

RENT STABILIZATION BOARD REGULATIONS FOR RESIDENTIAL TENANCIES IN THE CITY OF EAST PALO ALTO

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¹ These regulations incorporate all amendments adopted by the RSB as of April 10, 2019. See RSB Resolution No. 19-03.

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100. TITLE

(Effective May 11, 2011 by RSB Resolution No. 10-03)

The official title of this document shall be the "Rent Stabilization Board Regulations for Residential Tenancies in the City of East Palo Alto." The abbreviated title shall be the "Regulations for Residential Tenancies." The Regulations for Residential Tenancies implements the 2010 Rent Stabilization and Just Cause for Eviction Ordinance ("2010 Ordinance") and the 2016 Amendments to the Rent Stabilization and Just Cause for Eviction Ordinance ("Measure J," also known as Ordinance No. 403), codified in Chapter 14.04 of the East Palo Alto Municipal Code. Collectively referred to as the Ordinance.

These Regulations for Residential Tenancies also apply to Mobilehome Park tenancies, unless otherwise preempted by 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.

200. RESERVED

300. DEFINITIONS

A. Principal Residence

The usual place of return of a natural person. A person may have only one principal residence. To be considered a person's principal residence, the subject premises must be where the person actually resides a majority of the time. In the determination as to the principal residence status of the subject premises, the following factors shall be considered:

1. Whether the person carries on basic living activities at the subject premises;
2. Whether the subject premises is listed with public agencies, including but not limited to federal, state and local taxing authorities, as the person's primary residence;
3. Whether utility charges and other charges and fees associated with usage of the structure are billed to and paid by the person at the subject premises;
4. Whether the person has filed for a homeowner's property tax exemption for the subject premises or for any different property;
5. Whether the person is registered to vote at the subject premises or any other dwelling place;
6. Whether the person maintains another dwelling and, if so, the amount of time that the person spends at each dwelling place;
7. Whether the subject premises is listed on the driver's license or state identification of the person;
8. Whether other residents of the property and/or board staff or other witnesses have observed the person residing at the subject premises or at another dwelling place;
9. Whether ownership is held in the name of the person claiming principal residence and not held by a Limited Liability Corporation or other corporate or business entity structure; and

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10. Other relevant factors.

B. Dwelling Unit

The term "Dwelling Unit" shall have the same meaning as the term "Rental Unit," as defined in the Ordinance and the two terms may be used interchangeably for purpose of these Regulations. The term "Dwelling Unit" shall also mean a unit occupied as the principal residence of a natural person who is the owner or landlord or a parent, child or sibling of the owner or landlord. The fact finder may consider the following factors in determining the number of dwelling units existing at the real property:

1. The number of kitchens existing at the real property;
2. The number of rental agreements in effect at the real property;
3. The records of San Mateo County Assessor regarding the real property;
4. City records from other departments pertaining to the real property; and/or
5. Any other relevant information.

C. Kitchen

Any room or space within a structure that it is used, or intended, or designed to be used for cooking and/or preparing food. The following factors may be considered in determining whether a space is a kitchen:

1. Current presence of kitchen fixtures or evidence thereof;
2. Past presence of kitchen fixtures or evidence thereof;
3. Landlord's knowledge of the current or past existence of kitchen fixtures or evidence thereof;
4. Physical modifications to the room to accommodate cooking or preparing food; and/or
5. Any other relevant information.

310. EXEMPTIONS

(Effective December 22, 2010 by RSB Resolution No. 10-06)

A. Exemption of Single Family Dwellings when New Additional units are Constructed on the Parcel

If one or more new units were constructed and certificate of occupancy issued after February 1, 1995 on a tax parcel with a pre-existing single family dwelling unit which was entitled to an exemption from rent regulations pursuant to Civil Code § 1954.52(a)(3)(A) prior to the construction of the new unit(s), the pre-existing single family unit shall not lose its exemption by virtue of the creation of the additional unit(s). (Revised July 11, 2012 by RSB Resolution No. 12 – 09).

B. Submission of a Claim of Exemption

1. Upon receipt of an invoice for program fees and/or request to file a registration statement from the Rent Board, or at any other time, a landlord may file a claim that an individual unit, or the whole property, is exempt from the registration statement and/or fee requirements of the Ordinance.
2. The claim shall be submitted on a completed form provided by the Rent Stabilization Program, which shall be signed under penalty of perjury. The form shall be posted on the Rent Board's website in a pdf format or some other easily downloadable format.

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3. The claim shall include a declaration that the landlord shall notify the Board within 30 days of future substantial changes in the use of the property and/or the information provided on the form that would be pertinent to a claim of a unit's exempt status. If the claim is in the process of review by the Administrator or the Rent Board, the landlord shall notify the Rent Board within ten (10) days of substantial changes in the use of the property and/or the information provided on the form that would be pertinent to a claim of exempt status.
4. Appendix A of this regulation includes lists of items that may be considered by the Administrator in reviewing each of the types of exemption claims. The Administrator may consider other types of information and may require the landlord to submit other types of documentation and the landlord or tenants may elect to submit other types of information.
5. During the time that the Board is reviewing a claim for an exemption pursuant to this section, deadline periods for the payment of program fees and the submission of registration statements shall be suspended, unless the Board determines that the claim was not submitted in good faith. If the Board determines that the unit or units are not exempt, the program fee shall be paid within thirty (30) days unless a stay of execution is granted.

C. Processing of Exemption Claim

1. Notice to Tenants of Claim of Exemption and Right to Object. Within fourteen (14) days of receiving a claim pursuant to this Section, the Board shall send a copy of the claim to the tenants of the units subject to the exemption claim. The notice to the tenants shall include a notification that any objections to the claim shall be filed within twenty-one (21) days of the day the notice is sent to the tenant in order to be considered by the Administrator when reviewing the landlord's claim. The notice shall include a copy of Section Five of the Ordinance, codified in Section 14.04.050 of the East Palo Alto Municipal Code.
2. Notice to Landlord of Tenant Objections. When tenant objections are received by the Board, the Board shall send a copy of these tenant objections to the landlord within fourteen (14) days after the Rent Board receives the objections.
3. Landlord's Right to Respond to Tenant Objections. A landlord shall have the right to submit a written response to the objection within fourteen (14) days of the date the objection was served on the landlord by the Board. Any response filed by the landlord shall be served on the tenant by the Board within seven (7) days of the response being submitted by the Landlord.
4. Tenant's Right to Reply to Landlord Response. A Tenant shall have the right to submit a written reply to the Landlord's response. Any reply submitted by a Tenant shall be served by the Board on the Landlord within seven (7) days of the Landlord's Response being submitted.
5. Stipulation for Changed Deadlines. The deadlines for a Landlord Response and/or a Tenant's Reply may be altered by stipulation between the parties. Such a stipulation must be in writing, signed by all parties, and shall be submitted to the Administrator within fourteen (14) days of the Tenant's objection being received by the Board.
6. Time for Completion of Exemption Claim. Upon expiration of the time for a Landlord's response and the time permitted for a Tenant's reply the exemption claim shall be considered to be completed.
7. Time Limit for Determination by Administrator. The Administrator shall issue a determination on a completed exemption claim within sixty (60) days after it is submitted by the landlord if

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no objections are submitted by the tenant(s), and within ninety (90) days after the claim is submitted by the landlord if objections are submitted by the tenant(s). The Administrator may rule in favor or against the claim, regardless of whether or not a tenant objects to the claim. The Administrator may decide the claim for exemption or may assign the decision of the claim to a Hearing Examiner.

8. Notice of Determination. The Administrator shall notify the landlord and the tenant(s) of his/her determination in regard to the claim. If the claim is denied or if the claim is disputed by the tenant(s), the notification shall include an explanation of the basis for the determination. The notice of determination shall include notification to the landlord and to the affected tenant(s) of their right to appeal to the Board. The notice shall include a statement of any conditions to the continuing applicability of the exemption determination and of the fact the exemption determination will no longer be in effect upon the lapse of these conditions regardless of whether or not the Administrator has made a new determination based on the changed circumstances.
9. Appeal of Administrator's Determination. The Landlord or a tenant of a unit subject to the exemption claim may appeal the Administrator's determination to the Rent Board.
10. Deadline to Appeal Administrator's Determination. The appeal to the Rent Board must be filed within twenty (20) days after the date the Administrator's decision is mailed to the landlord and tenants. If the Administrator's decision is not appealed, it shall become final upon the expiration of the deadline for filing an appeal and the exemption shall be deemed to relate back to the date the claim of exemption was received by the Board.
11. Rent Board Hearing on Appeal of Administrator's Determination. The Board shall rule on the claim within sixty (60) days of the date the appeal is filed unless there is good cause for extending this deadline. If the Board fails to rule within sixty (60) days, the Administrator's decision shall be deemed to be affirmed. If the appeal, on its face, fails to state a basis for reversing the Administrator's determination, the Board may dismiss the appeal without a hearing.
12. Stay of Exemption Determination Pending Exhaustion of Judicial Remedies. A Board decision pursuant to this section shall become effective thirty (30) days after the date of the decision, or thirty (30) days after the decision is deemed to be affirmed, unless a stay of execution is granted by the Superior Court.
13. Annual Program Fee Billing and Annual Review of Exemption Claims.
 - a. "Categorical" Exemptions. Categorical exemptions consist of exemptions based on Ordinance Section 5.B.1 (Single Family Dwellings, except under dwellings with the same tenant since before January 1, 1996) or Ordinance Section 5.B.2. (Units Constructed After January 1, 1988, except newly constructed dwelling units that replace covered units withdrawn from the rental market in accordance with the Ellis Act if the notice to withdraw the unit was filed after March 9, 2010). Categorical exemptions shall remain in effect without subsequent review unless there is new evidence that the factual bases for affirming the exemption claim are in error. Units with categorical exemptions shall be removed from the list of properties receiving annual billing and registration statements from the Board.
 - b. "Use-Based" Exemptions. Use-based exemptions consist of exemptions based on Section 5 of the Ordinance which do not fall into the classes of "categorical" exemptions. Use-based exemptions depend on the continuing use of the property in conformance with the basis for the exemption. Properties with use-based exemptions shall receive annual billing and registration statements from the Board.

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Landlords of units with use-based exemptions shall be required to complete forms provided by the Rent Stabilization Program, annually, affirming the continuing basis for the exemption in order to maintain the exemption. If there are substantial changes in the use of the property and/or the information provided on the form that would be pertinent to a claim of a unit's exempt status which occur after a determination that a unit is exempt, the landlord shall notify the Board within thirty (30) days after those changes occur. In the event of a termination of the uses that provide the basis for the exemption, the exemption shall terminate, notwithstanding the absence of a notice from the Rent Board of the termination of the exemption.

14. Requests for Review of Exemption Determinations after Expiration of Appeal Periods or Exhaustion of Appeal Remedies. After the expiration of appeal periods or the exhaustion of appeal remedies, requests for new determinations may only be based on changes in the facts or factual basis underlying the determinations. If there has been a prior determination regarding the exempt status of a unit, the new determination shall not be applicable to the period preceding the prior determination, except where fraud or intentional misrepresentation provided the basis for the prior determination.

320. EXEMPTIONS: Appendix A. Information to be Supplied with Exemption Claims

(Effective December 22, 2010 by RSB Resolution No. 10-06)

A. Evidence of Occupancy

The Administrator will consider the owners' production of, or failure to produce, the following information and evidence regarding the occupancy that provides the basis of the exemption. The Administrator shall not be bound to grant or deny the claim based on the presence or absence of particular types of documentation.

1. The addresses on the driver's license or state identification of the claimed occupant,
2. Voters registration address of the claimed occupant;
3. The existence of any evidence that the occupant resides at another address;
4. The address used for utility bills and other correspondence;
5. Observations by other residents of the property and/or board staff.

B. Transient Occupancy Exemption

1. A business license identifying the property as a hotel, motel, inn, tourist home, rooming house or boarding house;
2. Records required pursuant to [City Municipal Code Ch. 3.68 \(Transient Occupancy Tax\)](#);
3. A list of occupancies during the prior twelve months which exceeded thirty (30) days;
4. A list of occupancies on the property within the past twelve months which exceeded thirty (30) days, even in cases in which any occupant has resided in more than one unit for a total of thirty (30) days on the property; and
5. A list of agreements within the past year providing for tenancies in excess of thirty (30) days.

C. Care Facility Exemption

1. Documentation that the rental units for which an exemption is claimed for residential housing purposes as part of the social service program.
2. Evidence of required licenses for the operation of the facility and of its actual operation.

D. Non-Profit Housing that is Resident Owned or with Rent Covenants

A copy of the Articles of Incorporation and evidence of the ongoing operation of the cooperative.

E. Units Exempted by State and Federal Law and Units with Voucher Assistance

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1. The current contract with Housing and Urban Development, or with the San Mateo County Housing Authority, for each exempted unit; and
2. Except for Section 8 housing, the landlord must state, to the best of his/her information and belief, that all tenants have been qualified as income-eligible by a government agency.

F. Single Family Dwellings and Units Constructed after January 1, 1988

1. If one or more new units were constructed after February 1, 1995 on a tax parcel with a pre-existing single family dwelling unit which was entitled to an exemption from rent regulations pursuant to Civil Code § 1954.52(A)(3) prior to the construction of the new unit(s), the pre-existing single family unit shall not lose the exemption by virtue of the creation of additional unit(s).
2. Documentation that the second new unit on the single family lot was constructed after February 1, 1995 (Revised July 11, 2012 by RSB Resolution No. 12 – 09).

G. Units in Owner Occupied Two and Three-Unit Properties

1. A statement by the Owner that he/she, or a relative who is of the immediate family, lives in the unit;
2. Evidence that there are three or fewer units at the property, including any contiguous parcels or lots;
3. Evidence of at least 50% ownership interest;
4. Evidence that for a continuous period of one year or more the property has been the principal place of residence of the owner claiming the exemption, or a parent or child or sibling of the owner; and
5. The grant deed.

400. ALTERNATE SEAT

(Effective September 28, 2011 by RSB Resolution No. 11-17)

- A.** If a regular Board member is absent at a meeting or if a regular seat is vacant, the alternate may be seated in that regular seat.
1. Where an alternate takes a regular seat, the chairperson shall publicly acknowledge and announce the seating.
- B.** When all members in the seven regular seats are present at a meeting, the alternate shall not vote, be counted towards the quorum or participate in closed session. The alternate may participate in open session discussion with the Board.

500. PROMULGATION OF BOARD REGULATIONS

(Effective December 22, 2010 by RSB Resolution No. 10-07)

- A. Regulations** are effective after the second reading. The second reading shall occur no sooner than seven days after the first reading.
- B. Proposed Regulations**
Staff shall prepare and send out public notice of the first reading of, and/or first scheduled hearing on, any proposed changes to these Regulations at least fourteen (14) days prior to Board workshop/discussion or hearing. No further notice is required for any second, or subsequent, readings or hearings on any proposed regulation change, so long as staff has timely published the Agenda for the Rent Stabilization Board meeting in which the second or further reading is scheduled to occur. The required notice shall be:

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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). This is at the discretion of the Board. If the hearing is formal, staff must follow appropriate procedures (i.e., 14-day notice sent to all parties). The full text of the regulation has to be available for at least five (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.

600. REGISTRATION

(Effective November 24, 2010 by RSB Resolution No. 10-04)

A. Purpose

The purpose of this section is to enable the Board to monitor and control maximum allowable rents as mandated by the Ordinance, codified in Section 14.04.010 et seq., of the East Palo Alto Municipal Code, and to collect fees for the purpose of covering the cost of administering the Ordinance.

The requirements of this section and the hearing procedures for determination of the correct rents and amenities are adopted pursuant to the Board's power and duty under Section 7.D of the Ordinance to set maximum allowable rents for all rental units subject to the Ordinance.

B. Landlords Subject to Registration Requirement

All landlords of rental units subject to the provisions of the Ordinance are required to submit initial, annual, vacancy registration statements, as well as program fee statements for each controlled unit (collectively referred to as "Statements"), unless the unit is exempt from registration pursuant to Sections 5.A or 5.B of the Ordinance. Once the initial registration is complete, the landlord must comply with annual registration requirements for program years through December 2016 and with program fee statement requirements thereafter.

A landlord is not required to register a dwelling unit that has been created by a tenant or master tenant without the knowledge of the landlord. Once the landlord has notice of the existence of this unpermitted dwelling unit, the landlord must legalize, demolish, or remove the dwelling unit in

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accordance with the requirements of the City. The landlord must provide proof of required permits, if any, to the Rent Stabilization Program in order to be temporarily exempt from the registration requirements as to the unpermitted dwelling unit while the dwelling unit is brought into compliance. If the landlord intends to legalize the dwelling unit and it is subject to the provisions of the Ordinance, the landlord must register the dwelling unit pursuant to the provisions of the Ordinance and these Regulations.

Any factual dispute about whether the landlord is required to register the dwelling unit is decided through the filing of a claim of exemption or a petition for the landlord's failure to register the unpermitted dwelling unit.

C. Initial Registration

1. Scope of Requirement.

- a. The Ordinance provides that landlords shall file an initial registration statement by January 1, 2011. The Initial Registration Statement filed by any landlord shall conform to each of the requirements contained in this section.
- b. Any landlord who has never previously registered a rental unit must submit the information required for initial registration, regardless of the date on which the rental unit is submitted for registration.

2. Information Required on the Initial Registration Statement to be filed by January 1, 2011.

The Initial Registration Statement shall be submitted on a form provided by the Rent Stabilization Program. It shall require the following information, with exceptions for unavailable information made in accordance with Section J.

- a. Name, address, telephone number, and email address of the landlord,
- b. Name, address, telephone number, and email address of any managing agent or person or company authorized to receive communications on behalf of the landlord (if applicable),
- c. Number of dwelling units on the property,
- d. Date of commencement of ownership of the property by the current owner,
- e. Date of commencement of tenancy for the current tenants of each unit,
- f. The initial rent for each of the current tenancies,
- g. The rent in effect for each unit on January 1, 2006, except for units which are no longer occupied by the tenant(s) occupying the unit on January 1, 2006,
- h. The rent in effect for each unit on July 15, 2009,
- i. The rent in effect for each unit on July 8, 2010,
- j. The current rent of each unit,
- k. The number of bedrooms in each unit,
- l. The number of bathrooms in each unit,
- m. The utilities provided by the landlord which are included in the rent, rather than being charged to the tenant,
- n. The utilities paid by the tenant,
- o. Garage or outdoor parking spaces provided to the tenant,
- p. The housing services provided for each unit and the amount of any fees charged by the landlord for these services,
- q. The amount of any security deposits received by the landlord in connection with the use or occupancy of each unit,
- r. The amounts and periods of reduced rent during the tenancy and the average rent during the term of the lease if the monthly rents vary during the lease,
- s. The grounds for exemption for any rental units claimed to be exempt from the provisions of the Ordinance, and

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- t. Other information deemed relevant by the Rent Board Administrator for the operation and enforcement of the Ordinance.
3. Notice of Exemptions and Form for Claiming Exempt Status
The mailing of the registration form shall include a notice of exemptions under the Ordinance and forms that landlords may use to claim exempt status and to set forth the basis of their claim of exempt status.
4. Mailing By Board of Initial Registration Statement. By December 15, 2010, the Initial Registration Statement shall be mailed to the owner of each multifamily property in the City and all single family dwellings that the Administrator believes may be subject to the Ordinance, except owners of units which are known by staff to be exempt pursuant to the new construction exemptions established by the Ordinance and/or state law. The mailing shall include an explanation of what categories of units are subject to the registration requirement and which categories of units are exempt.
5. Deadline for Submission of Initial Registration Form. Landlords shall complete and file the Initial Registration Statement by January 1, 2011.
6. Copy Provided by Rent Board to Tenant. By May 20, 2011, the Rent Board shall mail to the tenant of each unit a copy of the Initial Registration Statement for that tenant's unit. For Initial Registration Statements or significantly revised Initial Registration Statements which are submitted after May 20, 2011, the Rent Board shall provide the tenant of each unit with a copy of that registration statement for that tenant's unit within 30 days of the filing of the substantially completed Initial Registration Statement. (Revised July 27, 2011 by RSB Resolution No. 11-10)

D. Annual Registration and Fee Under 2010 Ordinance

1. Scope of Requirement. The Annual Registration requirements set forth in Subsection D shall apply to the program years from the effective date of the 2010 RSO through December 2016. The Administrator may require a landlord who previously failed to file an initial and/or an annual registration statement as required under the 2010 RSO to submit such statements any time thereafter.
2. Board Mailing of Registration Form. Commencing in 2011, by December 15th of each year, the Board shall send an annual registration form and registration fee statement to each landlord in the City.
3. Deadline for Submission of Annual Registration Form. Landlords shall complete and submit to the Board the annual registration form and registration fee payment by the first business day following January 1.
4. Information Required on Each Annual Registration Statement. The landlord shall provide all of the following on the Annual Registration statement:
 - a. Rental Property address, along with the name(s) and address(es) of all owners of the property, whether or not of record;
 - b. Name and address of the manager (if applicable);
 - c. Phone numbers and email addresses that may be used by the Board to contact the owner(s) or the authorized agent of the owner(s);
 - d. The number of dwelling units at the property, the rental status (occupied or vacant) for each unit, and for each dwelling unit;

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- e. The number of dwelling units which are being claimed as exempt from the registration requirements of the Ordinance, along with the number of non-exempt dwelling units on the property;
 - f. The current rent of each unit;
 - g. The amount of any rent discount provided to each tenant, with a description of the discount or rent reduction;
 - h. Any corrections in the information reported in a previous Annual Registration Statement in regards to the rental property or any of the dwelling units, unless this corrected information was previously provided to the Rent Board, (Revised January 23, 2013 by RSB Resolution No. 13-01);
 - i. Vacancy registration forms and requests for exempt status which the landlord was required to file during the prior calendar year but failed to file; and
 - j. Any other information requested by the Rent Board Administrator for the purposes of the operation and enforcement of the Ordinance.
5. Additional Documentation. For any new tenancy created since the last registration statement was filed, the landlord shall include a copy of the signed rental agreement or lease, unless the rental agreement or lease has previously been submitted to the Board. In addition, the landlord shall file a form signed by the tenant, in the form prescribed and published by the Rent Stabilization Board, and acknowledging the existence of the Ordinance for any rental unit which is not exempt from the registration requirements of the Ordinance.
6. Copy Provided by Rent Board to Tenant. By March 1 of each year, the Rent Board shall provide the tenant of each unit with a copy of a Notice of Apparent Maximum Allowable Rent for that tenant's unit in a form prepared by the Rent Stabilization Program.

E. Registration Upon Change in Ownership

Within 30 days of a change in ownership of a rental property that is subject to the Ordinance, the new owner is required to file a change in ownership form setting forth the names and addresses of all new owners and the date on which the change in ownership occurred. The change in ownership form shall be provided by the Rent Stabilization Program.

F. Registration Upon Change in Tenancy (Vacancy Registration)

Within 30 days of the commencement of a new tenancy, the landlord shall submit a completed "vacancy registration" statement on a form provided by the Rent Stabilization Program. A landlord shall not be required to file a vacancy registration statement where the addition of tenants to an existing tenancy does not result in a landlord being permitted to set a new initial rent pursuant to the Costa-Hawkins Act.

1. The "vacancy registration" form shall require the following information.
 - a. The date the unit became vacant,
 - b. The date the new tenancy commenced,
 - c. The initial rent for the new tenancy,
 - d. Deposits required for the new tenancy,
 - e. The utilities provided by the landlord which are included in the rent, rather than being charged to the tenant,
 - f. The utilities paid by the tenant,
 - g. Garage or outdoor parking spaces provided to the tenant,
 - h. The housing services provided for each unit and the amount of any fees charged by the landlord for these services,
 - i. The names of each of the new tenants,
 - j. A copy of the signed lease with the new tenant(s),

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- k. The final rent level charged to the prior tenant(s),
 - l. The reason the unit became vacant (i.e., notice of termination of tenancy by previous tenants, abandonment by previous tenants, eviction pursuant to [Code of Civil Procedure section 1161](#) for cause, notice by landlord pursuant to [Civil Code section 1946](#) or [Civil Code section 827](#), or another reason for landlord's recovery of possession),
 - m. Any changes in amenities during the prior tenancy,
 - n. Any changes in amenities in association with the commencement of the new tenancy.
 - o. The amounts and periods of reduced rent during the tenancy and the average rent during the term of the lease if the monthly rents vary during the lease, and
 - p. Other information deemed relevant by the Rent Board Administrator to the operation and enforcement of the Ordinance.
2. Copy Provided by Rent Board to Tenant. Within five (5) days of the filing of the vacancy registration statement, the Rent Board shall provide the new tenant with a copy of the Initial Maximum Allowable Rent Certificate (MAR Certificate) for the new tenancy.
 3. Exemption Requests Based on Section 8 Rental Assistance. When possession of a rental unit within the City is transferred pursuant to a Section 8 Rental Assistance Contract, then the rental unit shall be exempt upon submission of all of the following information to the Rent Stabilization Program:
 - a. A completed Request for Exemption form;
 - b. A copy of the lease or other official documentation that shows the rental unit is covered by a Section 8 contract with a governmental authority;
 - c. A copy of the Notice of Ordinance signed by the Tenant, codified in Section 14.04.060 of the East Palo Alto Municipal Code

G. Registration Upon Termination of Exemption

1. Within 60 days of the termination of a rental unit's exempt status under the Ordinance, the landlord shall complete and file with the Board a registration statement, on a form provided by the Rent Stabilization Program, containing the information that is required for an Initial Registration Statement unless that information was provided in a prior "initial" registration. The Board shall provide a copy of the completed registration statement to the tenants of the unit within 30 days of its filing.
2. When termination of a rental unit's exempt status is the result of the termination or failure to renew a housing voucher contract with a governmental agency, the landlord shall notify the Board no later than 60 days prior to the termination of a rental unit's exempt status under the Ordinance. The Board shall estimate the apparent Maximum Allowable Rent to the landlord and the tenants of the unit within 15 days of receiving the notice from the landlord.
3. The Maximum Allowable Rent shall be equal to the initial rent for the tenancy adjusted by annual general adjustments authorized under the Rent Stabilization and Eviction for Good Cause Ordinance of 1988, if applicable, and annual general adjustments authorized under the Ordinance, since the tenancy commenced.

H. Notification of Exemption

Within 60 days of the date a covered rental unit that was subject to the Ordinance qualifies for an exemption from all sections of the Ordinance pursuant to Section 5.A of the Ordinance or qualifies for a partial exemption pursuant to Section 5.B of the Ordinance, codified in Section 14.04.050 of the East Palo Alto Municipal Code, the landlord shall notify the Board in writing of

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the exempt status of the rental unit and the basis for the exemption and mail a notification of the exemption claim to the tenants of each affected unit.

Copy of Notification of Exemption. Within fourteen (14) days of the Board's receipt of the notification of exemption, the Board shall mail a copy to the tenants of the units subject to the claim of exemption.

I. Ownership Information Submitted to the Board

1. Ownership information shall include the name and business or residence street address of the owner primarily responsible for administering the rental business and the name and address of the property manager of the apartment building.
2. If the owner of the property is a corporation, partnership or limited liability company, the ownership information shall provide the street address of the entity's principal place of business and the name and address of its chief executive officer, managing partner or supervising manager.
3. An address which is "in care of" a management company or which is a post office box, is not sufficient. An actual street address must be provided.

J. Lack of Required Registration Information

1. If a landlord is unable to obtain required information regarding rents or amenities in prior years, the landlord shall provide a registration form listing the first rents and amenities known to the landlord, together with the date such rents were first charged.
2. The landlord shall submit a declaration signed under penalty of perjury enumerating the steps taken to ascertain the initial rents and amenities with the registration form. If earlier rents and amenities are subsequently discovered for a unit registered under this subsection, a new registration form must be filed with the earlier information.
3. A landlord who asserts that he or she is unable to supply required information may request review of the property's registration status by the Administrator. The Administrator may require the landlord to provide information regarding the identity and whereabouts of known prior tenants who resided in the premises during the period for which information is missing. The Board may establish an appropriate fee for the filing of a request for review of registration status.
4. The Administrator shall determine whether good cause exists to find the landlord properly registered notwithstanding the lack of required information. A copy of the determination shall be mailed by the Board to the landlord and to the tenants of the affected property.
5. In designating a rental unit as properly registered, the Board's intent is to facilitate the rent registration and rent adjustment 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 rent 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.
6. When the Administrator determines that it is reasonably necessary to carry out the purposes of the Ordinance, the Administrator may require landlords to furnish information missing from any initial or annual registration statement or to complete a supplement registration statement

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approved by the Board. Any such request for information shall be responded to within a reasonable time as determined by the Administrator. If the landlord does not respond to the request within the specified time, the landlord may subsequently be held to be unregistered. The Administrator also may request information from the tenant(s) in order to obtain information required in registration forms.

7. A landlord shall be found in substantial compliance with the registration requirements of the Ordinance and Regulations when: (a) the landlord has made a good faith effort to comply with the Ordinance and Regulations concerning registration and (b) the landlord has cured any defect in compliance in a timely manner after receiving notice of a deficiency from the Board.

K. Submission of Forms Under Penalty of Perjury

All registration forms shall include a declaration that the information provided on the form is true and correct, which is signed under penalty of perjury by the landlord or an authorized agent of the landlord.

L. Board Posting of Registration Forms on Internet

All forms required by this Section shall be posted by the Board on its internet web page in pdf or other easily downloadable format.

M. Challenge and Review of Information on a Registration Form

1. Standing to Challenge Registration. A landlord, tenant, or former tenant, may petition for a review by the Administrator of the information on a registration form. The petition shall be on a form provided by the Rent Stabilization Program.
2. Proposed Determination Without Hearing. The Administrator may issue a “proposed determination” where it appears from available information that the dispute is likely to be resolved without a hearing. A notice of the “proposed determination” shall be sent to affected parties including the petitioner, landlord, and the affected tenants by regular mail or certified mail. The “proposed determination” shall include an explanation of the bases for the determination and notice that the determination shall become final if no objection is filed within 20 days. If none of the parties object to the “proposed determination” within 20 days, the proposed determination” shall be adopted as the final decision.
3. Final Determination Following Objection. If an objection is filed within 20 days of the Administrator’s proposed determination, the Administrator shall issue a “final determination” within a reasonable time. Either party can appeal the “final determination” within 20 days of the issuance of the Administrator’s “final determination”; the appeal shall be scheduled for a hearing before a Hearing Examiner. (Revised May 9, 2012 by RSB Resolution No. 12 – 07)
4. Hearing Examiner Shall Collect Available Evidence. In the event that a hearing is conducted in order to resolve a dispute arising out of a petition filed pursuant to this section, the review shall be conducted by a Hearing Examiner who shall have the affirmative duty to seek and introduce into the record all available evidence regarding the contested rent or amenities.
5. Initial Determination of Sufficiency of Facts in Cases Involving Claim of Intentional Misrepresentation or Fraud. If the petitioner claims that a rent stated in a registration statement was erroneous due to intentional misrepresentation or fraud, the claim shall state

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each and every fact upon which the petitioner relies in making such claim. Based solely upon an evaluation of the facts stated in the petition, the Hearing Examiner will render an initial prehearing decision in each such case as to whether or not the facts relied upon in the petition are sufficient to constitute misrepresentation or fraud as defined herein. In making this determination, the Hearing Examiner will assume, for purposes of evaluating the alleged facts only, that the facts stated are true. If the Hearing Examiner finds the alleged facts to be sufficient, the parties will be notified that the decision may have retroactive effect.

6. Misrepresentation or Fraud Defined. For purposes of this regulation, the terms misrepresentation or fraud as used in the Ordinance shall be interpreted in a manner consistent with that of the definition of actual fraud found in [California Civil Code section 1572](#) and/or the definition of constructive fraud found in California Civil Code section 1573, and common law interpreting those statutes.
7. Retroactive Rent Adjustment in Cases of Intentional Misrepresentation or Fraud. If the Hearing Examiner determines that the incorrect information on the registration statement was based on intentional misrepresentation or fraud, the newly determined lawful rent will be retroactively effective for all periods, subsequent to the erroneous registration, during which the unit has been subject to the Ordinance.
8. Administrative Dismissal of Petition. A petition filed under this section may be dismissed on any of the following grounds:
 - a. The petition is incomplete;
 - b. A final Board or Hearing Examiner decision has already determined the rent or amenities addressed by the petition; or
 - c. The rent has been certified or verified, 60 days have passed since the date of certification or verification, no objection petition or appeal of verification has been filed and no good cause for failing to file an objection petition or appeal is stated in the petition.
9. Stay of Decision Made Pursuant to this Subsection. Any decision resetting the maximum allowable rent or granting any other rent adjustment shall be stayed in accordance with Section V pending a petition for judicial relief.

N. Rent Registration Statements: Public Availability and Privacy Exception

The Rent Registration Statements submitted to the Board shall be public records open to inspection by members of the public, except that any registration information revealing the names of the tenants or any other confidential information about the tenants shall not be public record.

O. Annual Program Fee and Statement

1. Annual Fee. The annual program fee shall be established by the Board at a public meeting and shall be set forth in a fee schedule.
2. No Pass Through Of Program Fee. A landlord may not charge a tenant an additional fee for the program fee. Under no circumstances shall penalties be passed through to the tenants.
3. Board Mailing of Program Fee Statement. Commencing in 2016, by December 15th of each year, the Board shall send an annual program fee statement to the landlord of each rental property in the City.

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4. Deadline for Submission of Program Fee and Program Fee Statement. Each landlord shall complete and submit to the Board the program fee and program fee statement by the first business day following January 1 of each calendar year. The program fee shall be considered paid on the date it is received in the Board office during business hours, or on the postmark date, whichever is earlier.
5. Information on Program Fee Statement. The program fee statement will request the information necessary for the calculation of the program fee. The landlord of the property shall provide all of the following information on the program fee statement:
 - a. Rental property address;
 - b. The number of dwelling units at the property and the rental status (covered or exempt) for each dwelling unit; and
 - c. Any updates to owner or agent contact information if there are any changes in what was previously reported.
6. Copy Provided by Rent Board to Tenant. Within 45 days of the filing of the annual program fee statement, the Rent Board shall provide the tenant of each unit with a copy of a Notice of Apparent Maximum Allowable Rent for that tenant's unit.
7. Fee for Rental Less than 12 months. In the event that a unit becomes subject to the program fees after January 1st, the program fee for the unit shall be prorated based on the number of months remaining to the next annual registration deadline.
8. No Reduction in Fee for Vacancy or Termination of Rental Following Payment of Fee. The program fee shall not be reduced or refunded for periods when a rental unit is vacant or becomes exempt subsequent to the payment of the fee.

P. Registration Fees Prior to December 2016

1. Applicability. Prior to December 2016, the Ordinance required payment of an annual registration fee. This Subsection P applies to registration fees due and payable prior to December 2016.
2. Due Date. Any unpaid annual registration fee shall be due within 30 days of the Administrator's issuance of a demand for payment. The fee is considered paid on the date it is received in the Board office during business hours, or on the bona-fide postmark date, whichever is earlier.
3. No Pass Through of Prior Year Registration Fees. A landlord who failed to register and pay an annual registration fee within the applicable year may not pass that fee onto a tenant. Under no circumstances shall penalties be passed through to tenants.
4. Fee for Rental Less than 12 months. In the event that a unit became subject to the registration fee after January 1st, the registration fee for the unit shall be prorated based on the number of months remaining to the next annual registration deadline.
5. No Reduction in Fee for Vacancy or Termination of Rental Following Payment of Fee. The registration fee shall not be reduced or refunded for periods when a rental unit is vacant or becomes exempt subsequent to the payment of the fee.

Q. Compliance with Registration Requirements

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A rental unit is properly registered in accordance with Section 8 of the Ordinance, codified in Section 14.04.080 of the East Palo Alto Municipal Code, if the landlord or landlord's representative has:

1. Completed and filed with the Board the initial registration statement, all annual registration statements, all program fee statements, and all vacancy registration statements required since the last annual registration, which statements are complete and accurate with all of the information required for the individual units;
2. Paid to the City of East Palo Alto all required fees and any penalties due for the unit and all the covered units in the same property; and
3. Completion of Subsection Q.1 and Q.2 above for all covered units on the same property parcel.

R. Penalties for Non-Compliance With Registration Requirements

1. Failure to Pay Program Fees on Time.
 - a. If the full program fee is not paid by the first business day of January of any year, it is delinquent, and a penalty shall become due in addition to the fee. For payments received after the first business day of January but on or before January 31st, the penalty shall be equal to fifteen percent (15%) of the delinquent fee. For payments received after January 31st but on or before March 31st, the penalty shall be equal to thirty percent (30%) of the delinquent fee. For payments received after March 31st, the penalty shall be equal to one hundred percent of the delinquent fee and an additional penalty equal to one hundred percent (100%) of the delinquent fee shall be added for each additional three (3) months that the payment remains delinquent.
 - b. Landlords whose fee payments are delinquent will be notified by Board staff as soon as possible of the delinquency and the amount, including the penalty, which is owed. The notice shall be sent in a manner which includes proof of delivery or reasonable efforts to insure delivery or attempts to deliver. 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 for them.
 - c. No rent increase pursuant to Sections 10 and 12 of the Ordinance, codified in Section 14.04.100 and Section 14.04.120 of the East Palo Alto Municipal Code, shall be effective for any rental unit for which a program fee or late payment penalty is due and unpaid.
2. Failure to File Statements on Time.
 - a. No rent increase pursuant to Sections 10 and 12 of the Ordinance, codified in Section 14.04.100 and Section 14.04.120 of the East Palo Alto Municipal Code, shall be effective for any rental unit for which a required initial or annual registration statement has not been filed. (Revised January 11, 2012 by RSB Resolution No. 12-01).
 - b. Initial Registration Statements: A landlord who fails to file an Initial Registration Statement, as required by Section C of the Registration Rules and Regulations above, on or before January 31, 2011, shall be liable for a late processing fee of \$25 per unit. The Board shall mail a notice notifying the landlord of any rental units that remain unregistered as of March 1, 2011, of the necessity of complying with the initial registration requirement and that further penalties for continuing failure to comply with the initial registration requirement may be assessed. If the landlord fails to submit an initial registration statement within 30 days after receipt of the notice, an additional late processing fee of \$50 per unit shall be assessed for each additional 60 days that the landlord does not make a good faith effort to comply with the initial registration statement requirements. (Revised July 27, 2011 by RSB Resolution No. 11-10; Revised January 11, 2012 by RSB Resolution No. 12-01).

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- c. Annual Registration and Program Fee Statements: A landlord who fails to file an Annual Registration Statement or Program Fee Statement on or before January 31, shall be liable for a late processing fee of \$25 per unit. The Board shall mail a notice notifying the landlord of any rental units for which the required statement has not been filed as of March 1, of the necessity of complying with the statement filing requirement and that further penalties for continuing failure to comply with the statement requirements may be assessed. If the landlord fails to submit the required statement within 30 days after receipt of the notice, an additional late processing fee of \$50 per unit shall be assessed for each additional 60 days that the landlord does not make a good faith effort to comply with the annual registration statement requirements. (Revised January 11, 2012 by RSB Resolution No. 12-01).
- d. Good Cause Determination: In addition to the late processing fees and penalty fees as specified in sections 600-R-1 and 600-R-2 above, no landlord who has failed to register in accordance with these Regulations and the Ordinance shall be entitled to any amount of the AGA or other rent increase for any program year wherein a dwelling unit was not properly registered, unless it is first determined that good cause existed, as defined in section 600.S.3, for the failure to register. The presence or absence of good cause shall be determined by the Rent Stabilization Program Administrator. Any determination made by the Administrator relating to "good cause" may be appealed to the Board within thirty (30) days from the date of the Administrator's decision.

S. Waiver of Late Payment Penalties and Late Processing Fees

1. A landlord who is assessed a penalty pursuant to this Regulation may request the Administrator to waive all or part of the penalty by showing good cause for the delinquency. It is the intent of this Section to substantially reduce or completely waive late payment penalties and late processing fees when the landlord demonstrates an intent to comply with these regulations. The Administrator (or his/her designee) shall be empowered to waive late payment penalties and late processing fee or both for good cause.
2. The Administrator shall make a final decision on all waiver requests within 30 days of submission of a completed waiver application.
3. Circumstances constituting good cause for waiver of late payment penalties or late processing fees, shall include but shall not be limited to the following:
 - a. The landlord has substantially completed the registration forms in a timely manner and submits complete forms within thirty days notice by the Administrator.
 - b. Delays or errors in notifications or billing.
 - c. The landlord was billed for a fewer number of units because of errors in property records maintained by the City where the error was not attributable to information supplied by the landlord. The penalties are waived only for unbilled units; the billed units should be paid on time.
 - d. The billing address of the landlord has not been corrected after the landlord had notified the Board in writing of a change of address.
 - e. A previously registered property was not billed as a result of staff error.
 - f. The determination of whether or not the property was subject to the Ordinance required an analysis by Rent Board legal staff. Penalties shall be waived only while the legal opinion is pending. If the landlord raised the issue requiring legal determination, penalties shall be waived only from the date of the first written contact with the Board in which the issue was raised. Waiver of penalties will not be granted if the legal staff determines that the issue raised is already settled or has no substantial merit. If the legal issue was raised by Rent Board staff, the waiver period shall commence on the date on which the legal opinion was requested by the staff. In all situations in which a legal

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opinion was requested, the waiver period shall terminate when the landlord is notified of the legal determination regarding the status of the property.

4. Waivers Shall be Granted In the Following Cases
 - a. The Administrator shall waive the penalties based on the applicant's payment history for the property in accordance with the following schedule in cases in which the program fee is paid more than 30 days after it is due, or in case the unit was not subject to the program fee requirement on January 1, the payment is made within 60 days of the date the unit became subject to the registration requirement: (Revised May 9, 2012 by RSB Resolution No. 12 – 07)
 - i. For the first late payment within the prior six years - 90% of penalties waived;
 - ii. For the second late payment within the prior six years - 75% of penalties waived;
 - iii. For the third late payment within the prior six years - 50% of penalties waived.
 - b. A new owner with no other residential rental property in East Palo Alto was unaware of the registration requirements of the Ordinance and registered the property within 12 months of acquiring title to the property. In such case, the Rent Board Administrator shall waive the penalties in accordance with the following schedule:
 - i. The property contains 1 or 2 rental units 100% of penalties waived;
 - ii. The property contains 3 to 5 rental units 90% of penalties waived;
 - iii. The property contains 5 to 10 rental units 75% of penalties waived;
 - iv. The property contains 10 to more rental units 50% of penalties waived.
 - c. Failure to Pay Fees Subsequent to Waiver. In all cases in which a waiver is granted pursuant to the provisions of this subsection, penalties shall again accrue if the bill is not paid within 30 days after the error has been corrected and the landlord has been notified of the determination of the status of the property.

T. Other Waiver Requests

1. Waiver requests for good cause that do not meet the criteria enumerated in Subsection S and are \$1,000 or less shall be referred to the Administrator to review and to make a determination whether there is good cause to waive some or all of the penalties. The determination shall be made within 30 days of submission. Waiver requests for good cause that do not meet the criteria enumerated in Subsection S and exceed \$1,000 shall be reviewed by the Rent Board to make a determination whether there is good cause to waive some or all of the penalties. The Board's determination shall also be made within 30 days of submission; except, if the Board is in recess during this period, the review and/or decision shall take place in the first meeting after the recess. (Revised July 27, 2011 by RSB Resolution No. 11-10)
2. A waiver of penalties granted under this regulation is conditional upon payment of the balance due within the time period designated by the Rent Board Administrator.

U. Report By Administrator to Rent Board of Waivers of Late Fees

The Director shall provide a bi-monthly report to the Rent Board of all waivers pursuant to this section, including a description of the basis of the waiver, the amount of the waiver, and the number of units involved.

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V. Appeal By Landlord of Waiver Determinations by Rent Board Administrator

1. A landlord may appeal the Administrator's determination on his/her waiver application. Any such appeal shall be filed on a Board approved form within fifteen (15) days from the date the decision is mailed to the landlord. The appeal shall be accompanied by the payment of an appeal fee set in accordance with a fee schedule adopted by the Board. The fee shall be refunded to the landlord in the event the landlord prevails in the appeal.
2. The Rent Stabilization Board appeals panel shall convene and review all appeals within 30 days from the date the complete appeal is submitted.
3. If the Board appeals panel determines that the facts ascertainable from the record prepared by the Administrator do not warrant further hearing, the panel may affirm the decision of the Administrator and dismiss the appeal within 30 days from the date it determines that a further hearing is not warranted.
4. If the Board appeals panel determines that the facts ascertainable from the record prepared by the Administrator warrant a further hearing, the Board appeals panel shall set the matter for a public hearing within 30 days from the date it determines that a further hearing is warranted. The appeals panel must render a decision within 30 days from the date of the public hearing.
5. If the Board is in recess during a portion of any of the 30 day periods described above, the review and/or any decision shall take place in the first meeting after the recess. If no action is taken by the Board appeals panel within this 30 day period, then the decision of the Administrator shall be deemed affirmed and the appeal shall be deemed denied.
6. The Rent Stabilization Board may act as the appeals panel upon a majority vote.

W. Review of Waiver Determinations by Rent Board

In cases where the Administrator has not reduced the penalty or late fees upon a finding of good cause, the aggrieved party may appeal the Administrator's decision to the Rent Board. Upon its review, the Rent Board shall issue a decision either affirming the decision of the Administrator, or establishing an amount of penalties and/or late fees that will be waived. Any Administrator's waiver determination exceeding \$5,000 shall be reported to the Board at the next regularly scheduled Board meeting following the date on which the Administrator issues the decision. The Rent Board may take one of the following actions:

1. If the Board determines that the facts ascertainable from the record prepared by the Administrator do not warrant further review, the Board may affirm the Administrator's decision.
2. If the Board determines that the facts ascertainable from the record prepared by the Administrator warrant a further review, the Board shall set the matter for a public hearing at the next meeting of the Board and shall make a final decision within 30 days of the public hearing.
3. If no action is taken by the Board within 30 days from the date the Administrator's decision first appeared on the Board agenda, then the Administrator's decision shall be deemed affirmed.

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4. If the Board is in recess during a portion of any of the 30 day periods described above, the review and/or any decision shall take place in the first meeting after the recess.

X. Stay Pending Exhaustion of Judicial Remedies

A Board decision pursuant to this section shall become effective 30 days after the date of the decision, or 30 days after the decision is deemed to be affirmed, unless a stay of execution is granted.

Y. Master Tenancies and Sub-Tenancies

1. Any tenant subleasing to a subtenant or subtenants shall be known as a “master tenant” and shall be required to comply with the provisions of Sections 6, 9,10, 11, 13, 16, and 17 of the 2010 Ordinance, codified in Section 14.04.060, Section 14.04.090, Section 14.04.100, Section 14.04.130, Section 14.04.160, and Section 14.04.170 of the East Palo Alto Municipal Code. For the purpose of determining an exemption to the 2010 Ordinance, a master tenant shall not be entitled to an exemption as a landlord.

The master tenant shall comply with any and all restrictions upon the Maximum Allowable Rent (MAR) and shall not be permitted to charge a subtenant, or multiple subtenants in the aggregate, rent in excess of the MAR.

2. Each individual tenant is entitled to the full protections of the Ordinance and these Regulations and may bring a petition in his or her individual name in addition to, or instead of, a joint petition with the other tenants of the rental unit.

700. RESERVED

800. FEES FOR UTILITIES AND HOUSING SERVICES INCLUDED IN MAXIMUM ALLOWABLE RENTS

(Effective July 13, 2011 by RSB Resolution No. 11-09; Revised as of February 24, 2016 by RSB Resolution No. 16-02)

- A.** Except as provided in A.1 below, all utility and housing service fees, as defined in Section 4.G of the Ordinance, codified in Section 14.04.040 of the East Palo Alto Municipal Code, are included in the rent and regulated by the Ordinance. As such, these regulated utility and housing service fees are subject to the limit in overall rent increase in any twelve-month period as set forth in the Ordinance including, but not limited to, Sections 10.F and 10.I, codified in Section 14.04.100 of the East Palo Alto Municipal Code

1. If actual sewer, trash, water, gas, electricity, or other utility service charges paid by the landlord to a service provider are individually metered for the unit and actually passed on to the tenant as specified in the initial lease or rental agreement (i.e. reimbursed by the tenant), these charges are not regulated by the Ordinance and can be increased by the landlord based on actual service charges invoiced to the landlord and passed on to the tenant.
2. If a fixed amount is assessed for sewer, trash, water, gas, electricity, or other utilities by the landlord and specified in the initial lease or rental agreement (“utility fees”), these utility fees are considered part of the rent and are regulated by the Ordinance, i.e. can only be increased by the landlord if the amount for rent, including utility fees, is within the amount allowed by the Maximum Allowable Rent as specified in Section

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- 4.J of the Ordinance. Any increase in utility fees or charge for additional utility fees not specified in the initial lease or rental agreement is considered a rent increase except as provided in Sections B and C below.
3. Any housing service fees (e.g. laundry, pets, parking, renter's insurance fees) assessed by the landlord and specified in the initial lease or rental agreement are considered part of the rent and are regulated by the Ordinance, i.e. can only be increased by the landlord if the amount for rent, including fees, is within the amount allowed by the Maximum Allowable Rent as specified in Section 4.J of the Ordinance. Except as provided in Section B below, any increase in housing service fees or charge for additional housing services not specified in the initial lease or rental agreement is considered a rent increase.
- B.** If the original lease or rental agreement prohibited pets, and an amendment was entered into by the landlord and tenant to allow a pet and instituting a pet charge, the initial pet charge is not regulated by the Ordinance and therefore is not considered a rent increase. Once implemented, the pet charge is added to the rent and becomes a fixed fee that is regulated by the Ordinance. The initial pet charge is added to the then-current Maximum Allowable Rent.
- C.** At any time, a landlord and tenant may enter into a separate parking agreement ("separate parking agreement") unconnected to the use or occupancy of a rental unit, whereby tenant agrees to pay the market rate ("additional parking fee") in consideration for parking ("additional parking") that is in addition to the first parking space. Any such additional parking (1) shall be "offsite," meaning located on a separate legal parcel from the parcel on which the tenant's unit is located, and (2) shall not be parking required by the Zoning Code (or other local law) or dedicated for exclusive use by occupants of the residential unit. Therefore, additional parking is not a housing service, an additional parking fee is not rent under Section 4(O) of the Ordinance, codified in Section 14.04.040 of the East Palo Alto Municipal Code and nonpayment of an additional parking fee shall not be a just cause for eviction under Section 16(a)(1) of the Ordinance, codified in Section 14.04.160 of the East Palo Alto Municipal Code.
- D.** At any time, a landlord and tenant may enter into a separate agreement for tenant to receive renter's insurance, whereby tenant agrees to pay the market rate ("Additional Insurance Fee") for renter's insurance coverage in consideration for receiving such coverage. Any such renter's insurance shall not be considered a housing service and may be terminated pursuant to the terms of the agreement. An Additional Insurance Fee is not rent under Section 4 of the Ordinance, codified in Section 14.04.040 of the East Palo Alto Municipal Code, and nonpayment of an Additional Insurance Fee shall not be a just cause for eviction under Section 16 of the Ordinance, codified in Section 14.04.160 of the East Palo Alto Municipal Code.

900. RESERVED

1000. RENT CERTIFICATION²

1010. INITIAL CERTIFICATION OF RENTS³

(Effective March 9, 2011 by RSB Resolution No. 11-01)

² For state law governing rent certifications, see [California Civil Code § 1947.8](#).

³ For state law regarding the rights of landlords to set initial rents for new tenants, see [California Civil Code § 1954.53\(a\), \(d\), f\)](#).

RENT STABILIZATION BOARD REGULATIONS FOR RESIDENTIAL TENANCIES IN THE CITY OF EAST PALO ALTO

A. Deadline for Initial Certification. By June 30, 2011, the Rent Stabilization Board will certify current maximum allowable rents in effect for controlled rental units, pursuant to Section 8.I of the Ordinance, codified in Section 14.04.080 of the East Palo Alto Municipal Code.

B. Cases in Which Landlord Has Failed to Register. Where a landlord has not supplied complete information and/or has not substantially complied with registration requirements, the Board shall notify the landlord that the initial certificate will not be issued unless the landlord submits complete information and is in substantial compliance. Section 10.H of the Ordinance applies and no rent increase is allowed, codified in Section 14.04.100 of the East Palo Alto Municipal Code. (Revised July 13, 2011 by RSB Resolution No. 11-08)

C. Determination of Maximum Allowable Rent (Added July 13, 2011 by RSB Resolution No. 11-08)

1. The Maximum Allowable Rent shall be determined pursuant to Section 4.J of the Ordinance. For the purposes of Section 4.J.1 of the Ordinance, codified in Section 14.04.040 of the East Palo Alto Municipal Code, a certificate issued prior to the adoption of the 2010 Ordinance shall be considered valid if it was issued pursuant to the scope of the Board's authority to regulate the rent of the unit pursuant to the Rent Stabilization and Eviction for Good Cause Ordinance of 1988. .
2. The Rent Board Administrator shall develop formulas for calculating Maximum Allowable Rents and issue Certificates of Maximum Allowable Rents.
3. Annual General Adjustments (AGAs) from 1986 – 2010: The AGAs from 1986 to 2010 were calculated under Section 11 of the 1988 Ordinance.

Year	EPA City AGA
1986	2.70 %
1987	4.00 %
1988	3.40 %
1989	4.90 %
1990	4.90 %
1991	3.90 %
1992	2.30 %
1993	3.30 %
1994	1.00 %
1995	1.40 %
1996	1.80 %
1997	5.60 %
1998	7.10 %
1999	2.30 %
2000	6.30 %
2001	5.80 %
2002	2.10 %
2003	2.20 %
2004	0.50 %
2005	2.13 %
2006	2.40 %
2007	3.20 %
2008	2.90 %
2009	0.80 %
2010	0.00%

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4. Formerly Exempt Units Subject to the 2010 Ordinance With Same Tenancy: For units exempt from Maximum Allowable Rent under the 1988 Ordinance, but subject to Maximum Allowable Rent under the 2010 Ordinance, which had the same tenancy since before the effective date of the 2010 Ordinance, the Maximum Allowable Rent shall be the rent actually charged on the effective date of the 2010 Ordinance, plus authorized annual general adjustments. (Revised May 9, 2012 by RSB Resolution No. 12 - 05).

D. Notice Accompanying Certificate

1. Contents of Notice. Notice accompanying the Certificate shall include:
 - a. Notice of the permissible Maximum Allowable Rent and the calculations underlying the determination;
 - b. The reason for the certification (e.g. initial certification, certification pursuant to request, certification following start of new tenancy, modification of certification following objection);
 - c. If applicable, notice that the Board did not verify the landlord's eligibility for annual rent increases based on Section 10 of Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code;
 - d. If applicable, notice of the right of the landlord and of the tenant to contest rent determination in the certification and of the deadline for filing an appeal;
 - e. If applicable, 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 Allowable Rent), subject to re-determination only on the basis of intentional misrepresentation or fraud;
 - f. Notice that the permissible rent level set forth in the Certification shall be subject to subsequent rent adjustments based on allowable annual general adjustments and rent increases or decreases authorized by the Board;
 - g. Notice that the landlord's eligibility for annual general adjustments subsequent to the certification are subject to appeal by either party. The notice shall set forth the various eligibility conditions for the Annual General Adjustments;
 - h. Notice that the right to rent increases following the commencement of a tenancy is subject to the limitations on rent increases set forth in Section 10 of the Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code; and
 - i. Notice that this certificate is only applicable to the tenancy under which it was issued.
2. Parties Notified. The notice shall be mailed to the tenant(s) of the unit and to the landlord or the landlord's representative noted on the registration.
3. Mailing of Notice. The notice shall be mailed within three (3) business days of the certification by the Board pursuant to this section.

- ### **E. Finality of Initial Certification**
- After a maximum allowable rent has been certified by the Rent Stabilization Board and has become final under these regulations, it cannot be changed except upon a showing of misrepresentation or fraud. After rents have initially been certified,

RENT STABILIZATION BOARD REGULATIONS FOR RESIDENTIAL TENANCIES IN THE CITY OF EAST PALO ALTO

increases or decreases in maximum allowable rents which are permitted by the Ordinance and regulations shall be prospective in effect in the absence of a finding of intentional misrepresentation or fraud.

F. Objections to Initial Certification

1. **Standing to File Objection.** Any landlord, tenant or former tenant of the property, the Board Administrator or any Board member may petition for a hearing to object to the certified rent on the form provided by the Rent Stabilization Program.
2. **Deadline for Objections.** The objection must be filed with the Board not more than thirty (30) calendar days after the date of mailing of the certification notice.
3. **Late Objections.** No objection will be accepted if it is filed more than sixty (60) days after the date of mailing of the certification notice. An objection petition filed less than sixty (60) days but more than thirty (30) days after the date of mailing of the certification notice may be accepted upon a showing of good cause for the lateness. A late objection petition must contain a statement of good cause for the lateness. The Rent Board Administrator or his/her designee shall determine whether good cause exists to accept the late objection.
4. **Submission of Objection Form and Grounds for Objection.** Any person objecting to a certification must do so on a form provided by the Rent Stabilization Program. An objection shall be accepted for filing only after the objecting party has provided all the information called for by the form.

The Board shall not accept an objection form where the objection form submitted has not been substantially completed. Notice of non-acceptance of such objection form must be sent to the party submitting it with the reasons for such non-acceptance. The party shall have thirty (30) days from the date of mailing of the notice to cure the defects in the objection.

Rent Stabilization Program staff shall be available to such party needing assistance in amending the objection form during the ten (10) day period noted in subsection 5 below.

5. **Copy of Objection to Tenants and Landlords of Affected Unit.** Rent Stabilization Program staff shall mail a copy of the objection to initial certification, any supporting documents submitted with the objection, and a copy of a response form to all known tenants and landlords of the affected unit, other than the objecting party.
6. **Response to Objection.** Parties wishing to respond to the objection must do so by using the response form provided by the Rent Stabilization Program. The response shall be returned to the Board within ten (10) days of the date of mailing of the copy of objection to tenants and landlords of the affected unit. (Revised May 9, 2012 by RSB Resolution No. 12 - 06)
7. **Review of Objections to Certification.** The Administrator shall designate a hearing examiner or the Board to review appeals under this section. The Administrator may schedule a meeting or the hearing examiner may schedule a pre-hearing conference of the parties if such a conference would contribute to reaching a resolution to the dispute. The review of the objection, any response to the objection, and any hearing and written decision shall be conducted within sixty (60) days of the filing of the appeal.

- G. Stay Pending Exhaustion of Judicial Remedies.** A decision pursuant to this section shall become effective thirty (30) days after the date of the decision, or thirty (30) days after the decision is deemed to be affirmed, unless a stay of execution is granted.

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1020. CERTIFICATION OF RENTS PURSUANT TO A REQUEST FOR CERTIFICATION

(Effective May 25, 2011 by RSB Resolution No. 11-05)

- A. Form of Request.** A request for a certification shall be on a form provided by the Rent Stabilization Program. A landlord shall provide a copy of the form to the tenant simultaneous to the landlord's submission of the completed form to the Board.
- B. Fee.** A fee shall be established by the Board and set forth in a fee schedule to cover the costs of issuing the certificate for each request for a certificate.
- C. Time Period for Certification.** Upon the request of the landlord or the tenant, the Board shall provide the landlord and the current tenant with a certificate of current permissible rent level (Maximum Allowable Rent) of the rental unit. The certificate shall be issued to the landlord and the tenant within five (5) business days from the date of request.
- D. Cases in Which Landlord Has Failed to Register or Request for Certificate is Incomplete.** Where a landlord requests a certificate of maximum allowable rent but has not supplied complete information and/or has not substantially complied with registration requirements as set forth in Section 8 of the Ordinance, codified in Section 14.04.080 of the East Palo Alto Municipal Code, the Board shall immediately notify the landlord that the request for the certificate is denied because the registration or request is not complete and that the Board will not issue the certificate unless the landlord submits complete information and pays all fees and penalties due. Section 10.H of the Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code, applies and no rent increase is allowed.
- E. Standard for Determining Permissible Rent Level.** Where the rental unit has previously been certified, the review to determine the current permissible rent level shall include the following:
1. The review shall begin with the most recent certified rent for the current tenancy, which shall be controlling and not subject to challenge in an appeal of the Certificate;
 - a. The new certified rent shall be calculated by increasing the prior certified rent by the allowable Annual General Adjustments since the most recent certification, subject to the applicable limitations on rent increases and any other applicable limitations on allowable Annual General Adjustments, if the property was in substantial compliance with the registration requirements
 - b. If the prior certification occurred prior to December 2016, the new maximum allowable rent shall be increased by \$9.75 after applying any Annual General Adjustments authorized prior to December 2016, and before applying any Annual General Adjustments authorized after December 2016.
 - c. If the landlord complied with the vacancy registration requirements associated with the commencement of the current tenancy but no certified rent level was established for that tenancy, an initial rent shall be established pursuant to Section C of the Registration Regulation or pursuant to Section B of the Certification of Permissible Rent Levels Following Establishment of an Initial Rent Regulation, whichever applies. A new certified rent shall be calculated by increasing this initial rent by the allowable Annual General Adjustments since the commencement of the current tenancy, subject to the applicable limitations on rent increases and any other applicable

RENT STABILIZATION BOARD REGULATIONS FOR RESIDENTIAL TENANCIES IN THE CITY OF EAST PALO ALTO

limitations on allowable Annual General Adjustments (e.g. only one increase in rent per twelve month period allowed). If the prior certification occurred prior to December 2016, the new maximum allowable rent shall be increased by \$9.75 after applying any Annual General Adjustments authorized prior to December 2016, and before applying any Annual General Adjustments authorized after December 2016.

2. If the landlord has not complied with vacancy registration requirements for the new tenancy and is requesting certification of the rent for the unit, no certification shall be granted until the landlord has complied with the vacancy registration requirements for the new tenancy and the period for consideration of objections to the new certification has expired;
3. In situations where the property was not in substantial compliance with the registration requirements or where the Board has determined 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;
4. Any Individual Rent Adjustment(s) which has been granted and is applicable to the current tenancy shall be taken into account when computing the permissible rent level. All determinations made in such Individual Rent Adjustment hearings, or in any rent withholding for nonregistration hearings, shall be controlling and the results reached in said proceedings shall not be altered or superseded.

F. Notice Accompanying Certificate

1. Contents of Notice. Notice accompanying the Certificate shall include:
 - a. Notice of the Maximum Allowable Rent and the calculations underlying the determination;
 - b. The reason for the certification (e.g. initial certification, certification pursuant to request, certification following start of new tenancy, modification of certification following objection);
 - c. If applicable, notice that the Board did not verify the landlord's eligibility for annual rent increases based on Section 10 of Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code;
 - d. If applicable, notice of the right of the landlord and the tenant to contest the rent determination in the certification and of the deadline for filing an appeal;
 - e. If applicable, 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 Maximum Allowable Rent, subject to re-determination only on the basis of intentional misrepresentation or fraud;
 - f. Notice that the Maximum Allowable Rent set forth in the Certification shall be subject to subsequent rent adjustments based on allowable Annual General Adjustments and rent increases or decreases authorized by the Board.
 - g. Notice that the landlord's eligibility for the Annual General Adjustments subsequent to the certification are subject to appeal by either party. The notice shall set forth the various eligibility conditions for the Annual General Adjustments;

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- h. Notice that the right to rent increases following the commencement of a tenancy is subject to the limitations on rent increases set forth in Section 10 of the Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code; and
 - i. Notice that this certificate is only applicable to the tenancy under which it was issued.
2. Parties Notified. The notice shall be mailed to the tenant(s) of the unit and to the landlord or the landlord's representative noted on the registration.
 3. Mailing of Notice. The notice shall be mailed within one (1) business day of the certification pursuant to this section.

G. Objections to Certification Issued Pursuant to Request for Certificate

1. **Standing to File Objection**. Any landlord or tenant of the property, the Board Administrator or any Board member may petition for a hearing to object to the certified rent on the form provided by the Rent Stabilization Program.
2. **Deadline for Objections**. The objection must be filed with the Board not more than fifteen (15) calendar days after the date of mailing of the certification notice.
3. **Submission of Objection Form and Grounds for Objection**. Any person objecting to a certification must do so on a form provided by the Rent Stabilization Program. An objection shall be accepted for filing only after the objecting party has provided all the information called for by the form.

The Board shall not accept an objection form where the objection form submitted has not been substantially completed. Notice of non-acceptance of such objection form must be sent to the party submitting it with the reasons for such non-acceptance. The party shall have thirty (30) days from the date of mailing of the notice to cure the defects in the objection.

Rent Stabilization Program staff shall be available to such party needing assistance in amending the objection form during the ten (10) day period noted in subsection 4 below.

The party submitting the appeal must include with the appeal form all documentation and written argument in support of the appeal, together with proof of service of the appeal, all supporting papers and a copy of a response form on all tenants of the affected unit and the landlords of the affected unit, other than appellant.

4. **Response to Objection**. The notice of filing of the objection shall be accompanied by a response form provided by the Rent Stabilization Program. Parties wishing to respond to the objection must do so by using this form. The response shall be returned to the Board within ten (10) days of the date of mailing of the notice of filing.
5. **Review of Objections to Certification**. The Administrator shall designate a hearing examiner or the Board to review appeals under this section. The review of the objection, any response to the objection, and any hearing and written decision shall be conducted within sixty (60) days of the filing of the appeal.

H. Stay Pending Exhaustion of Judicial Remedies. A decision pursuant to this section shall become effective thirty (30) days after the date of the decision, or thirty (30) days after the decision is deemed to be affirmed, unless a stay of execution is granted.

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**1030. CERTIFICATION OF PERMISSIBLE RENT LEVEL FOLLOWING
ESTABLISHMENT OF AN INITIAL RENT PURSUANT TO CIVIL
CODE SECTION 1954.50 ET SEQ. (THE COSTA-HAWKINS
RENTAL HOUSING ACT)**

(Effective May 11, 2011 by RSB Resolution No. 11-04)

A. Time Period for a New Certification. When an initial rent for a new tenancy is established pursuant to [Civil Code section 1954.50 et seq.](#), a new certificate shall be issued within five (5) business days of the Board's receipt of a completed Vacancy Registration Form. This form shall be issued irrespective of whether the rent for the new tenant is equal to or higher or lower than the rent for the prior tenant. If the Vacancy Registration Form has not been substantially completed and/or the landlord has not substantially complied with the requirements of Section F of the Registration Regulations, the Board shall immediately notify the landlord that a new certificate cannot be issued and state the reason why the certificate cannot be issued.

B. Standard for Determining Permissible Rent Level. The certificate of a rent established for a new tenancy pursuant to [Civil Code section 1954.50 et seq.](#) (The Costa-Hawkins Rental Housing Act) shall be the initial rent.

C. Certified Rent Standard in Cases of Discounted or Free Rent Periods. In the event the period of the lease includes periods of free or discounted rents, the new rent shall be the average of the rent for the period of the lease.

D. Notice Accompanying Certificate

1. Contents of Notice. Notice accompanying the Certificate shall include:
 - a. Notice of the permissible Maximum Allowable Rent and the calculations underlying the determination;
 - b. The reason for the certification (e.g. initial certification, certification pursuant to request, certification following start of new tenancy, modification of certification following objection);
 - c. Notice that the Board did not verify the landlord's eligibility for annual rent increases based on Section 10 of Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code;
 - d. Notice of the right of the landlord and the tenant to contest rent determination in the certificate and of the deadline for filing an appeal;
 - e. 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 Allowable Rent), subject to re-determination only on the basis of intentional misrepresentation or fraud;
 - f. Notice that the permissible rent level set forth in the Certification shall be subject to subsequent rent adjustments based on allowable annual general adjustments and rent increases or decreases authorized by the Board.

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- g. Notice that the landlord's eligibility for annual general adjustments subsequent to the certification are subject to appeal by either party. The notice shall set forth the various eligibility conditions for the Annual General Adjustments;
 - h. Notice that the right to rent increases following the commencement of a tenancy is subject to the limitations on rent increases set forth in Section 10 of the Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code; and
 - i. Notice that this certificate is only applicable to the tenancy under which it was issued.
- 2. Parties Notified. The notice shall be mailed to the tenant(s) of the unit and to the landlord or the landlord's representative noted on the registration.
 - 3. Mailing of Notice. The notice shall be mailed within three (3) business days of the certification pursuant to this section.

E. Objections to Certificate Issued Following Initiation of New Tenancy Pursuant to Civil Code Sections 1954.50 et seq.

- 1. **Standing to File Objection**. Any landlord or tenant of the property, the Board Administrator or any Board Member may petition for a hearing to object to the certified rent on the form provided by the Rent Stabilization Program.
- 2. **Deadline for Objections**. The objection must be filed with the Board not more than thirty (30) calendar days after the date of mailing of the certification notice.
- 3. **Late Objections**. No objection will be accepted if it is filed more than sixty (60) days after the date of mailing of the certification notice. An objection petition filed less than sixty (60) days but more than thirty (30) days after the date of mailing of the certification notice may be accepted upon a showing of good cause for the lateness. A late objection petition must contain a statement of good cause for the lateness. The Rent Board Administrator or his/her designee shall determine whether good cause exists to accept the late objection.
- 4. **Submission of Objection Form and Grounds for Objection**. Any person objecting to a certification must do so on a form provided by the Rent Stabilization Program. An objection shall be accepted for filing only after the objecting party has provided all the information called for by the form.

The Board shall not accept an objection form where the objection form submitted has not been completed. Notice of non-acceptance of such objection form must be sent to the party submitting it with the reasons for such non-acceptance. The party shall have fifteen (15) days from the date of mailing of the notice to cure the defects in the objection.

Rent Stabilization Program staff shall be available to such party needing assistance in amending the objection form during the ten (10) day period noted in subsection 5 below.

The appellant must include with the appeal form all documentation and written argument in support of the appeal, together with proof of service of the appeal, all supporting papers and a copy of a response form on all tenants of the affected unit and the landlords of the affected unit, other than appellant

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5. **Response to Objection.** The notice of filing of the objection shall be accompanied by a response form provided by the Rent Stabilization Program. Parties wishing to respond to the objection must do so by using this form. The response shall be returned to the Board within ten (10) days of the date of mailing of the notice of filing.
6. **Review of Objections to Certification.** The Administrator shall designate a hearing examiner or the Board to review appeals under this section. The review of the objection, any response to the objection, and any hearing and written decision shall be conducted within sixty (60) days of the filing of the appeal. Hearing examiner decisions pursuant to this subsection may not be appealed to the Board.

F. Stay Pending Exhaustion of Judicial Remedies. A decision pursuant to this section shall become effective thirty (30) days after the date of the decision, or thirty (30) days after the decision is deemed to be affirmed, unless a stay of execution is granted.

1100. Other Requirements Pertaining to Changes in Rent

- A.** After the initial Maximum Allowable Rent is established by the Rent Board, a subsequent rent increase notice must be provided to the tenant on the rent increase notice form prepared by the Administrator and a copy must be provided to the Board within ten business days of the notice to the tenant. (Approved on January 23, 2013 by RSB Resolution No. 13 – 02).
- B.** Under no circumstances, including but not limited to those specified in section 10(E) of the Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code, shall a rent increase be permitted at any time during the first twelve (12) months of a tenancy.
- C.** No rent increase pursuant to an upward general adjustment of maximum allowable rent shall be effective if the landlord has failed to make repairs as ordered by the City.

1200. SECURITY DEPOSITS

(Effective September 28, 2011 by RSB Resolution No. 11-16)

- A.** Any amount demanded, accepted, or retained by a landlord as a security deposit within the meaning of Section 1950.5 of the California Civil Code shall not be increased for any tenant during the term of the tenancy, except as provided in the subsection B of this section.
 1. This includes, but is not limited to, advance rent, or deposits for key(s), garage, garage door opener(s), pet(s), security, cleaning, and furnishings.
- B.** With the written consent of the tenant and only to the extent allowed by state law, a landlord may collect and retain additional security during the tenancy as consideration for allowing the tenant to keep a pet or pets in the unit, when such pet ownership was not previously permitted.

1300. FAIR RETURNS

(Effective January 25, 2012 by RSB Resolution No. 12-03)

A. Petitions and Hearings

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1. Section 1500.A (Process for Acceptance of Petitions and for Hearings) applies to Fair Return petitions.
2. **Additional Petition Documentation.** A fair return petition must also include copies of all documentary evidence that will be presented at the hearing. Copies must be clear, legible, and organized by category, following the organization of the petition format. Required documentation shall include the following for the base year and current year of the petition:
 - a. Rents collected from all tenants;
 - b. The amount of other income received in the period;
 - c. Property taxes assessed and paid;
 - d. Amounts billed and paid for electricity, gas, sewer, and water and trash service;
 - e. Amounts expended for maintenance and repair;
 - f. Capital expenses;
 - g. License or other fees paid;
 - h. Owner-performed labor and the hourly rates listed on the petition; and
 - i. Other operating expenses.
3. **Notice of Testimony to be Presented.** A petitioner must submit with the petition a witness list providing the name, address, and subject matter(s) of testimony of any person he or she expects to testify on his or her behalf at the hearing. If the petitioner intends to call an expert witness to offer an expert opinion at the hearing, the designation of that witness shall include or be accompanied by a brief narrative statement of the qualifications of the expert, a brief narrative statement of the general substance of the expected testimony of the expert, and a copy of any expert reports that the petitioner plans to submit at the hearing.

B. Computation of Gross Rental Income – Units with Recent Vacancy Increases and Vacant Units

1. Gross rents of units which received a vacancy rent increase pursuant to [Civil Code section 1954.53](#) at any time from the first date of the petition's current year through the date of the last hearing on the petition before the hearing examiner, shall be computed at the unit's new base rent after vacancy for all twelve months of the petition's current year. In addition, if the unit is eligible for a general adjustment during any months of the current year, the general adjustment shall be included for those months.
2. Gross rents of units which are vacant at the start of the petition's current year or which become vacant at any time from the first date of the petition's current year through the date of the last hearing on the petition before the hearing examiner, and which have not yet been re-rented on the date of the last hearing, shall be calculated as follows for all twelve months of the petition's current year:
 - a. If the vacant unit received a vacancy rent increase within two years prior to the first date of the current year of the increase petition, the unit's maximum allowable rent shall be used.
 - b. If the unit is vacant and did not receive a vacancy increase within the prior two years and if comparable units on the property received a vacancy rent increase at any time from two

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years prior to the first date of the petition's current year through the date of the last hearing on the petition before the hearing examiner, the rent for the vacant unit shall be calculated at the average maximum allowable rent of those comparable units in effect at the time of the last hearing on the petition.

- c. If the unit is vacant and did not receive a vacancy increase within the prior two years and if no comparable units on the property received a vacancy rent increase at any time from two years prior to the first date of the petition's current year through the date of the last hearing on the petition before the hearing examiner, the rent for the vacant unit shall be calculated at the average maximum allowable rent of comparable units in other properties in effect at the time of the last hearing on the petition.
- d. For purposes of this subsection, comparable unit is defined as a rented unit with the same number of bedrooms as the vacant unit, and the definition of property includes a unit which was formerly in the same parcel or property as the subject unit, but is now in a different parcel because the former parcel has been subdivided into condominiums.

C. Amortization of Capital Improvements

In amortizing capital improvements, the following schedule shall be used to determine the amortization period of the capital improvement:

Improvement	Years
Air Conditioners	10
Appliances	
Refrigerator	5
Stove	5
Garbage Disposal	5
Water Heater	5
Dishwasher	5
Microwave Oven	5
Washer/Dryer	5
Fans	5
Cabinets	10
Carpentry	10
Counters	10
Doors	10
Knobs	5
Screen Doors	5
Electrical Wiring	10
Elevator	20
Fencing	
Chain	10
Block	10
Wood	10
Fire Alarm System	10
Fire Sprinkler System	20
Fire Escape	10
Flooring/Floor Covering	
Hardwood	27.5

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Improvement	Years
Tile and Linoleum	5
Carpet	5
Carpet Pad	5
Subfloor	10
Fumigation	
Tenting	5
Furniture	5
Automatic Garage Door Openers	10
Gates	
Chain Link	10
Wrought Iron	10
Wood	10
Glass	
Windows	5
Doors	5
Mirrors	5
Heating	
Central	10
Gas	10
Electric	10
Solar	10
Insulation	10
Landscaping	
Planting	10
Sprinklers	10
Tree Replacement	10
Lighting	
Interior	10
Exterior	10
Locks	5
Mailboxes	10
Meters	10
Plumbing	
Fixtures	10
Pipe Replacement	10
Re-Pipe Entire Building	27.5
Shower Doors	5
Painting	
Interior	5
Exterior	5
Paving	
Asphalt	10
Cement	10
Decking	10
Plastering	10
Pumps	
Sump	10
Railings	10
Roofing	
Shingle/Asphalt	27.5
Built-up, Tar and Gravel	27.5

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Improvement	Years
Tile	27.5
Gutters/Downspouts	10
Security	
Entry Telephone Intercom	10
Gates/Doors	10
Fencing	10
Alarms	10
Sidewalks/Walkways	10
Stairs	10
Structural Repair and Retrofitting	
Foundation Repair	27.5
Foundation Replacement	27.5
Foundation Bolting	27.5
Iron or Steel Work	27.5
Masonry-Chimney Repair	27.5
Shear Wall Installation	27.5
Stucco	10
Tilework	10
Wallpaper	5
Window Coverings	
Drapes	5
Shades	5
Screens	3
Awnings	5
Blinds/Miniblinds	3
Shutters	5

D. Amortization of Other Capital Improvement Expenses

If not specified in the table above, the hearing examiner or Board may amortize other capital improvement expenses over a period it determines is reasonable.

E. Amortization of Non-Recurring Expenses

If, on the basis of substantial evidence, it is determined that these expenses will not reoccur annually, the hearing examiner or Board may amortize those expenses over a period over a reasonable period.

F. Allocation of Rent Increases

Rent increases authorized pursuant to this section shall be allocated as follows:

1. Rent increases for unit-specific capital improvements shall be allocated to that unit;
2. Rent increases for building-wide or common area capital improvements shall be allocated equally among all units;
3. Rent increases for partial building capital improvements shall be allocated equally over only the partially improved or benefited units.

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4. Rent increases resulting from the Net Operating Income analysis shall be allocated equally among all units;
5. Pursuant to Section 11.C of the Ordinance, codified in Section 14.04.110 of the East Palo Alto Municipal Code, when a landlord sets the initial rent without restriction pursuant to Costa-Hawkins, no increases may be allocated to a unit for capital improvements or cost increases incurred prior to the commencement of the tenancy.
6. Notwithstanding the subsections above, the hearing examiner or the Board, in the interests of justice, shall have the discretion to apportion the rent increases in a manner and to the degree necessary to ensure fairness. Such circumstances include, but are not limited to, units that are vacant or owner occupied.

G. Exclusions from Operating Expenses

Land Lease expenses shall not be considered as an operating expense.

H. Termination of Rent Increase Schedules after Vacancy

Pursuant to Section 11.C of the Ordinance, codified in Section 14.04.110 of the East Palo Alto Municipal Code, individual rent adjustment schedules are terminated when a new base rent upon vacancy is established pursuant to [Civil Code section 1954.53](#), as follows:

1. If a unit becomes vacant during the pendency of a schedule of individual rent adjustments authorized by a fair return petition, and a landlord sets the initial rent without restriction pursuant to [Civil Code section 1954.53](#), all individual rental adjustments previously authorized under a fair return petition are terminated for that unit.
2. If a unit becomes vacant during the twelve-month period in which a general adjustment is deferred pursuant to an individual rent adjustment order and the unit qualifies for a vacancy increase pursuant to [Civil Code section 1954.53](#), the unit shall not be entitled to the deferred general adjustment.

1400. RESERVED

1500. INDIVIDUAL RENT ADJUSTMENT AND RENT WITHHOLDING PETITIONS

(Effective September 28, 2011 by RSB Resolution No. 11-14)

A. Process for Acceptance of Petitions and for Hearings

1. Any person seeking an individual rent adjustment under Section 12 (Fair Return), codified in Section 14.04.120 of the East Palo Alto Municipal Code, Section 13 (Maintenance and Service Reductions), codified in Section 14.04.130 of the East Palo Alto Municipal Code, Section 18.B (Landlord's Demand for or Retention of Excessive Rent), codified in Section 14.04.180 of the East Palo Alto Municipal Code, or seeking authorization under Section 18.A (Rent Withholding for Failure to Register) of the Ordinance must file a petition in accordance with the provisions of this Section.

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2. Former tenants may petition for rent rebates under Section 13 (Maintenance and Service Reductions) or Section 18.B (Landlord's Demand for or Retention of Excessive Rent) for the period they were entitled to the use or occupancy of such rental unit, as long as the petitions are filed within six months of the date they vacated the unit. (Effective January 11, 2012 by RSB Resolution No. 12-02)
3. **Petitions – Submission and Requirements**
 - a. The petition shall be on a form provided by the Board.
 - b. Said petition shall include:
 - i. A provision permitting the petitioner to elect non-binding mediation; and
 - ii. Notice that the petition shall be public record subject to the specific exemptions set forth in the Subsection A.8 (Petition Documents – Public Record and Confidentiality) (including applications for fee waivers).
 - c. The petitioner must attach to the petition documentation that is adequate to establish eligibility for the rent adjustment that is requested. The necessary documentation will vary according to the type of petition, factual issues, applicable regulations and the requirements of the applicable petition form. If the necessary documentation is unavailable, the petitioner's verification of the petition or declaration under penalty of perjury may substitute for the unavailable documentation.
 - d. A petition filed by a landlord shall include the following:
 - i. One copy of the petition for each rental unit involved in the petition;
 - ii. Address labels (provided by the landlord to 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; and
 - iii. The filing fees required pursuant to Subsection A.6 (Petition Filing Fee). (Provision suspended by RSB motion on January 11, 2012 for 1 year).
 - e. Tenant petitions filed for rent adjustments due to (1) Breach of implied warranty of habitability; (2) Decrease in housing services or maintenance provided by landlord; (3) Deterioration of the rented premises; or (4) Rent in excess of the Maximum Allowable Rent, shall:
 - i. Based on information available to the tenant, set forth in the petition the date on which the landlord was given notice of the conditions or problems, or the timeframe in which the landlord had knowledge or should have had knowledge of the conditions or problems, providing the basis for tenant's petition and whether the landlord was notified verbally or in writing.
 - ii. 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.
4. **Acceptance of Petitions**
 - a. Preliminary Review. The Administrator will make a preliminary review of each petition after it has been submitted. Petitions that are illegible, incomprehensible, erroneously

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completed, incomplete, or for which the required fees have not been paid will be considered incomplete until they are properly filed.

- b. Landlord Petition Conditioned on Compliance with Registration Requirements. 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 program fee (plus any penalty) has been paid in full.
 - c. Determination Whether the Petition is Complete
 - i. The Administrator shall determine whether a petition is complete and notify the petitioner within 30 days, or longer if there is good cause, whether the petition is complete or incomplete.
 - ii. If the Administrator determines that all of the material information required on the petition forms has been provided, the required fees have been paid or waived, 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.
 - iii. If the Administrator 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 Administrator.
 - iv. No individual rent adjustment proceedings will be held for petitions which are not properly filed.
 - v. If a petition is unacceptable, the petitioner may refile at any time but the Administrator will administratively close the file and notify the petitioner after 30 days. Acceptance of a petition by the Administrator does not mean that the petitioner has submitted adequate documentation to support a decision in petitioner's favor.
5. **Petitions Filed Within Six Months of a Decision.** Notwithstanding any other provision of this Chapter, the Board or Administrator may refuse to hold a hearing and/or grant an individual Maximum Allowable Rent (MAR) adjustment for a rental unit if an individual hearing has been held and decision made with regard to the MAR for such unit within the previous six months.
6. **Petition Filing Fee** (Provision suspended by RSB motion on January 11, 2012 for 1 year)
- a. Fees for Landlord Petitions:
 - i. The filing fee for landlord-initiated petitions shall be due in two installments.
 - ii. Except as provided in Subsections A.6.f and B.1, a 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.
 - iii. A second installment of the filing fee shall be paid at least four business days prior to the scheduled date of the hearing. The second installment of the fee shall be \$35 for the first unit and \$25 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.

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- b. Fees for Tenant Petitions Except for Maximum Allowable Rent Violation Cases and Failure to Register Cases:
 - i. The filing fee for each tenant-initiated petition shall be paid in two installments:
 - ii. The first installment, to be paid at the time the completed petition is submitted to the Board, is \$25 for the first unit and \$15 for each additional unit consolidated for hearing with the first unit.
 - iii. 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. Maximum Allowable Rent Violation Cases. The filing fee for individual rent adjustment tenant petitions filed solely on the basis of violations of Maximum Allowable Rent shall be \$15 for petitioning tenants in each unit in the building. The Hearing Examiner will order a refund of the filing fee if the petitioner prevails.
- d. Failure to Register Cases. No petition fee shall be charged in failure to register cases.
- e. Refund Policy. Filing fees are non-refundable.
- f. Waiver of Petition Filing Fee or Appeal Fee
 - i. A petitioner may apply for a filing or appeal fee waiver at the time that the fee is due.
 - ii. The request for a waiver shall be on a form provided by the Board.
 - iii. The fee shall be waived for petitioners who declare, in writing under penalty of perjury, one of the following:
 - a) They receive Supplementary Security Income (SSI) and the State Supplemental Payments (SSP) Programs ([Welfare and Institutions Code §§ 12200-12205](#)).
 - b) They receive Aid to Families with Dependent Children (AFDC) Program ([42 U.S.C. § 601-644](#)).
 - c) They receive benefits from Food Stamp Program ([7 U.S.C. §§ 2011-2027](#)).
 - d) They receive general assistance, county aid, and relief to indigents ([Welfare and Institutions Code § 17000 et seq.](#)).
 - e) They receive benefits from a State of California Disability Insurance Program or a private disability insurance policy or program.
 - f) They receive benefits pursuant to the State of California Unemployment Insurance Program.
 - g) Their gross household income is equal to or less than 50% of area median income adjusted by household size for San Mateo County as determined by the U.S. Department of Housing & Urban Development.
 - iv. The Administrator can require that documentation of eligibility for a fee waiver be submitted. The Administrator shall make a determination and notify the petitioner if the application for the fee waiver is complete, in writing, within 7 days after the fee waiver is filed.

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- v. 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 Subsection A.7 (Supplemental Information and/or Changes in Petition) until the required fee has been paid or a waiver has been granted.

7. Supplemental Information and/or Changes in Petition

- 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. Notice and proof of service shall be in accordance with Subsection A.9 (Notices to Parties Affected by Petition).
- b. Once a petition for a rent increase has been filed, no increase in the amount of rent adjustment requested will be permitted, 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 Subsection A.13.j (Continuances).

8. Petition Documents – Public Record and Confidentiality

- a. Application for Waiver of Fees. An application for the waiver of filing fees due to economic hardship under Subsection A.6.f (Waiver of Petition Filing Fee or Appeal Fee) shall be confidential even as to the opposing party.
- b. Other Documents. All documents other than applications for fee waivers 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. Any such determination of confidentiality must be supported by a demonstration that the document in question is exempt under the California Public Records Act ([Government Code §§ 6250 et seq.](#)) or other provisions of state or federal law 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 Administrator, documents determined to be confidential will be available for inspection by the opposing party but not by the general public.
- c. Request for Confidentiality Other than Fee Waiver Application. 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 Hearing 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 subsection. The request and the ruling thereon shall be included in the record.

9. Notices to Parties Affected by Petition

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- a. Manner of Notice. Notice(s) to opposing parties shall be served by the Administrator 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.
- b. Notice of Petitions by the Administrator. The Administrator shall notify the tenants or landlords who may be respondents of the filing of a petition and send to each party:
 - i. a copy of the petition
 - ii. a response form, and
 - iii. a brief description of the hearing process.
 - iv. 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.
- c. Other Notices by Parties or Administrator. The parties shall send a copy to the other party, or parties, of all notices, documents, or communications filed with the Board after the filing of the initial petition, except for documents or communications which are submitted during the hearing, or are confidential. The Administrator may, at the Administrator's sole discretion, serve any notices, documents, or communications on behalf of unrepresented parties to the petition. In that event, the Administrator shall make such service upon all other parties involved in the petition.
- d. Notice to Respondents. The notice to the respondent shall include a notice of the right to object to the petition, and that if the respondent does not object within 20 days of the mailing of the notice, or if the respondent's objection does not specify one or more grounds for the objection, the rent for the tenant's unit may be adjusted by the amount requested in the petition, based on the information in the petition and the Board's files. Failure to file an objection may constitute a waiver of the right to a hearing on objections to the petition.

10. Response to Petition

- a. Board Form. A party wishing to respond to the petition may do so on a form provided by the Board. Said response form shall include a provision permitting the respondent to elect non-binding mediation.
- b. Deadline. A response to a petition must be served by the responding party upon the Administrator and all other parties by personal service, certified mail or USPS First Class Mail accompanied with a proof of service, within 20 days of the date on which the petition was served. The Administrator may, at the Administrator's sole discretion, serve the response on behalf of an unrepresented responding party upon one or all other parties involved in the petition.
- c. Response to Tenant Petitions filed for Alleged Violations of Maximum Allowable Rent (MAR). In response to a petition filed solely on the basis of violations of MAR the landlord may defend as to the issue of violations of MAR, but may not counterclaim for an increase of the lawful MAR. To make such counterclaims the landlord must file a separate petition.

11. Consolidation of Petitions

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- 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 may consolidate petitions pertaining to different buildings on the same property or different properties of the same landlord.

12. Settlement and Mediation (Amended November 13, 2013 by RSB Resolution 13 – 8)

- a. The Administrator is encouraged to discuss petitions with petitioners and respondents (the "parties") in order to obtain relevant information and bring about resolutions of disputes. The Administrator may contact the parties in an effort to clarify the issues and/or reach agreement on the individual rent adjustment. The parties may resolve their dispute through a settlement agreement reached on their own ("settlement agreement") or by a stipulation reached through mediation.
- b. Settlement Agreement
 - i. Parties who reach a settlement agreement shall notify the Administrator that an agreement has been reached. The Administrator shall enter the terms of the settlement agreement into the record, unless the settlement agreement expressly states otherwise. If the settlement agreement expressly requires that its terms remain confidential, then the Administrator shall only enter the fact that an agreement has been reached into the record. Notwithstanding any express non-disclosure provision of the settlement agreement, if there is a dispute about performance of a party's obligations pursuant to the settlement agreement, the settlement agreement may be used as evidence in an enforcement action initiated by the aggrieved party pursuant to Subsection A.12.d.i.
 - ii. Where the settlement agreement resolves all issues in the petition, the petition shall be closed without a hearing, except that the Board shall retain jurisdiction to conduct compliance hearings as set for in Subsection A.12.d.ii. Any petition issues not resolved by the settlement agreement shall be resolved through a hearing.
 - iii. Parties who reach a settlement agreement shall be deemed to have waived their rights to a hearing on the petition or appeal to the Board on the petition issues resolved by the agreement, except as provided for in Subsection A.12.d.i.
- c. Mediation
 - i. Upon receipt of a request for mediation by one party and concurrence in mediation by the other party, the Administrator shall assign the case to a mediator selected from a panel of pre-approved mediators or the parties may obtain a mediator through an established mediation service, such as JAMS, Peninsula Conflict Resolution Center (PCRC) or Project Sentinel.
 - ii. Upon receiving a case for mediation, the Mediator shall immediately set a date with all parties for mediation.
 - iii. Any and all statements, writings, as defined in California Evidence Code section 250, and negotiations, settlement discussions or offers made by the parties for the purpose of, in the course of, or pursuant to mediation or mediation consultation shall be confidential as provided for by state law. City staff shall not participate in any

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mediation sessions, unless requested by the mediator to provide documents and/or context and background information regarding the Ordinance, in which event such documents and/or information provided shall also be provided to the parties. City staff shall not be present during confidential discussions between the parties. Nothing in this subsection shall be construed to conflict with the requirements of Subsection A.12.b.i.

- iv. If the matter remains unresolved after mediation, the petition shall be referred back to the Administrator for assignment to a Hearing Examiner.
 - v. If the matter is resolved through mediation, the Mediator shall prepare a stipulation setting forth the terms of the agreement to be executed by the parties. The stipulation shall be entered into the record in accordance with the confidentiality provisions set forth in Subsection A.12.b.i. Each party executing such a stipulation will be deemed to have waived any right to a hearing on the petition or appeal to the Board on the petition issues resolved by stipulation except as provided for in Subsection A.12.d.i.
- d. Remedies
- i. If a party breaches a settlement agreement or stipulation reached through mediation, the other party may request a compliance hearing as set forth in Subsection A.d.ii or may enforce the agreement in court.
 - ii. Any party, and any successor in interest, may request that a compliance hearing be noticed and held. Such request shall be submitted to the Administrator and set forth the area of disagreement, and a copy of the request must be served upon all adverse parties (and any successor in interest of any adverse party) by the party requesting the hearing.
 - a. If there is a dispute among any of the parties (or any successor in interest) as to whether there has been compliance with a settlement agreement or stipulation reached through mediation, the Administrator may notice and schedule a hearing before a Hearing Examiner to determine whether compliance has in fact occurred. The Hearing Examiner shall issue an appropriate decision which sets forth the extent of compliance, the date of such compliance, and issue an order to enforce compliance with the terms of the settlement agreement or stipulation.
 - b. The party or parties requesting a compliance hearing shall be required to demonstrate non-compliance by a preponderance of the evidence submitted at the compliance hearing.
 - c. Where there is a preponderance of credible evidence of repeated or continued violations of provisions of settlement agreement or stipulation by any party or any successor in interest, the Hearing Examiner or Board may fashion an equitable remedy.
 - d. There shall be no fee for compliance hearings, and the procedures set forth in Subsection 13 (Hearing) shall apply to compliance hearings.
 - iii. The remedies provided for above do not prevent the parties from using any alternative dispute resolution mechanism to resolve a dispute regarding compliance with the terms of an agreement reached through a settlement agreement or stipulation through mediation.

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13. Hearing

- a. Assurance of Fair Process. It is the policy of the Rent Board that all petitions and objections be decided on their merits, consistent with due process of law and orderly administrative procedures. The regulations of this Section are intended to ensure that each party is given notice of the grounds for a petition and all objections thereto in advance of the hearing so that all parties will be prepared to present their case at the hearing. Accordingly, the hearing shall be limited to the issues raised by the petition and the objections filed thereto, unless the hearing examiner determines that, in the interest of fairness, additional issues or objections should be considered and thereafter takes all necessary steps to ensure that all parties have a full and fair opportunity to respond to new issues, objections or evidence.
- b. Scheduling of Hearing. The hearing shall be held within 45 days after the petition is deemed complete, unless the Administrator or Hearing Examiner extends this deadline for good cause.
- c. Notice of Hearing. Notice of the time, date, and place of hearing shall be mailed to all parties no later than fifteen (15) days before the scheduled date of the hearing.
- d. Open Hearings. All individual Maximum Allowable Rent adjustment hearings shall be open to the public.
- e. Representation of Parties. All parties to the 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, 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 number of the representative.
- i. Rights of Parties During Hearing Process. All parties shall have the right to call, examine, and cross examine witnesses, to request the Hearing Examiner to issue orders or subpoenas for witnesses or evidence, and to exercise any other rights conferred by the Ordinance or this Chapter.
- f. Hearing Examiner. A Hearing Examiner shall conduct a hearing to act upon the individual adjustment petition, except as provided in Subsection A.21 (Board Action).
 - i. 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, including but not limited to establishing time limits for presentations by the parties, 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.

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- ii. Ex Parte Communications with Hearing Examiner. 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, determinations of confidentiality, pre-hearing discussions pursuant to Subsection A.12 (Agreement Prior to Hearing) or where both parties or their representatives have an opportunity to be present, or orders by the Hearing Examiner to produce evidence pursuant to Subsection A.13.g (Subpoenas). There may be communications on any matters with Board staff.

- g. 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 Hearing 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.

- h. Evidence. The 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.
 - i. Each party shall submit, and serve upon all other parties to the hearing, all supporting evidence it wishes to be considered at least seven (7) days prior to the scheduled hearing.
 - ii. Landlords shall submit, at least seven (7) days prior to the scheduled hearing, copies of the rental agreement for the current tenancy at the rental unit, the rent ledger documenting all charges, discounts, payments, late fees, and rebates, from the later date of initial occupancy or August 2010. If the necessary documentation is unavailable, the landlord shall submit a declaration under penalty of perjury explaining the unavailability of the documentation.
 - iii. The Hearing Examiner may in his or her sole discretion consider evidence that is submitted late, provided that there is no prejudice to the opposing party or parties.

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

- j. Continuances.
 - i. The date and time of the hearing may be continued, by the Administrator, (before the hearing) or by the Hearing Examiner (at the hearing) upon consent of all parties or for

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good cause. 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.

- ii. 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 Administrator and all other parties at 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 continuance. The request shall be served on the Administrator in accordance with the requirements of Subsection A.10 (Response to Petition).
 - iii. The Hearing Examiner may deny a request for a continuance if it has not been made in compliance with Subsection A.13.j.ii above or where a continuance has previously been granted to the requesting party in the same case.
 - iv. The Administrator shall notify the parties if a continuance is granted and the time date and place of the rescheduled hearing.
- k. Recording of Hearings
- i. The Administrator shall electronically record all hearings. The recording shall be in a format that can be easily duplicated and made available to the parties at a minimal cost. Any party may have the hearing recorded or otherwise transcribed at her/his own expense.
 - ii. Board Record of Hearing. The record of 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, and an electronic recording of the hearing. This official record shall constitute the exclusive record for the decision on the issues raised at the hearing.

14. Disqualification of Hearing Examiner or Board Member from a Hearing

- a. No Hearing Examiner or Board member shall take part in any hearing or appeal panel 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 a tenant residing in, the property that is involved in the petition), or a personal bias for or against any party. The Hearing Examiner's or Board member's 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

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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 ruled upon prior to the taking of any evidence at the hearing.

15. 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 Administrator 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.

16. Quantum of Proof

- a. No individual Maximum Allowable Rent adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing.
- b. Determination of Existence of Conditions by Hearing Examiner. 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 or 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.

17. Decision of Hearing Examiner

- a. Deadline for Decision. The Hearing Examiner shall render a decision within 30 days of the conclusion of the hearing, unless there is good cause for not rendering a decision within this time period.
- b. Finality of Hearing Examiner's Decision. The decision of the Hearing Examiner shall be the final decision of the Board in the event there is no appeal to the Board and shall become effective when the time to appeal has expired. If the decision of the Hearing Examiner is appealed to the Board, the decision of the Hearing Examiner shall be stayed pending issuance of a final and effective Board decision.

18. Effective Dates and Notice for Rent Adjustments and Rebates

- a. Upward Rent Adjustments. Allowable rent increases pursuant to an individual upward adjustment of the Maximum Allowable Rent shall become effective only after the landlord, following the effective date of the Hearing Examiner's decision, or the Board's decision in the event of an appeal hearing, gives the tenant at least a thirty (30) day written notice of such rent increase and the notice period expires. If more than a 10% increase is granted,

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the landlord shall give the tenant at least sixty (60) days written notice of such rent increase pursuant to [Civil Code Section 827\(b\)\(3\)](#).

- b. Downward Rent Adjustments. If the Hearing Examiner, or the Board in the event of an appeal hearing, makes a downward individual adjustment of Maximum Allowable Rent and/or orders a rent rebate, then the rent decrease and/or rebate pursuant to such adjustment shall take effect on the date of the next regularly scheduled rent payment following the effective date of the Board's decision but no later than thirty (30) days after the effective date of the Board's decision.

19. Overcharges and Other Violations

- a. Overcharges. 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 property 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 petition may be dismissed by the Hearing Examiner.
- b. Other Violations. If the landlord has failed to comply with the Ordinance or any rule or regulation of the Board in addition to unlawful rent charges, the Hearing Examiner may make appropriate orders for compliance or other appropriate relief.

20. Compliance Hearings

- a. Any party to the original proceeding, and any successor in interest, may request that a compliance hearing be noticed and held. Such request shall be submitted to the Administrator and set forth the area of disagreement, and a copy of the request must be served upon all adverse parties (and any successor in interest of any adverse party) by the party requesting the hearing.
- b. If there is a continuing dispute among any of the parties (or any successor in interest) as to whether there has been compliance with a previously issued decision, the Administrator may notice and schedule a hearing before a Hearing Examiner to determine whether compliance has in fact occurred. The Hearing Examiner shall issue an appropriate decision which sets forth the extent of compliance, the date of such compliance, and any adjustments to the original decision which are necessary in light of such compliance.
- c. The party or parties (and any successor in interest) who were originally ordered to make repairs, pay back rent, properly register the rental property, or otherwise comply with an order of the Hearing Examiner or the Board, shall be required to demonstrate compliance by a preponderance of the evidence submitted at the compliance hearing.
- d. Where there is credible evidence of repeated or continued violations of provisions of the Ordinance or its implementing regulations by any party or any successor in interest, the Hearing Examiner or Board may fashion an equitable remedy, including but not limited to, submittal of rent records and receipts on a quarterly basis. (Effective January 11, 2012 by RSB Resolution No. 12-02).

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- e. There shall be no fee for compliance hearings, and the procedures set forth in Subsection 12 (Hearing) shall apply to compliance hearings.

21. Hearings initiated by Administrator

- a. The Administrator, who may designate such function to appropriate staff, may initiate a hearing before a Hearing Examiner after an investigation by the Rent Stabilization Board or its designee has resulted in a determination that there are substantial grounds to believe that major violations of the Ordinance or Regulations promulgated thereunder have occurred, and that 120 days have passed from the date of the first occurrence of the violations.
- b. The investigation of possible violations of the Ordinance or Regulations may be conducted as a result of the review of the records of the Rent Stabilization Program or the records of courts and governmental agencies. Investigations of possible violations may also be conducted on the basis of complaints and allegations received orally or in writing by the Administrator. Such investigation may include inspection of the property, investigation of public records and any other reasonable means of ascertaining the status of the property.
- c. If an investigation by the Administrator or its designee has found substantial grounds to believe that major violations of the Ordinance or Regulations have occurred, a notice of prehearing shall be prepared and served on the landlord and tenants of the affected units. The notice of prehearing shall state clearly the sections(s) of the Ordinance or Regulations which has (have) allegedly been violated, along with a brief statement of the evidence found during the investigation which supports the determination that an alleged violation has occurred. The notice shall also set forth a proposed order which may be rendered against the alleged violator.
- d. At a hearing initiated by the Administrator, the Administrator or the Administrator's designee shall present the case. The issues in the hearing shall be disposed of in a final decision and an order of a Hearing Examiner, which may be appealed to the Rent Stabilization Board.
- e. Intervention as a party in the case, by any current landlord, current tenant, former tenant and former landlord shall be permitted. Intervention by any other person or entity may be allowed by the Hearing Examiner upon a showing that some right, interest, liability or obligation of the person or entity seeking to intervene may be materially affected as a result of the hearing. Requests to intervene shall be made in writing, and should be filed and served upon all parties at least ten (10) days before the hearing. However, upon a showing of a substantial interest in the outcome, requests to intervene may be made and acted upon at any time prior to the conclusion of the hearing.

22. Dismissal Due to Incomplete Petition or Failure to Prosecute

- a. By Administrator:
 - i. A petition filed under this section may be dismissed by the Administrator without prejudice if the petition, or any documentation in support of it, is deemed incomplete by the Administrator or the petitioner fails to prosecute the petition, and thirty (30) or

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more days has passed since the Administrator notified the petitioner of the deficiencies in the Petition or of the failure to prosecute.

- ii. Prior to dismissal the Administrator shall send a notice via certified mail or USPS first class mail to the last known address of the petitioner. The notice shall state that the petition will be dismissed for failure to prosecute ten (10) days after the date of the notice if the required documentation is not received by the Administrator or the petitioner fails to prosecute the petition.
- b. By Hearing Examiner:
A petition filed under this section may be dismissed by the Hearing Examiner without prejudice if the Petitioner fails to prosecute the petition by failing to appear at the hearing or comply with orders of the Hearing Examiner without good cause. The Hearing Examiner will consider Petitioner's written request not to dismiss the petition if the request is filed within ten (10) days after the hearing or failure to comply with the order of the Hearing Examiner.
- c. The Administrator, however, may prosecute and seek a hearing examiner's decision when the Petitioner fails to prosecute a petition based on the landlord's failure to properly register the property with the Rent Stabilization Program.

B. Petitions for Rent Withholding for Failure to Submit Statements and Fees

1. Petitions

- a. A petition alleging that a landlord has failed to submit a required statement or pay any applicable fee, as required by Section 600, for a rental unit covered by the Ordinance shall include a brief explanation of the basis for the petition. No fee shall be charged for the filing of a petition for rent withholding for failure to submit a required statement or fee.
- b. A copy of any rent withholding petition alleging failure to submit a required statement or pay any applicable fee, as required by Section 600, for a covered rental unit shall be referred to the Board's administrative staff which shall thereafter investigate the basis for the petition and prepare a report stating the findings of the investigation. Such investigation may include inspection of the property, investigation of public records and any other reasonable means of ascertaining the status of the property.

2. Parties. The parties to a proceeding on a rent withholding petition that alleges a failure to submit a required statement or pay any applicable fee for a non-exempt rental unit shall be the petitioner, the tenants of any unit affected by the petition, the landlord, and may include the Board's administrative staff if the Administrator files the petition.

3. Notice of Hearing

- a. The hearing on the petition shall be held no later than 45 days after the receipt of the petition, except as otherwise provided in the Regulations.
- b. The hearing notice shall also include the following information:
 - i. Address of the unit(s) subject to the petition;
 - ii. Name(s) of the petitioner(s);

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- iii. Summary of the findings of the Administrator's investigation regarding the petition;
 - iv. Actions the landlord must take if the petition is granted;
 - v. Penalties for continued non-compliance; and
 - vi. A brief description of the hearing process.
4. Consolidation. The Administrator may consolidate the petitions filed by tenant(s) occupying the same building or buildings owned by the same landlord for the hearing.
 5. Continuances. The Administrator, on its own motion, or upon written request from any of the parties, may for good cause continue the date of the hearing for a reasonable time, not to exceed 45 days. All parties shall be notified of the continued hearing date. The parties may also file a written stipulation continuing the date of the hearing after confirming an alternative date acceptable to the Board.
 6. Hearing Procedure. Proceedings on rent withholding petitions shall be conducted according to the provisions of Subsection A (Process for Acceptance of Petitions and for Hearings) of the Regulations, not in conflict with a provision of this subsection applicable to petitions for Rent Withholding.
 7. Substantial Compliance. In making a determination under this subsection B, the Administrator shall apply the criteria for substantial compliance specified in Registration Regulation Section 600.J.7.
 8. Compliance with Requirements Before Hearing. If the Administrator determines that the landlord has complied with the requirements of this section prior to the hearing, the petition shall be dismissed and all parties notified of the dismissal.
 9. Decision
 - a. If the Hearing Examiner determines that the landlord has willfully and knowingly failed to comply, the Hearing Examiner shall issue an order directing the landlord to comply and authorizing the petitioning tenant(s) to withhold payment of rent beginning with the next regularly scheduled rent payment after the effective date of the order. The rent withholding order shall become effective 20 days following the date on which it is mailed with delivery confirmation to the parties by the Board unless, within that time, the landlord complies or an appeal of the Hearing Examiner's decision is filed with the Board. In the event that the landlord appeals the decision to the Board, the decision shall not become effective unless affirmed by the Board. A Board decision shall take effect 30 days after the date it is issued unless stayed or vacated by a court of competent jurisdiction.
 - b. The decision shall remain in effect until such time as all covered units on the property are in compliance. Any rent withheld pursuant to this section shall be paid into escrow pursuant to Subsection B.10 (Establishment of Escrow Accounts in Rent Withholding Matters).
 - c. The filing of an appeal to the Board stays the effectiveness of the rent withholding order. At the same time the landlord submits an appeal notice to the Board, the landlord shall send a notice by certified mail to each tenant who is a party.

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- d. Subsequent Court Actions. If any action affecting the tenancy is pursued in court, pursuant to Section 16.C of the Ordinance, codified in Section 14.04.160 of the East Palo Alto Municipal Code, a landlord shall notify the court of the Hearing Examiner or Board's decision.

10. Establishment of Escrow Accounts in Rent Withholding Matters. Whenever the withholding of rent is authorized for failure to comply or Maximum Allowable Rent violations, the Hearing Examiner shall order that all withheld rent be paid into an escrow account maintained by the Board pending the landlord's compliance. The requirement that withheld rent be paid into escrow shall in no event be construed as a determination that the amount of rent demanded or charged by the landlord is lawful. In the event that the tenant does not either pay the rent to the landlord or comply with the requirements of an order of the Hearing Examiner requiring the payment of rent into escrow, the Hearing Examiner's decision shall not be a defense in an eviction action based on non-payment of rent.

11. Compliance after Hearing. Upon a finding of compliance, the Administrator or Hearing Examiner shall issue a decision finding the landlord in compliance, dissolving the rent withholding order and ordering that monies held in escrow be disbursed according to the schedule set out in Subsection B.12 (Right to Retain Withheld Rent). The Hearing Examiner's decision shall become effective fourteen (14) days after mailing unless a compliance hearing is requested within that time. Unless a compliance hearing is timely requested, the tenant(s) shall resume regular rent payments beginning with the next regularly scheduled rent payment due after the effective date of the Hearing Examiner's compliance decision. In addition, the tenant shall, within fourteen (14) days of notification by the Board, pay to the landlord rent withheld that was not paid into escrow.

12. Right to Retain Withheld Rent. If the landlord fails to comply on or before the effective date of the order, the Hearing Examiner shall order that the funds held in escrow be disbursed to the tenant as provided below. Said order shall be subject to a stay in accordance with Subsection 9.a. suspending the effective date of any order until administrative and judicial appeal remedies have been exhausted
 - a. If the landlord complies within 60 days of the effective date of the rent withholding order, the tenant(s) may keep 50% of the rent withheld pursuant to the order.
 - b. If the landlord has not complied within 60 days of the effective date of the rent withholding order, the tenant(s) may keep all of the rent withheld pursuant to the order to the date on which the landlord properly registers the property.
 - c. A landlord cannot file an unlawful detainer action for a tenant's lawful exercise of withholding rent pursuant to Sections 16.A.1 and 18.A.2 of the Ordinance, codified in Section 14.04.160 and Section 14.04.180 of the East Palo Alto Municipal Code.

C. Petitions for Rent Withholding for Maximum Allowable Rent Violations

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1. A landlord is deemed to violate the Maximum Allowable Rent if the landlord demands, accepts, receives or retains payment in excess of the maximum allowable rent permitted by the Ordinance and Rent Stabilization Rules and Regulations for Residential Tenancies.
2. Effect on Rent Adjustment Petitions. The filing or pendency of a petition for rent withholding for Maximum Allowable Rent violations may be good cause for an extension of time for decision on a rent adjustment petition, pursuant to Subsection A.17.a (Deadline for Decision), pending disposition of the rent withholding petition.
3. Decision
 - a. **Findings.** Within 30 days after the hearing, the Hearing Examiner shall issue a written decision that includes the following findings for each unit involved in the petition:
 - i. the maximum lawful rent on the date the petition was filed; and
 - ii. the amount of rent illegally demanded and retained, if any.
 - b. **Authorization of Rent Withholding.** If the Hearing Examiner determines that the landlord is in violation of the Maximum Allowable Rent(MAR), the Hearing Examiner shall authorize the petitioning tenant(s) to withhold payment of all or a portion of the rent, beginning with the next regularly scheduled rent payment after the effective date of the order. Such authorization shall remain in effect until such time as the landlord ceases to demand, receive, or accept rent in excess of the maximum lawful MAR, and the tenant has recovered all rent payments made by the tenant which have been illegally retained by the landlord. In the event that the landlord appeals the decision to the Board, the decision shall not become effective unless affirmed by the Board. A Board decision shall take effect 30 days after the date it is issued unless stayed or vacated by a court of competent jurisdiction.
 - c. **Refund Order.** If the Board determines that the landlord is in violation of the Maximum Allowable Rent, the Board shall also order the landlord:
 - i. to cease demanding, accepting or receiving rent in excess of the maximum lawful rent;
 - ii. to refund to the tenant(s) of the affected unit within 30 days that portion of the rent payments made by such tenant(s) which have been illegally retained by the landlord; and
 - iii. to make reasonable efforts to find any former tenant(s) from whom illegal rent payments were retained by the landlord and refund such overcharges, and to notify the Board in writing of the nature, extent and result of these efforts within 60 days of the overcharge refund order. If the landlord does not refund any past overcharges retained from such former tenant(s) within 60 days, or has made reasonable but unsuccessful efforts to locate such former tenant(s), then the landlord shall be ordered to pay the overcharge over an appropriate period of time to a Housing Assistance Fund, which shall be used to benefit low-income tenants in the City of East Palo Alto.

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- d. **Subsequent Court Actions.** If any action affecting the tenancy is pursued in court, pursuant to Section 16.C of the Ordinance, codified in Section 14.04.160 of the East Palo Alto Municipal Code, a landlord shall notify the court of the Hearing Examiner or Board's decision.
4. Standards for Determining Lawful Maximum Allowable Rent and Refund Orders
 - a. **Violation of Maximum Allowable Rent.** If the lawful base rent is in dispute, it shall be computed in accordance with Section 4.J of the Ordinance, codified in Section 14.04.040 of the East Palo Alto Municipal Code.
 - b. **Maximum Allowable Rent Violation Resulting from Good Faith Error of Landlord.** If the Hearing Examiner determines that the collection of rent in excess of the lawful Maximum Allowable Rent (MAR) resulted from a good faith error by the landlord, the lawful MAR shall be calculated to include any Annual General Adjustments for which the landlord would have been otherwise eligible if the landlord had not charged excess rent. A landlord who asserts that his/her violation of the lawful MAR resulted from a good faith error shall have the burden of proof as to this issue.
 - c. **Maximum Allowable Rent Violations Resulting from Non-Registration.** If the landlord establishes that the failure to register his or her property with the Board resulted from a good faith error by the landlord, the lawful Maximum Allowable Rent shall be calculated to include any annual general adjustments for which the landlord would have been otherwise eligible if the landlord had timely registered his or her property. The landlord who asserts that his/her non-registration resulted from a good faith error shall have the burden of proof as to this issue.
 - d. This regulation shall apply to all petitions administratively pending or filed after the effective date of the regulation.

D. Withholding Without Board Authorization. The remedy of rent withholding provided to tenants under Sections 18.A and 18.B of the Ordinance, codified in Section 14.04.180 of the East Palo Alto Municipal Code, shall not be construed to relieve the tenants of the obligation to pay whatever rent is subsequently deemed lawfully owed for the time period for which the rent was withheld.

E. Petitions for Reductions in Rent Based on Reduction in Housing Services and/or Maintenance and/or Failure to Provide Maintenance and/or Services Required by Law.

1. Bases for Reductions in Rent

For the purposes of this section, the term Rent (defined in Section 4.O of the Ordinance) refers to the current Rent being charged to the tenant, including any fees for regulated Housing Services (defined in Section 4.G of the Ordinance), codified in Section 14.04.040 of the East Palo Alto Municipal Code.

The following are the bases for reductions in Rent pursuant to this Section:

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- a. Failure to comply with the “Warranty of Habitability” set forth in California Civil Code Sec. 1941.1 as it currently exists or is amended or interpreted in the future.
- b. Failure to comply with building and housing codes or other legal requirements for the maintenance and operation of rental housing which affect the livability and/or rental value of the premises.
- c. Decreases in Housing Services or failure to provide adequate maintenance without a corresponding reduction in Rent.

Minor maintenance deficiencies or deterioration which have no or insignificant impacts on the livability or rental value of a unit and which do not cause any health and safety risk shall not provide a basis for a reduction in the Rent pursuant to this subsection.

2. **Procedural Requirements for Petitions Pursuant to this Section.**

a. **Notice to the Landlord and an Opportunity to Correct**

The petitioner must provide proof that the landlord had reasonable notice (verbal, written, or constructive) and a reasonable opportunity to correct the conditions or restore the reductions in Housing Services that provide the basis for the petition.

b. **Petition Submission and Procedures**

Petitions shall be submitted and processed in conformance with the requirement of Section 1500 A. of the Regulations. Copies of any notices from the City or any other public agency regarding the condition of the unit or related building conditions may be provided with the petition.

c. **Burden of Proof**

Petitioners bear the burden of proof and must show by a preponderance of the evidence the grounds for a reduction in Rent.

d. **Effective Date of Reduction in Rent**

- i. Reductions in Rent pursuant to this section shall be effective from the date that the landlord first had notice or should have known of the condition providing the basis for the reduction. There shall be no rent reduction if the condition was promptly corrected upon notice to the landlord and the breach had a minimal impact. The effective date of the reduction in Rent shall not precede August 1, 2010.
- ii. A reduction in Rent may be ordered for past failures as specified in subsections 1.a, b, or c, above. The hearing examiner may determine that for past failures, an appropriate remedy is a refund equivalent to the monetary amount of a reduction in Rent.
- iii. A reduction in Rent may be ordered for failures as specified in subsections 1. A, b, or c, above, that are in effect at the time of the hearing. In such instances, the reduction shall be in effect until the failure is corrected.

3. **Criteria for Reductions in Rent**

Reductions in Rent shall be based on the issues presented in the petition and the evidence presented in conjunction with the hearing, including governmental inspection reports, if any.

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Reductions in Rent shall reflect the loss in rental value attributable to the failures specified in subsections 1.a, b. or c, above.

Factors that may be considered in setting the amount of the reduction in Rent include the extent to which the failure affects the tenant(s), the relative significance of the failure in relation to the safety, health, convenience, and comfort of the tenant(s), the extent to which the tenant relied on the fact that the condition would be adequately maintained, the extent to which the use and enjoyment of the unit is affected, and other factors that are reasonably deemed to be relevant.

4. Restoration of Rent Once Bases for Reductions in Rent Are Corrected

Restoration of the Rent shall become effective on the first due date for a rent payment which occurs at least 15 days after the earlier to occur of (1) the landlord delivers to both the administrator and the tenant a notice (on a form provided by the administrator) stating that the landlord has corrected the condition(s) that formed the basis for ordering the reduction in Rent, or (2) the administrator receives confirmation directly from the tenant that the landlord has corrected the conditions that formed the basis for ordering the reduction in Rent.

As exceptions to the foregoing, the Rent shall not be restored if:

- a. The administrator determines within fifteen days of receipt of notice that there is cause to believe that the condition has not been corrected, or was not corrected as of the date specified by the landlord, in which case the administrator shall give notice to the landlord. If the dispute cannot be resolved, either the landlord, tenant, or administrator may request a compliance hearing, which shall be scheduled within thirty days of the request; or,
- b. The tenant requests a compliance hearing within fifteen days of the notice to determine if the restoration has occurred. If the tenant requests a compliance hearing, it shall be scheduled within thirty days of the request by the tenant.

If the tenant or administrator requests a compliance hearing, the restoration of Rent shall not go into effect until a hearing examiner makes a determination, and if this determination is appealed, after the Board makes a determination.

In the event that a hearing examiner or the Board makes a determination that the condition was remedied in accordance with the landlord's notice, the restoration of Rent shall be retroactive and effective on the later of (1) the date the first rent payment was due, at least 15 days after the date of notice provided by the landlord of such correction, or (2) after the date the condition was actually corrected, as determined by the hearing examiner or the Board.

The landlord shall not serve a notice pursuant to California Code of Civil Procedure Sec. 1161(2) or otherwise evict the tenant for nonpayment of authorized reductions in Rent that accrued from the date the reduction in Rent is ordered to take effect, until the Rent is restored pursuant to this section. If the Rent is restored retroactively, the tenant shall have time equivalent to the number of months over which a reduction occurred to remit any outstanding rent amounts.

Nothing in this subsection shall relieve the tenant of any liability for unpaid rent other than as provided for in this section.

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If for some reason the Rent was in excess of the Maximum Allowable Rent, as adjusted by allowable Annual General Adjustments pursuant to the Ordinance, the restoration of Rent shall not exceed the Maximum Allowable Rent, as adjusted.

5. Annual General Adjustments

Reductions in Rent made pursuant to this section shall not affect a calculation of Annual General Adjustment made pursuant to Section 10 of the Ordinance, codified in Section 14.04.100 of the East Palo Alto Municipal Code. Instead, rent adjustments pursuant to Section 10 of the Ordinance shall be calculated from the Rent (the current Rent being charged to the tenant before the reduction in Rent came into effect) or the Maximum Allowable Rent, as adjusted by allowable Annual General Adjustments, whichever is lower.

F. Requests for Modifications of Maximum Allowable Rent Pursuant to Corrections of Registration Information or other Information Submitted to the Board Based on Stipulation

1. Landlords and Tenants may jointly submit individual rent adjustment petitions on forms provided by the Rent Board in which they stipulate that specified corrections should be made to the information provided in prior registration statements and stipulate that the administrator should make a determination of the Maximum Allowable Rent (MAR) taking into account the information in the stipulation.
2. Adjustments in the Maximum Allowable Rent pursuant to this subsection may be made by the Rent Program Administrator or a designee of the Administrator (Rent Administration).
3. Prior to the issuance of a decision pursuant to this section, the Rent Administration may make personal contact with one or all of the parties to the stipulation in order to evaluate whether the stipulation was made with knowledge and understanding of its substance and impact and was truly consensual.
4. A Rent Administration decision pursuant to this section may be appealed to the Board within 15 days after it is served on the parties to the stipulation. If no appeal is made within 15 days, the decision shall become final. If the decision is challenged by either party the decision shall not go into effect and the stipulation shall be deemed to have been rescinded.
5. In the event that both parties are dissatisfied with the Administrator's determination, they may jointly appeal such determination to the Rent Board within 15 days in accordance with the appeal provisions set forth in 1500.E of the regulations.
6. Subsequent to the expiration of the appeal period the Rent Administration shall issue a new certificate for the unit. (revised November 14, 2012 by RSB Resolution No. 12 – 13).

G. Appeals of Decision of Hearing Examiner to Rent Stabilization Board

1. **Appeal Period.** An appeal to the Board shall be filed no later than 15 calendar days after receipt of the Notice of the Decision of the Hearing Examiner.

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2. Procedure for an Appeal to the Board

- a. Any party may appeal the decision of the Hearing Examiner to the Board within 15 calendar days after receipt 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.
- b. 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).
- c. At the time of the filing of the appeal, appellant(s) shall pay an appeal fee in the amount of \$100. The appeal fee for a consolidated appeal shall be a basic fee of \$100 plus an additional \$5 for each additional unit included in the consolidated appeal. The appeals fee may be waived pursuant to Section A.6.f (Waiver of Petition Filing Fee or Appeal Fee) of these regulations. The Board may refund part or all of the appeal fee to a successful appellant.
- d. The Board or staff may order that appeals relating to the same building or property, or different properties of the same landlord, be consolidated.
- e. At least five (5) 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 raised by the appeal, whether or not specifically articulated by the appellant, and have any information relevant to the appeal 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 set forth all pertinent facts upon which the recommendation is based.
- f. At least ten (10) days prior to the date set for Board action all parties 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.
- g. In those cases where the Board is able to determine that the Hearing Examiner 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 that the Hearing Examiner'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 Examiner in order to correct the findings.
- h. Scope of Review By Board. The Board may conduct a new (de novo) hearing or may act on the basis of the record submitted to the Hearing Examiner. Unless the Board determines that a de novo hearing is required, the Board's decision will be based exclusively on the record before the Hearing Examiner. If the Board does not grant a de novo hearing, the parties shall be instructed that their discussions or comments at the Board hearing may not include factual matters or evidence that were not presented to the Hearing Examiner or officially noticed. Parties may discuss or comment upon the legal

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matters in question and any other pertinent issues raised by the appeal. The Board shall disregard any discussion or comment regarding factual matters that were not in the record before the Hearing Examiner or officially noticed. The vote of four Board members is required to affirm, modify, remand or reverse the decision of the Hearing Examiner. If the Board has not acted on the appeal at two consecutive Board meetings, the appeal is deemed denied. If a de novo hearing is held, it shall be conducted in the manner set forth in the Ordinance governing the hearing before the Hearing Examiner.

- i. In a hearing on the record each party appearing before the Board shall be entitled to ten (10) minutes to address the Board, but additional time may be granted by the Board.
- j. On appeal, the Board may affirm reverse, remand or modify the decision of the Hearing Examiner. The Board's decision to affirm, reverse, or modify the decision of the Hearing Examiner shall be supported by written findings of fact and conclusions of law.
- k. Time for Board Decision. The Board shall take final action on any individual adjustment petition within 120 days of the date the appeal application is deemed complete by the Administrator. The time may be extended based upon the granting of a continuance, the submission of additional information by the parties, the filing of a motion for reconsideration, or a request by either party to disqualify a Board member(s).
- l. Finality of Board Decision. A Board decision shall take effect 30 days after the date it is issued unless stayed or vacated by a court of competent jurisdiction.

H. Judicial Review of Board Decision. Judicial review of any final Board decision may be filed in San Mateo County Superior Court pursuant to [Code of Civil Procedure §§ 1094.5 and 1094.6](#) if the petition for writ of mandamus is filed within 90 days of the date the Board issues the decision.

1600. CONFIDENTIALITY

(Effective September 28, 2011 by RSB Resolution No. 11-15)

- A.** Any notices that are submitted to the Rent Stabilization Board pursuant to Section 16.D. of the Ordinance, codified in Section 14.04.160 of the East Palo Alto Municipal Code, shall not be public record.
- B.** The name of any tenant and any other personal information about the tenant in leases that are submitted to the Rent Stabilization Board pursuant to Section 8.B. of the Ordinance, codified in Section 14.04.080 of the East Palo Alto Municipal Code, shall not be public record.
- C.** The name of any tenant or former tenant and any other personal information about the tenant in a registration form (including a vacancy registration form) provided to the Rent Stabilization Board shall not be public record.

1700. RESERVED

1800. EVICTIONS

(Effective September 28, 2011 by RSB Resolution No. 11-18)

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- A.** In the event of an eviction pursuant to Section 16.A.7 or Section 16.A.10.d of the Ordinance, codified in Section 14.04.160 of the East Palo Alto Municipal Code, the comparable rent requirement shall be applicable only if the landlord is not entitled to set the initial rent without restrictions of the “comparable unit,” pursuant to the Costa-Hawkins Rental Housing Act ([Civil Code §§ 1954.50-1954.535](#)).
- B.** In the event of an eviction pursuant to Section 16.A.12 of the Ordinance, if the eviction is pursuant to an order to vacate a unit because it is not a legal unit and the tenant is not responsible for the illegality of the unit, the notice shall not provide for a shorter period than is required under [California Civil Code Section 1946.1](#).
- C.** Landlords shall file with the Board a copy of any notice of termination of tenancy, including all three, thirty, sixty, or ninety-day notices to quit, pay rent or quit, cure or quit, or perform covenants or quit, or any other form of notice intended to commence termination of a tenant's possession of a rental unit covered by the Ordinance within five calendar days after service of such notice upon any tenant whose dwelling unit is regulated by Section 16 of the Ordinance. Further, if such notice results in the filing of an unlawful detainer action, the landlord shall file with the Board a copy of the summons and complaint within five calendar days after service upon the tenant. (Effective March 25, 2015 by RSB Resolution No. 15-03).
- D.** Any notice of termination issued for a rental unit covered by the Ordinance, including three, thirty, sixty and/or ninety-day notices to quit, pay rent or quit, cure or quit, perform covenants or quit, or any other form of notice intended to commence termination of a tenant's possession of a rental unit covered by the Ordinance shall include the following language, either on the face of the notice or on a separate document accompanying the notice at the time of its delivery to the tenant:

Right of Tenants to Seek Advice

Information regarding evictions is available from East Palo Alto's Rent Stabilization Program. The Program is located at: 2415 University Avenue, East Palo Alto. Phone: 650-853-3114

Website: [http:// www.cityofepa.org/rentprogram](http://www.cityofepa.org/rentprogram)

Tenants seeking advice about their rights and evictions should consult with an attorney. Some attorneys' offices in the City provide free legal services to tenants who cannot afford attorney's fees.

Derecho de los Inquilinos a Buscar Consejo

Información sobre los desalojos está disponible en la oficina del Programa de Estabilización de Renta, Ciudad de East Palo Alto. El Programa está ubicado en: 2415 University Avenue, East Palo Alto. Teléfono: 650-853-3114

Sitio web: [http:// www.cityofepa.org/rentprogram](http://www.cityofepa.org/rentprogram)

Los inquilinos que buscan consejo sobre sus derechos y desalojos deben

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consultar con un abogado. Algunas oficinas de abogados en la Ciudad proveen servicios legales gratuitos a inquilinos que no pueden pagar honorarios de abogados.

- E.** Landlords must provide upon request by a tenant of a rent regulated unit, a statement or ledger itemizing all rent and fees charged each month, including any pass through of the City's registration fee, the amount and date payments were received from tenant, the amount and date of any late fees assessed, and the amount and date of any rebates provided to the tenant. Such statement or ledger must be provided within a reasonable time period after tenant's request therefor. If either party (landlord or tenant) insists a request be made in writing, that party shall provide the means of documenting the request and a copy of this document within a reasonable time after the request is made. Further, the requester shall only be required to provide basic information concerning the request on this document, including the requester's name (or tenant's name, if different from the requester) and phone number, the rental unit associated with the ledger request, and date of the request. (Effective March 25, 2015 by RSB Resolution No. 15-03).
- F.** For the purposes of an action seeking to recover possession of a rental unit alleging good cause under section 16(A)(5) of the Ordinance the term "adjacent property" shall mean any property sharing a common boundary line with the rental unit, or any property where any portion of the property which is the subject of the action to recover possession is within the distances set forth in Government Code section 65091(a)(4).

1900. RETALIATIONS AND HARRASSMENT PROHIBITED

(Effective March 25, 2015 by RSB Resolution No. 15-03)

The harassment prohibited by Section 17.B of the Ordinance, codified in Section 14.04.170 of the East Palo Alto Municipal Code, is defined to include, but not be limited to, the conduct or behavior listed in Section 14.02.100 of the Municipal Code.

2000.ELECTRONIC FILING AND SERVICE OF DOCUMENTS

(Effective July 27, 2016 by RSB Resolution No. 16-08)

- 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.

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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 subsection 3.
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 section, 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

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Program shall consider and determine the application in accordance with the waiver provisions of the 1988 Ordinance and the 2010 Ordinance 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.