of the replacement value shall be allowed by the Hearing Examiner.
 - 2) For all other improvements, the amount amortizable shall be as follows:
 - a) If the improvement falls within the first quarter of its useful life, no increase shall be given.
 - b) If the improvement falls within the second quarter of its useful life, 33% of its replacement value shall be allowed.
 - c) If the improvement falls within the third quarter of its useful life, 50% of its replacement value shall be allowed.
 - d) If the improvement falls within the final 25% of its useful life, the full value of the replacement improvement shall be allowed.

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2. Under no circumstances shall a Hearing Examiner grant a rent increase for an improvement that is covered under a warranty or guarantee by the manufacturer, if the cause of the capital improvement's destruction was covered by a replacement policy of insurance, or if the cost of replacement was paid by tenant deposits.
3. Under no circumstances shall a Hearing Examiner grant a rent increase for an improvement which the landlord willfully destroys the original capital improvement.

1269. EXPIRATION OF AMORTIZATION PERIOD

(Adopted July 8, 1987)

Except as provided below, the rent ceiling for a rental unit shall be adjusted downward automatically by the amount of the upward rent ceiling adjustment attributable to a capital improvement after the end of the time period over which the cost of that improvement was amortized.

1270. PRESUMPTION OF FAIR BASE YEAR NET OPERATING INCOME

Except as provided in paragraph 4, it shall be presumed that the Net Operating Income produced by a property during the base year provided a fair return. Landlords shall be entitled to maintain and increase their Net Operating Income from year to year in accordance with Section VII.

1271. REBUTTING THE PRESUMPTION

It may be determined that the base year Net Operating Income yielded other than a fair return on property, in which case, the base year Net Operating Income may be adjusted accordingly. In order to make such a determination, the Board or Hearing Examiner must make at least, one of the following findings:

1. The landlord's operating and maintenance expenses in the base year were unusual high or low in comparison to other years. In such instances, adjustments may be made in calculating such expenses so the base year Operating Expenses reflect average expenses for the property over a reasonable period of time. The Board or Hearing Examiner shall consider the following factors:
 - a. The landlord made substantial capital improvements during 1983, which were not reflected in the rent levels on the base date.
 - b. Substantial repairs were made due to damage caused by natural disaster or vandalism.
 - c. Maintenance and repair was below accepted standards so as to cause significant deterioration of the quality of housing services.
 - d. Other expenses were unreasonably high or low notwithstanding the following of prudent business practice. In making this determination the fact that property taxes prior to 1983 may have been higher than in the base year shall not be considered.
 - e. The base-period rent was not established in an arms length transaction.
2. The rent on the base date was disproportionate due to one of the enumerated factors below. In such instances, adjustments may be made in calculating Gross Rents consistent with the purposes, of this section.
 - a. The rent on the base date was established by a leased or other formal rental agreement that provided for substantially higher rent at other periods during

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the term of the lease.

- b. The rent on the base date was substantially higher or lower than at other times of the year by reason of seasonal demand or seasonal variations in rent.
 - c. The rent on the base date was substantially higher or lower than preceding months by reason of seasonal demand or seasonal variations rent.
3. It shall be presumed that where Net Operating Income is less than 50% of Gross income in the base year, after making adjustments as permitted by subsections (1) and (2) of this Section, the landlord was receiving less than a fair return on property. In such a case, for purposes of determining Base Year Net Operating Income, Gross Income shall be adjusted upward to twice the amount of adjusted Base Year Operating Expenses.
4. Debt Service Increased cost of debt service due to either or both:
- a. Increases in interest payments associated with refinancing of balloon payment notes between January and July 1, 1983, where the proceeds of such notes are used for the purchase or improvement of property in East Palo Alto, provided that the total debt does not exceed 70% of the purchase price of the property. Only increased interest required to refinance outstanding principle shall be considered. Such cost shall be allocated over the units in a building in proportion to the rent on the units there in periodic cost may be passed through in full. One-time costs shall be passed through over the lifetime of the financially involved unit.
 - b. Interest rate increases on variable mortgages where such mortgages are described in (1) above or were or are contracted for at the time of purchase of the security property, or existed prior to April 1, 1983.

1272. DETERMINATION OF BASE YEAR NET OPERATING INCOME

- A. To determine the Net Operating Income during the base year, there shall be deducted from the annualized Gross Income being realized on April 1, 1985, a sum equal to the actual operating expenses for calendar year 1985, unless the landlord demonstrates to the satisfaction of the Board of Hearing Examiner that some other 12-consecutive-month period is justified by reasons independent of the purpose of this paragraph. In all cases, April 1, 1985, shall fall within the 12-month period utilized here, except as provided in section (2) below.
- B. In the event that the landlord did not own the subject property on January 1, 1985, the Operating Expense for 1985 shall be determined by one of the following manners, whichever the Board or Hearing Examiner determines to be more reliable in the particular case:
 - 1. The previous owners actual Operating Expenses as defined in Section 2C; or, where unavailable.
 - 2. Actual Operating Expenses for the first calendar year of ownership, discounted to 1985 by the schedule in Section VI below.

1273. SCHEDULE OF INCREASE IN OPERATING EXPENSE

Where scheduling of rent increases or other calculations require projections of income and expenses, it shall be assumed that Operating Expenses, exclusive of Property Taxes and Management Expenses, increase at the rate of all items of the CPI – Property Taxes increase at

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2% per year and Management Expenses are 5% of Gross Income.

1274. ALLOWABLE RENT INCREASES

Upon filing of an individual petition by a landlord, the Board may permit rent increases, unless otherwise prescribed by law, such that the landlords Net Operating Income will be increased at the rate of 100 percent (100%) of the increase in the Consumer Price Index (CPI), designated as "Shelter: Rent Residential 1967 = 100", over the Base Year. The increase in the CPI shall be calculated by dividing the most recently reported monthly figure at the time of filing of the petition by the monthly figure for April 1985.

1275. RELATIONSHIP TO GENERAL ADJUSTMENT

Any individual adjustment established pursuant to this section shall take into account the extent of any General Adjustments the landlord may be implementing, or otherwise entitled to, at and during the time their individual adjustment is to be implemented, and the individual adjustment may be limited or conditioned accordingly. The Board shall calculate and establish General Adjustments consistent with this section.

Rent increases, granted pursuant to Section 11.A, cannot be appealed. A rent increase notice pursuant to Section 12 shall state that it is subject to appeal by petition to the Board, whose address and telephone number shall be listed on the notice.

1276. EFFECTIVE DATE OF ALLOWABLE INCREASE

Allowable rent increases pursuant to an individual upward adjustment of the rent ceiling shall become effective only after the landlord gives the tenant at least thirty (30) day written notice of such rent increase and the notice period expires.

Rent ceiling adjustments pursuant to this section may only be made one time for any unit.

1277. CHANGES IN SPACE OR SERVICE: SUBSTANTIAL DETERIORATION

- A. Increases in Space or Services. Rent ceilings shall be adjusted upward, pursuant to the provisions of Sections for increases in the living space or housing services (including furniture, furnishings, or equipment) provided for a unit, where such increases in space or services result in unavoidable increases in actual expenses, and where such increases in space or services are either unavoidable or are provided by the landlord in good faith to primarily benefit the tenant(s).
- B. Decreases in Space or Services. Rent ceilings shall be adjusted downward for decreases in living space or housing services provided for a unit by an amount equal to the rent ceiling in effect, multiplied by the percentage by which the tenants use of and benefit from the unit has been impaired by the reduction in living space or housing services.
- C. Substantial Deterioration. Rent ceilings shall be adjusted downward for any substantial deterioration in a rental unit or property, other than as a result of either normal wear and tear or willful destruction of the property by the tenant, by an amount equal to the rent ceiling in effect, multiplied by the percentage by which the tenant's use of and benefit from the unit has been impaired by the deterioration.
- D. Failure to Provide Adequate Services. Rent ceilings shall be adjusted downward for any failure by the landlord to provide adequate housing services or to comply substantially with applicable State rental housing laws, local housing, health and safety codes, or the rental agreement. The amount of the downward adjustment shall be equal to the rent ceiling in effect, multiplied by the percentage by which the tenant's use of and benefit from the unit has been impaired by the landlord's failure or non-compliance.

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- E. Termination of Rent Reductions. Any rent ceiling reductions pursuant to this Section shall terminate on the date of the first rent payment due after adequate proof has been submitted to the Board that the reason for which the reduction was granted no longer exists.
- F. Past Reduction in Services. (Amended January 14, 1992)
1. Rent ceilings may be temporarily reduced to compensate for a past decrease in living space or housing services provided, or substantial deterioration or failure to provide adequate housing services, or breach of the implied warranty of habitability or failure to comply substantially with applicable State rental housing laws, local housing, health and safety code, the rental agreement, which occurred prior to the effective date of the rent ceiling reduction determined pursuant to this Section.
 2. The total dollar amount of the compensation pursuant to this section shall be equal to the rent ceiling in effect, multiplied by the percentage which the tenant's use of and benefit from the unit has been impaired by any of the factors set forth in subsection (1) above, multiplied by the period of time the impairment existed. The period of time the impairment exists should commence no earlier than the date on which the landlord was notified or actually knew or reasonably should have known that the impairment existed. For purposes of determining when the landlord received notice, it will be conclusively presumed that landlord received notice within three (3) days of the date any certified or registered letter of notification was sent to landlord. Greater weight will be given to written notice than oral notice to landlord except in cases where the oral notice is corroborated by other testimony or evidence.
 3. The Hearing Examiner shall determine the temporary rent ceiling reduction pursuant to this subsection by prorating the total compensation over a reasonable period of time, not to exceed the period of time during which the impairment existed.
- G. Replacement Cost. In determining the amount of the downward rent adjustment by the percentage of impairment of use/benefit method pursuant to subsection (B), (D), and (F), the Hearing Examiner may consider the reasonable replacement cost of space, service or repair in question.

1278.

CHANGES IN NUMBER OF TENANTS

- A. Base Occupancy Level. The base occupancy level for a unit shall be the highest number of tenants allowed by any lease or rental agreement for the unit, between April 1, 1985 and April 1, 1986, or the highest number of tenants, actually occupying the unit, with the landlord's knowledge, as a principal residence, between April 1, 1985 and April 1, 1986, whichever is greater. If the necessary information is not available for the period between April 1, 1985 and April 1, 1986, the Hearing Examiner may use another appropriate period to determine the base occupancy level, or may determine any appropriate base occupancy level, for the unit.
- B. Increase in Tenants
1. If the number of tenants allowed by the lease or rental agreement and actually occupying a rental unit as a principal residence has increased above the base occupancy level for that unit, then the rent ceiling for the unit shall be increased by 10% for each additional tenant above the base occupancy level, in addition to any rent ceiling adjustment pursuant to Sections 1262-1272.
 2. No rent ceiling increase for additional tenants, as provided for in this subsection, shall be granted:

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- a. for any additional tenant who is a spouse, child, parent, grandparent, brother, or sister of any of the original tenants unless the tenants agree in writing in a document other than the lease or rental agreement to a specific rent ceiling increase.
- b. for temporary guests for whom the unit is not a principal place of residence.
- c. unless the increase in the number of tenants has taken place in the twelve months preceding the date of filing of the petition.
- d. if the increase in the number of tenants is objected to by the original tenants.
- e. unless the increase in the number of tenants complies with applicable codes and standards regarding occupancy level to the unit.
- f. if the landlord is unable to adequately document the base occupancy level for the unit.
- g. if there was no rent in effect for the unit between April 1, 1985 and the date of filing the petition.

3. If the number of tenants actually occupying a rental unit as their principal residence decreases subsequent to any rent ceiling increase for additional tenants granted pursuant to this subsection, then the rent ceiling for that unit shall automatically decrease, by the amount of the rent ceiling increase that this no longer justified, as a result of the decrease in the number of tenants.

C. Decrease in Number of Tenants Allowed

1. If any policies imposed by the landlord reduce the number of tenants allowed, to occupy a rental unit as a principal residence from the base occupancy level for that unit, then the rental ceiling for that unit shall be decreased by an amount equal to the percentage by which the number of allowable tenants has been reduced.
2. If there was no rent in effect for the unit between April 1, 1985 and April 1, 1986, the base occupancy level for the unit shall be established by the Hearing Examiner based on the pattern of occupancy levels for the unit in the twelvemonth period preceding the date of filing of the petition.
3. For the purpose of this subsection, the maximum base occupancy level for a unit shall be the maximum number of tenants lawfully allowed to occupy that unit.
4. Rent ceilings may be temporarily reduced to compensate for any past policies imposed by the landlord which reduced the number of tenants allowed to occupy a rental unit as a principal residence from the base occupancy level for that unit, which reduction occurred on or after April 1, 1985, and before the effective date of the rent ceiling reduction pursuant to this subsection. The total dollar amount of the compensation shall be equal to the, percentage by which the number of allowable tenants has been reduced during that period, multiplied by the rent ceiling in effect, multiplied by the period of time during which that reduction was in effect. The Hearing Examiner shall determine the temporary rent ceiling reduction pursuant to this subsection by prorating the total compensation over a reasonable period of time (not to exceed the period of time the reduction in tenants existed).

1279.

OVERCHARGES AND OTHER VIOLATIONS

(Amended January 14, 1992)

- A. Overcharges. If the landlord has received rent in violation of the Ordinance, on or after May

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1, 1983, the landlord shall be ordered to refund the overcharge. If the landlord has not fully complied with the overcharge refund order within ninety (90) days from the date of the Hearing Examiner's decision or the decision of the Appeals Panel or the Board on appeal, the rent ceiling for the affected unit shall thereafter be temporarily reduced to insure return of the overcharge, over an approximate period of time (not to exceed the period of time during which the overcharge occurred), except as provided in Subsection (B), and no upward individual rent adjustment shall be granted for the affected unit(s). Any overcharge refund shall be paid to the person or persons overcharged, except as provided in Subsection (B) below. For purposes of this Section, any receipt or retention of rent in violation of any order, rule or regulation of the Board shall be deemed to be in violation of the Ordinance.

- B. Overcharges from Former Tenants. If any of the rent overcharge was received from former tenant(s), the landlord shall make reasonable efforts to find the former tenants(s) and refund the overcharge. The landlord shall notify the Board in writing of the nature, extent, and result of those efforts within 60 days of the overcharge refund order.

If the landlord does not refund any past overcharges to any former tenant(s) within 60 days, and has made reasonable but unsuccessful efforts to locate the former tenant(s), then the landlord shall be ordered to pay the overcharge over any appropriate period of time to the Rent Stabilization Board. Until the landlord has fully complied with the overcharge refund or payment order, no upward individual rent adjustment shall be granted for the affected unit(s).

- C. Petition Fee. If the landlord has received and retained rent in violation of the Ordinance, or has failed to comply with the Ordinance or any rule, regulation or order of the Board, for any unit in a properly for which he/she has filed an individual rent adjustment petition, and such failure or violation continues at the time of the filing of the petition, then the landlord shall not be entitled to recover any part of the petition fee from the tenants affected by the petition, notwithstanding the provisions of Section 1245.
- D. Other violations. If the landlord has failed to comply with the Ordinance or any rule or regulation of the Board in any way other than unlawful rent charges the Hearing Examiner may make appropriate orders for compliance or other appropriate relief, and no upward rent adjustment shall take effect until the landlord complies with said order.
- E. Continuing Violations. No upward adjustment of an individual rent ceiling shall be authorized under this Chapter if the landlord:
1. has continued to fail to comply, after order of the Board, with any provisions of the Ordinance and/or orders or regulations issued or regulations issued thereunder by the Board; or
 2. has failed to bring the rental unit into compliance with the implied warranty of habitability. This means that the living quarters shall be maintained in a habitable state. Among other problems materially affecting health and safety, lack of substantial compliance with those applicable building, housing and health code standards which materially affect health and safety, including, but not limited to, the standards set forth in Civil Code Section 1941.1, shall constitute noncompliance with the implied warranty of habitability.

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1300 - EVICTIONS

1300. OBLIGATION TO OFFER VACATED UNIT TO TENANTS

(Amended May 13, 1987)

The following is a list of proposed changes to Section 1300 of the Rent Stabilization Board Rules and Regulations. Section numbering is consistent with already existing regulations.

- A. A landlord who wishes to evict a tenant in order to occupy the unit either for himself or his relatives, as defined in Section 13(A)(9) of the Ordinance, must first offer the evicted tenant the right of first refusal on any of the rental units he or his relatives vacated, if that rental unit is within the City of East Palo Alto.
- B. If the number of persons who may, under State law or local ordinance, lawfully occupy the unit vacated by the landlord or landlord's relative is less than the number of persons currently occupying the unit for which recovery of possession is sought, the landlord must condition the offer of the vacated unit upon the tenants agreement to reduce the number of occupants to the maximum lawful level. If this is not possible or agreed to by the tenants, the owner may serve the tenants within a 30-day notice to quite.

1301 1310. (RESERVED)

1311. ALLEGING COMPLIANCE IN COMPLAINT

(Amended May 13, 1987)

In any action to recover possession of a rental unit covered by the Ordinance, except an action to recover possession under subsections 13(A)(7) and 13(A)(8).

- A. A landlord shall:
 1. Allege in the complaint for possession substantial compliance with the implied warranty of habitability, and compliance with Section 10 (Rent Ceiling) of the Ordinance for the rental unit. which is the subject of the action to recover possession;
 2. Allege in the complaint for possession compliance with Section 8 (Rent Registration) of the Ordinance for all rental units on the property which contains the rental unit which is the subject of the action to recover possession;
 3. Certify that they have applied for, and received a Certificate of Exemption from the Rent Stabilization Program, if the landlord is the owner of an exempt unit.

1312-1379. (RESERVED)

1380. EVICTIONS FOR OCCUPANCY BY LANDLORD OR RELATIVE

(Amended October 27, 1999. Refer to Addendum.)

- A. The landlord shall specifically identify in writing in the notice of termination and in the complaint for unlawful detainer the name and relationship to the landlord of the individual for whom the landlord seeks to recover possession of the property for occupancy as a principal residence. Failure to comply with this requirement shall constitute a defense to the eviction action and shall render the notice of termination legally invalid.
- B. Inclusion of the name and relationship of the person for whom the landlord seeks to recover possession in the notice of termination and the complaint for possession shall be one element to be considered in the determination of whether or not the good faith requirement of Section 13(a)(9) has been met.

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- C. If the individual(s) named in the notice of termination, for whom possession was recovered under Section 13(a)(9) occupies the rental unit as his/her/their principal place of residence for a period of less than six consecutive months following the date that the tenant vacated the unit, there shall be a presumption that the eviction was not in good faith.

1382. EVICTIONS FOR VIOLATION OF THE LEASE AGREEMENT.

- A. If a tenant is served a notice of eviction because of violation of the lease agreement, the landlord shall send the Rent Stabilization Program a copy of the written warning notice which was served to the tenant.
 - 1. A tenant shall be deemed to have violated the lease if he/she uses the unit, or makes it available for use by others, for the purpose of manufacturing, storing, distributing or selling controlled substances as defined in Health and Safety Code Sections 11007 and 11050.
 - 2. A tenant shall be deemed to have violated the lease if he/she uses the units or makes it available for use by others, for the purpose of prostitution as defined in Section 647(6) of the Penal Code, pimping as defined in Section 266(h) of the Penal Code or pandering as defined in Section 2660 of the Penal Code.
 - 3. It shall not be considered a violation of the lease if a tenant adds a person to his household who is a spouse, child, parent, or grandparent, so long as the total number of persons occupying the unit does not exceed State or local ordinances controlling the occupancy level of the apartment.

1383. WRITTEN NOTICE TO CEASE (Adopted May 9, 2001. Refer to Addendum)

1600 - ANNUAL CERTIFICATION OF MAXIMUM RENT LEVEL (Adopted May 25, 1988) (Revised April 14, 2010 by Resolution No. 10-03)

1600. ISSUANCE OF CERTIFICATE OF MAXIMUM LEGAL RENT (Revised April 14, 2010)

- A. New Tenancy Registration. Within thirty days of the establishment of the new tenancy, the landlord shall file with the Rent Stabilization Board a "New Tenancy Registration" Form. Within thirty (30) days of the receipt of this notice, and provided the form is substantially complete pursuant to subsection (C) of this rule, a new Certificate of Maximum Legal Rent shall be issued to both tenant and landlord. This certificate shall set the Base Rent for this unit to the Initial Monthly Rent established by the tenancy pursuant to Rule 1002(A)(2).
- B. Annual Registration. Once annually, the Rent Stabilization Board will require the completion and filing of the Annual Registration Statements with the Rent Stabilization Board. At this time, a Certificate of Maximum Legal Rent will be issued to all landlords and tenants of registered rental units in the City of East Palo Alto. Within forty-five days of the filing of the complete Annual Registration Statement, the Certificate will be issued and mailed by first class mail to the landlord and the tenant.
- C. Substantial Compliance. If either the Annual Registration Statement or New Tenancy Registration Form(s) is not substantially completed, the landlord shall be notified within thirty (30) days of submission that the property is not properly registered and that the Board is unable to determine the rent ceiling without the missing information. A registration statement will be considered substantially completed when it contains all the information requested on the required forms, including supporting documents, such as evidence of the rent that was actually charged on the date(s) specified; e.g., a lease or rental agreement in effect on the date

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in question, a copy of a rent receipt, rent ledgers or other documents clearly establishing the rent in effect on the date in question. A landlord who is unable to furnish satisfactory evidence must complete a declaration that sets forth the rent the landlord reasonably believes was in effect on the date(s) in question and includes the basis for that belief.

- D. Appeals. The information set forth on the Certificate establishes the rent ceiling for the reported tenancy for that year for a rental unit that is in substantial compliance with Section 11.E. of the Ordinance. The Certificate may be appealed by landlord or tenant pursuant to these rules and regulations.
- E. Notice on Certificates
 - 1. All certificates issued subsequent to a New Tenancy Registration shall include a statement of the Base Rent for this unit and the commencement date of the tenancy that established this Base Rent.
 - 2. In addition to stating the rent ceiling, the Certificate will set forth the eligibility conditions for the Annual General Adjustment, as provided for in Section 11.E. of the Ordinance.
 - 3. The Certificate will provide notice that either party may appeal the landlord's eligibility for the Annual General Adjustment (AGA), and that the Board has made no attempt to determine AGA eligibility, except insofar as such eligibility depends upon registration of the property.
 - 4. The certificate shall state the period of its validity.
 - i. A certificate is only valid for the duration of the tenancy effective upon its issuance.
 - ii. Each certificate shall state the period of the next Annual General Adjustment, at which point a new certificate shall supersede the present certificate.
- F. Upon issuance, a copy of the Certificate of Maximum Legal Rent shall be placed in the Rent Stabilization Property File.

1601. DETERMINATION OF MAXIMUM RENT LEVEL WHERE A PRIOR CERTIFICATION HAS BEEN ISSUED.

- A. Extent of Review: Where the rental unit has previously been certified per Regulation 1100 or by means of an Individual Rent Adjustment (IRA) decision, the review to determine the current permissible rent level shall include the following:
 - 1. The review shall begin with the most recent certified rent, which shall be controlling and not subject to challenge in an appeal of the certificate:
 - 2. The most recent certified rent shall be increased by the amount of subsequent Annual General Adjustments for each year in which the property was in substantial compliance with the registration requirements if the Board has no information establishing that the landlord was otherwise ineligible for the Annual General Adjustments in question.

In situations where the property was not in substantial compliance with the registration requirements or where the board has information establishing that the landlord was otherwise ineligible for any Annual General Adjustment, the adjustment for the year(s) in question shall be disallowed when computing the permissible rent level. For purposes of this regulation, a property shall be considered in substantial compliance with the registration requirements if all registration fees and penalties have been paid and the initial registration

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statement states the name and address of the landlord and managing agent and the housing services provided.

3. Any Individual Rent Adjustment(s) which has/(have) been granted shall be taken into account when computing the permissible rent level. All determinations made in such IRA hearings shall be controlling and the results reached in said proceedings shall not be altered or superseded.

B. Notification Concerning Determination

In addition to the Certificate of Maximum Rent Level, the Board shall provide the landlord and tenant with notice containing the following information:

1. Notice of the prior certification and that the prior certification is binding and cannot be challenged in an appeal of Certification
2. The specific dollar amount of the permissible rent level for each year from the date of the most recent certified rent to the present
3. Notice that the landlord's eligibility for the annual general adjustment subsequent to the most recent certified rent is subject to appeal by either party, and that the Board has made no attempt to determine the landlord's eligibility for the various annual general adjustments, except in so far as such eligibility depends upon registration of the property. The notice shall set forth the various eligibility conditions for the Annual General adjustments.
4. Notice that unless a timely Appeal of Certificate of Permissible Rent Level is filed, the rent level identified in the Certificate shall become the final permissible rent level (maximum rent ceiling) subject to re-determination only pursuant to regulation 1605. The time period and procedure for filing such an Appeal shall be clearly set forth.

1602.

DETERMINATION OF MAXIMUM RENT LEVEL WHERE NO PRIOR CERTIFICATION HAS BEEN ISSUED

A. Extent of Review

Where the rental unit has not previously been certified, the Administrator, or his or her designee, shall review the rent registration forms, other information contained in the property files, the Hearers Unit files and any other information available to the Board for the purpose of determining the permissible rent level (maximum rent ceiling) for the rental unit.

1. In circumstances where the initial registration statement is not substantially completed, the landlord shall be notified that the property is not properly registered and that the Board is unable to determine the permissible rent level without the missing information. An initial registration statement shall be considered substantially completed when it contains all the information required to furnish the missing information including evidence of the rent which was actually charged on the date(s) specified. Said evidence shall consist of a lease or rental agreement in effect on the date in question, a copy of a rent receipt books of account or other documents clearly establishing the rent in effect on the date in question. If the landlord is unable to furnish satisfactory evidence, the landlord shall complete a declaration which sets forth the rent the landlord reasonably believes to have been in effect on the dates) in question and includes the basis for the landlord's belief that the rent in effect was the amount claimed by the landlord. A landlord who supplies the requested information and who otherwise was in substantial compliance, shall not have held to be unregistered. for purposes of this regulation in determining eligibility for the various

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annual general adjustments.

2. The base rent ceiling as determined above shall be increased by the amount of Subsequent Annual General Adjustments for each year in which the property was in substantial compliance with the registration requirements if the Board has no information established that that landlord was otherwise ineligible for the Annual General Adjustments in question. In situations where the property was not in substantial compliance with the registration requirements or where the Board had information establishing that the landlord was otherwise ineligible for any Annual General Adjustment for the year(s) in question shall be disallowed when computing the rent level.
3. Any Individual Rent Adjustment(s) which has been granted shall be taken into account when computing the maximum rent level. All determinations made in such IRA hearings, or in any rent withholding for non-registration hearings, shall be controlling and the results reached in said proceedings shall not be altered or superseded.

B. Notification Concerning Determination

In addition to the Certificate of Maximum Rent Level, the Board shall provide the landlord and tenants with a notice containing the following information:

1. The specific dollar amount of the permissible rent level for each year from 1983 to and including the current permissible rent level.
2. It shall specifically set forth the computational steps necessary to determine the lawful base rent ceiling and rent ceilings. The notice shall further advise that if the landlord or tenant wishes to contest the base rent ceiling or the lawful rent ceilings, a timely appeal must be filed.
3. The notice shall also state that the Board has made no attempt to determine the landlords eligibility for the various annual general adjustments, except insofar as such eligibility depends upon registration of the property. The notice shall set forth the various eligibility conditions for the Annual General Adjustments.
4. Notice that unless a timely Appeal of Certificate of Maximum Rent Level is filed, the rent level identified in the Certificate shall become the final permissible rent level (maximum lawful rent ceiling), subject to re-determination only pursuant to Regulation 1605. The time period and procedure for filing such an Appeal shall be clearly set forth.

1603. APPEAL OF CERTIFICATE OF MAXIMUM RENT LEVEL

The landlord or tenant may appeal the determination of the permissible rent level stated in the certificate within fifteen (15) calendar days. An appeal fee to twenty-five dollars (\$25.00) per unit up to a maximum of twenty five hundred (\$2500.00) dollars per property shall be paid for the appeal. The appeal must be on a Rent Board form and must state the factual basis for contesting the certificate of permissible rent level. The appeal hearing shall be conducted in the same manner as other individual hearings as set forth in Ordinance Section 12 and its Regulations. An amended certificate of maximum legal rent shall be served upon landlord and tenant within sixty (60) days of the appeal date.

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1604. RESERVED

1605. BASIS FOR REDETERMINATION OF PERMISSIBLE RENT LEVEL

The permissible rent level reflected in the certificate is the final decision of the Board unless appealed pursuant to Regulation 1603. A landlord or tenant who wishes to contest the permissible rent level after the appeal period has expired shall file a statement of the basis for re-determination on a Board form in addition to the Appeal. The permissible rent level may be redetermined only upon a showing of (a) fraud or misrepresentation, including the Board's failure to accurately reflect a prior certification or individual rent adjustment decision, (b) a failure to receive notice as required by law, or (c) where a vacancy occurred during the appeal period.

1606. CERTIFICATE OF EXEMPT UNITS

All units which qualify a statement attesting to be exempt from this ordinance pursuant to Section 5 must be certified as such during the annual certification process.

The owner must file a statement attesting to the exempt status and provide supporting documentation as specked in regulation 505.

Nothing in this section shall supersede the requirements set forth in the Regulation Section 500 for exempted properties.

**1700. ELECTRONIC FILING AND SERVICE OF DOCUMENTS:
(Adopted July 27, 2016)**

- A. Definitions. For purposes of this section:
 - 1. "Electronic filing" means filing of a document with the Rent Stabilization Board ("Board") or Rent Stabilization Program ("Program") by a party or other person, by either email or electronic transmission. Electronic filing may be performed directly by the Board or the Program, a party, by an agent of a party, including the party's attorney.
 - 2. "Electronic transmission" means the transmission of a document by electronic means such as email or fax to the electronic address at or through which the Board or the Program, a party, or other person has authorized electronic communication.
 - 3. "Electronic notification" means the notification of the Board or the Program, a party, or other person that a document is filed or served by sending an electronic communication to the electronic address at or through which the Board or Program, a party, or other person has authorized electronic filing or service, specifying the exact name of the document, and providing a hyperlink at which the document may be viewed and downloaded.
- B. A document may be filed or served electronically in an administrative or petition procedure under the 1988 and 2010 Ordinances as provided in this section. Court filings are not covered by this regulation.
 - 1. If a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is authorized when a party has agreed to accept service electronically in a particular matter. The Program or Board may be electronically served at rentprogram@cityofepa.org or at any other email address authorized by the Program to be used for electronic notifications in a specific matter.
 - 2. In any matter in which a party has agreed to accept electronic service under subsection B.1, or in which the Board or a hearing examiner has ordered electronic service, the electronic service of documents shall have the same legal effect as service by mail, except as provided in paragraph 3.

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3. Electronic service of a document is complete at the time of the electronic transmission or at the time that the electronic notification is sent. Any period of notice, or any right or duty to do any act or make any response within any period or on a date certain after the service of the document shall be extended after the service by two business days.
- C. Electronic filing of documents are also subject to the following conditions:
1. A document that is filed electronically shall have the same legal effect as an original paper document.
 2. (a) When a document to be filed requires the signature, not under penalty of perjury, of an attorney or a self-represented party, the document shall be deemed to have been signed by that attorney or self-represented party if filed electronically.

(b) When a document to be filed requires the signature, under penalty of perjury, of any person, the document shall be deemed to have been signed by that person if filed electronically and if a printed form of the document has been signed by that person prior to, or on the same day as, the date of filing. The attorney or person filing the document represents, by the act of filing, that the declarant has complied with this section. The attorney or person filing the document shall maintain the printed form of the document bearing the original signature until the matter has been resolved and any appeal period has expired and make the document available for review and copying upon the request of the Board or Program or any party to the petition or proceeding in which it is filed.
 3. Any document that is electronically filed with the Board or Program after the close of business on any day shall be deemed to have been filed on the next business day. "Close of business," as used in this paragraph, shall mean 5:00 p.m. Pacific Time.
 4. When receiving a document filed electronically, the Board or Program shall issue a confirmation that the document has been received and filed. The confirmation shall serve as proof that the document has been filed.
 5. A party or attorney may file an application for waiver of filing fees in lieu of requiring the payment of the filing fee, as part of the process involving the electronic filing of a document. The Board or Program shall consider and determine the application in accordance with the waiver provisions of the Ordinances and the implementing regulations. Nothing in this section shall require the Board or Program to waive a filing fee that is not otherwise waivable.
- D. The Program shall also accept the filing of nonelectronic documents in order to avoid causing undue hardship or significant prejudice to any party in any matter, including, but not limited to, unrepresented parties.
- E. A document shall be electronically filed by 5:00 p.m. Pacific Time on the date that the filing is due to be considered timely. Ex parte documents shall be electronically filed on the same date and within the same time period as would be required for the filing of a hard copy of the ex parte documents at the Program's office. Documents filed on or after 5:00 p.m. Pacific Time, or filed upon a non business day, will be deemed filed on the soonest business day following the filing.