

City of East Palo Alto Guide to Rent Control

(May 2015 Update)

The City's voters adopted the Rent Stabilization and Just Cause for Eviction Ordinance of 2010 (the "Ordinance"), which became effective in August 8, 2010. This **Guide (May 2015 Update)** provides answers to landlords and tenants about when and how rents can be increased under the Ordinance. For more information, contact the Rent Stabilization Program at (650) 853-3114 or rentprogram@cityofepa.org; or visit the City's website at: www.cityofepa.org/rentprogram.

How much can my rent be increased each year? The Ordinance provides that the Rent Stabilization Board (the "Board") shall each year determine the permissible percentage increase, or Annual General Adjustment ("AGA"), that landlords can raise rents for tenants in regulated rental units. Landlords of rent-controlled units, who are in compliance with the Ordinance may increase rents between July 1 and June 30 of each program year by the amount of the AGA (assuming the tenant's current rent level is at a previously certified Maximum Allowable Rent, hereinafter "MAR") after giving a proper 30-day notice to a tenant, as required by State law.

The following are the percentage of rent increases allowed, including for all fees for regulated housing services, each program year since the Ordinance went into effect in August 8, 2010:

July 1, 2015 – June 30, 2016 AGA rent increase of **2.0% allowed**

July 1, 2014 – June 30, 2015 AGA rent increase of **2.0% allowed**

July 1, 2013 – June 30, 2014 AGA rent increase of **2.0% allowed**

July 1, 2012 – June 30, 2013 AGA rent increase of **2.4% allowed**

July 1, 2011 – June 30, 2012 AGA rent increase of **1.4% allowed**

August 8, 2010 – June 30, 2011 AGA rent increase of **0% (no rent increases were allowed)**

If rent was increased by more than the percent cited above for any of these program years, tenants may petition for a rent reduction and for a refund for any rent they overpaid, unless the rent increase is to the permissible rent level or MAR, as permitted under State law,¹ and the landlord is otherwise in compliance with the Ordinance.

In calculating rent increases, AGAs must be applied to a tenant's permissible rent level or certified MAR (Do not include the City's registration fee of \$9.75 when calculating the rent increase).² The Board adopts the AGA in April to be effective before the program year begins, which runs July 1 through June 30 of that year and a notice sent by the Board advising landlords and tenants of regulated rental units of the AGA is sent in mid-May of the same year. A landlord is eligible to increase rents using AGAs only if the landlord:

1. Registers all units in the same property with the Rent Stabilization Program; and
2. Substantially complies with the Ordinance and any orders or regulations issued or promulgated under the Ordinance, including not charging more than the allowed rent; and
3. Ensures the rental unit complies with the implied warranty of habitability; and completes all repairs ordered by the City.

Rent increases may not exceed 10% in any 12-month period. Fees paid to a landlord for regulated housing services such as parking or utilities are part of the rent. Any increase in fees for regulated housing services, or

¹ On January 14, 2015, in *EQR v. Thuerlemann* (Case No. 2013-14-39), the Board decided that AGAs are to be applied to the "permissible rent level" or "MAR" as stated in the Certificate of Maximum Allowable Rent, and not the "current rent," as prescribed by Section 10.B of the Ordinance. Consequently, if a tenant's current rent level is below the MAR, then the landlord may raise the rent up to the MAR, so long as the landlord also complies with other provisions of the Ordinance.

² See fn. 1 above.

any charges for additional services except for the addition of a pet charge that were not included in a tenant's initial rental agreement, are considered rent increases and must conform to the requirements for raising rents. The addition of a pet charge is not considered a rent increase. The Board does not verify a landlord's eligibility for annual rent increases. Tenants should monitor rent increases closely and file a petition with the Board, if warranted, to challenge a landlord's eligibility to raise rents or the propriety of any rent increase.

Landlords may raise rents by a lesser amount than allowed by the AGA or choose not to raise rents by the AGA in any given year, and in that event, they may "bank" the unused AGA for future use to raise a tenant's rent. (See page 2 for information on when rents can be increased and banking of unused AGAs.)

When can my landlord raise my rent? A landlord cannot increase rent unless a Certificate of Maximum Allowable Rent has been issued for the current tenant of a regulated unit after a landlord has submitted a Registration Statement. Once a Certificate of Maximum Allowable Rent has been issued, the landlord can raise that tenant's rent once every 12 months, but not in excess of 10% annually, as long as the unit continues to be properly registered, and the landlord is in substantial compliance with the Ordinance. No rent increases are permitted for tenants within 12 months of initial occupancy.

What does it mean to "bank" an AGA for future rent increases? Landlords may "bank" for future use an AGA that is not used to raise rent in the program year for which it is authorized. A written notice of banking must be given to the tenant by **February 1** in the program year for which an AGA is authorized and will not be used that lists which, if any, authorized AGAs have not been taken. A landlord may not bank more than three AGAs during a tenant's occupancy. As such, use of banked AGAs to raise a tenant's rent is limited to the last three AGAs that have been banked.

What is a Certificate of Maximum Allowable Rent? Beginning in 2011 the Board began issuing Certificates of Maximum Allowable Rent for rental units regulated under the newly adopted Ordinance. Certificates are only issued upon Initial Registration of a rental unit and upon occupancy by a new tenant; they are not issued every year. Based on information submitted by landlords, the Rent Stabilization Administrator calculates the MAR in the Certificates issued for rental units that have been properly registered with the City. Each Certificate of Maximum Allowable Rent only applies to the tenants in a rental agreement for occupancy of a specific unit address. A tenant cannot be charged rent, including any fees for regulated housing services, above the MAR for the timeframe specified in the Certificate issued for their unit. If a tenant is charged rent above the MAR, they may file a petition (Petition A) to seek a rent reduction and a rebate for overcharges. Depending on the facts of a particular tenancy, rebates may reach as far back as August 2010.

How are Certificates of Maximum Allowable Rents (MARs) determined? The Rent Stabilization Program Administrator uses formulas for calculating the MAR in Certificates of Maximum Allowable Rent that consider the date the tenant moved into the rental unit, the Adjusted Base Year Rent, and the AGAs allowed since then. The determined Base Year Rent, which for new tenants is the rent at initial occupancy, is adjusted by subtracting any discounts provided to the tenant in the first 12 months, and adding the amount of any regulated housing service fees included in the initial rental agreement. This Adjusted Base Year Rent is then multiplied by any accumulated AGAs since the Base Year. The full chart of the Administrative Formulas for Calculation of the MAR and other documents are on the City's website: www.cityofepa.org/rentprogram.

What if I disagree with the MAR in the Certificate of Maximum Allowable Rent issued for my unit? Landlords and tenants can petition for a hearing to object to the MAR. For example, either party can challenge the accuracy of information reported to the Rent Stabilization Program, which is used to calculate the Maximum Allowable Rent. Objections must be received within 30 days of the issuance of a Certificate of Maximum Allowable Rent; this deadline can be extended to 60 days for good cause. If a timely objection is not filed, the Certificate of Maximum Allowable Rent becomes final unless there is proof of intentional misrepresentation or fraud, or unless a tenant and landlord voluntarily file a joint petition (a "stipulated petition") seeking a correction.

Can I be charged a City registration fee of \$9.75 in addition to my rent? Owners can, with proper advance 30-day notice, pass on to tenants half of the City's registration fee for the Rent Stabilization Program. In program years 2011 through 2015, the tenant's share of this fee is \$9.75 per month. Tenants cannot be charged more than this amount or charged this fee retroactively. This fee is not part of the rent or

included in the calculation of the MAR or rent increases based on AGAs. The City's fee is in addition to the rent and helps cover the cost of administering the Ordinance.

Tenants Have a Right to Petition for Violations of the City's Rent Control Protections

East Palo Alto has rent control protections for tenants. Tenants can file petitions A, B or C when your landlord violates the requirements of the Rent Stabilization and Just Cause for Eviction Ordinance of 2010 (the "Ordinance"). You may file petitions seeking a rent reduction and for a rebate for rent already paid for the following reasons:

File Petition A for a Rent Reduction and Rebate for Rent Ceiling Violations: This petition may be filed by a tenant to seek a rent reduction when rent is being charged over the Maximum Allowable Rent ("MAR") or allowed Annual General Adjustments ("AGAs") for a regulated rental unit. If a tenant is charged more than the rent permissible under the Ordinance, the tenant may be entitled to receive a rent rebate for overcharges. Depending upon the facts of a particular tenancy, rebates for overcharges may be secured for as far back as August 2010.

Tenants can also file Petition A if their landlord failed to properly register their unit; failed to substantially comply with the Ordinance and orders or regulations issued or promulgated under the Ordinance; failed to comply with the implied warranty of habitability that requires a rental unit be fit for human habitation, and complete all repairs ordered by the City's Building Inspection and Code Compliance Divisions.

File Petition B for Rent Reduction and Rebate for Housing Service Reductions, including Maintenance and Breach of Implied Warranty of Habitability: This petition may be filed to seek approval for a rent reduction and a rebate of rent paid when the tenant experiences maintenance problems or reductions in service that have not been corrected in a reasonable time. Landlords must provide units that substantially comply with applicable state and/or local housing, health and safety codes, and make corrections when there is deterioration of the rental unit (such as broken appliances, worn out carpets, mold, etc.). The amount of rent reduction and rebate that may be approved by a hearing examiner is calculated by multiplying the rent paid during the time the problem was not corrected by the percentage by which the tenant's use of and benefit from the unit has been impaired by the landlord's non-compliance or failure to make corrections. The landlord should be given a reasonable opportunity to correct the problem before the tenant files a petition. Rebates can be secured for uncorrected problems that existed as far back as August 2010.

Tenants, for their protection, are encouraged to give their landlord a written notice describing each habitability and maintenance problem, and to include in their petition the date each notice was given verbally or in writing. If a landlord does not correct a problem within a reasonable time, tenants may file a complaint about code violations and health and safety problems with the City of East Palo Alto Building Division by calling 650-853-3193, and/or the San Mateo County Environmental Health Division by calling 650- 599-1112. After a complaint form has been submitted, these agencies may schedule an inspection to verify code violations which have not been corrected, issue notices to landlords to correct any deficiencies identified, and make follow-up inspections to ensure compliance. The inspection reports can be submitted as documentation of the problems cited by the tenant in the petition to the Rent Stabilization Board.

File Petition C for Approval to Withhold Rent for Landlord's Failure to Register a Unit with the Rent Stabilization Program: Tenants may contact the Rent Stabilization Program to find out if their rental unit is properly registered and for more information about this provision in the Ordinance.

To get copies of these petition forms and more information:

- Go to the City's website at: www.cityofepa.org/rentprogram
- Call the Rent Stabilization Program at (650) 853-3114
- Email us with questions or tell us about a problem: rentprogram@cityofepa.org
- Come into the office between 8:30 a.m. – 5:00 p.m. at 2415 University Avenue, 2nd floor

For Assistance in Filing Petitions: Contact Community Legal Services in East Palo Alto at (650) 326-6440 ext. 312; or go to 1861 Bay Road, East Palo Alto.



City of East Palo Alto
Rent Stabilization Program
2415 University Avenue, 2nd floor
East Palo Alto, CA 94303
Tel.: 650-853-3114
Email: rentprogram@cityofepa.org

ARE YOU IN DANGER OF BEING EVICTED?

East Palo Alto has rent control and eviction protections. If you are a tenant living in East Palo Alto, it helps to know your rights to protect your home and your wallet. Under the City's the Rent Stabilization and Just Cause for Eviction Ordinance of 2010 (the "Ordinance"), landlords who seek to evict tenants must do so in compliance with the requirements of the Ordinance. Tenants receiving three-day notices to quit or summons and complaint in an unlawful detainer action from their landlord must respond promptly to protect their home.

To avoid eviction: Pay your rent in full on time, usually by the first of each month, even if you believe your landlord has violated the Ordinance. If you need help to pay your rent, contact El Concilio at (650) 330-7432; or go to 1798-B Bay Road, East Palo Alto.

Free legal services are available to tenants at risk of eviction: For legal advice or representation you may contact Legal Aid Society of San Mateo County for an appointment at (650) 517-8911; or Community Legal Services of East Palo Alto at (650) 326-6440; or go to 1861 Bay Road, East Palo Alto.

Protections Against Evictions Without Just Cause

Evictions are only permitted for the specific reasons cited in the Ordinance. Evictions not meeting these requirements can be contested in any action to recover possession of a rental unit in court.

- 1) Landlords must specify at least one of the permitted grounds for eviction listed in the Ordinance in a notice of termination of tenancy or unlawful detainer complaint filed with the court. Permitted grounds for eviction include failing to pay rent, violating the lease, or engaging in disorderly or destructive conduct, among other reasons.
- 2) Tenants should pay rent on time and in full and get a receipt for payment. The failure to pay rent on time and in full is grounds for an eviction, but tenants may have a defense to an unlawful detainer action for possession if they are being charged more rent than the Maximum Allowable Rent in the certificate issued by the Rent Stabilization Board for their unit.
- 3) Tenants may have a defense to an eviction filed in court if the rental unit is not in compliance with requirements related to the implied warranty of habitability, including:
 - ✓ Waterproofing and weather protection of roof and walls, including unbroken windows and doors;
 - ✓ Plumbing or gas facilities maintained in good working order;
 - ✓ Hot and cold running water furnished to appropriate fixtures and connected to an approved sewage disposal system;
 - ✓ Heating facilities maintained in good working order;
 - ✓ Electrical lighting, with wiring and electrical equipment that conformed with applicable law at the time of installation, and is maintained in good working order;
 - ✓ Building grounds that are kept in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents, and vermin; an adequate number of appropriate receptacles for garbage/rubbish in clean condition and good repair; and
 - ✓ Floors, stairways, and railings maintained in good repair.
- 4) Tenants may have a defense to an unlawful detainer action (eviction lawsuit) filed in court if their landlord does not meet requirements for limiting rent increases only to allowed Annual General Adjustments, and Ordinance's rent registration requirements. The landlord must file with the Rent Stabilization Board a copy of any eviction notice within five calendar days after the tenant has been served with such a notice.