

REGULATIONS OF THE RICHMOND RENT BOARD

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Note to the reader: These Regulations are intended to help clarify the meaning of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (Richmond Municipal Code Chapter 11.100) and to explain how it will be implemented. However, a full understanding of the meaning of any individual regulation or set of regulations may require knowledge of both the Regulations and the Rent Ordinance and may also require knowledge of relevant aspects of State and Federal law. Rent Board staff will assist the public in understanding how to use and follow the regulations. Such assistance does not substitute for legal advice from a competent attorney.

Chapter 1: PURPOSE & DEFINITIONS

101. Purpose of the Regulations of the Richmond Rent Board

(A) The Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance (Richmond Municipal Code Chapter 11.100) (“Ordinance”) governs the actions and regulations of the Richmond Rent Board. Section 11.100.060 (f) “Rules and Regulations” directs the Board to “issue and follow such rules and regulations, including those contained in this Chapter, as will further the purposes of the Chapter.”

(B) The Regulations of the Richmond Rent Board are intended to further the purposes of the Ordinance by establishing the standards and procedures the Board will follow in order to implement the Ordinance.

(C) The Regulations are intended to help clarify the meaning of the Ordinance and explain how it will be implemented. However, a full understanding of the meaning of any individual regulation or set of regulations may require knowledge of both the Regulations and the Ordinance and may also require knowledge of relevant aspects of State and Federal law.

(D) Like all local ordinances, the Ordinance operates within the framework established by the laws of the State of California and the Constitution of the United States of America. Under Section 11.100.060 (r) “Conforming Regulations,” should any part of the Ordinance be “declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation,” then the Board is empowered to “enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law.”

Chapter 4: REGISTRATION OF BASE RENT AND RENT INCREASES

400. Purpose

The Rent Board finds that in order to monitor compliance with Annual General Adjustments and provide for Individual Rent Adjustments as required under the Rent Ordinance it is essential that registration of Rental Units include information on Base Rents and notification of increases.

401. Establishment of Base Rent

A. The rent in effect on July 21, 2015 is the Base Rent. If there was no rent in effect on that date, the Base Rent is the rent charged on the first date that rent was charged after that date.

B. For tenancies that commenced after July 21, 2015, the Base Rent is the initial rental rate in effect on the date the tenancy begins. "Initial rental rate" is defined under Regulation Section 701.B.

402. Required Rent Registration

(A) A Rental Unit is properly registered in accordance with this Chapter if the Landlord or Landlord's representative has:

(1) Filed with the Board completed registration statements on the form(s) provided by the Board for the unit and all the units in the same property that include

(a) The addresses of all units on the same property,

(b) The name and address of the Landlord and/or property manager,

(c) The date the current tenancy began and, for all tenancies that began after December 30, 2016, an explanation of the circumstances of the termination of the previous tenancy sufficiently detailed to demonstrate whether the unit qualifies for a vacancy rent increase or not, as described in Chapter 7 Vacancy Rent Increases.

(d) The Base Rent currently in effect for each individual unit and the housing services included in the rent or the reason the Rental Unit is exempt from rent control and has no current Base Rent;

(2) Paid to the City of Richmond the Rental Housing Fee, Business License Tax, and any penalties due for the unit and all the units in the same property; and

(3) Filed with the Board, for the unit and all the units in the same property, notification of all termination of tenancies, subsequent changes in the provision of Housing Services, and rent increases if required pursuant to Regulation 17-10.

(B) In designating a Rental Unit as properly registered, the Board's intent is to facilitate the rent registration and individual adjustment of Maximum Allowable Rent processes and the dissemination of information regarding the registration of Rental Units. Such designation shall

not be construed as the Board's certification of the lawful Base Rent, current Maximum Allowable 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.

(C) A Landlord shall be found in substantial compliance with registration requirements when:

(1) The Landlord has made a good faith effort to comply with the Ordinance and regulation concerning registration sufficient to reasonably carry out the intent and purpose of the Ordinance and Regulations; and

(2) The Landlord has cured any defect in compliance in a timely manner after receiving notice of a deficiency from the Board.

403. Changes in Exempt Status

(A) Within sixty (60) calendar days of the date a Rental Unit formerly exempt from the rent control provisions of the Ordinance (Section 11.100.030(d) (1)-(6)) becomes a Controlled Rental Unit under the Ordinance, the Landlord shall file an initial registration statement, or an amended registration statement if an initial registration statement has been previously filed, for the Rental Unit.

(B) Within sixty (60) calendar days of the date a Controlled Rental Unit becomes exempt from rent control under the Ordinance, the Landlord shall notify the Board in writing of the exempt status of the Rental Unit and the basis for the exemption.

(C) Within thirty (30) calendar days after the filing of a new rent registration statement, the Board shall provide a true and correct copy of said statement to the occupant of the respective unit.

404. Notification of Changes of Name or Address of Landlord and/or Property Manager

(A) Within sixty (60) calendar days of any change in the owner and/or property manager of a Rental Unit, the Landlord shall notify the Board in writing of the change.

(B) Within sixty (60) calendar days of any change in the address of the owner and/or property manager of a Rental Unit, the Landlord shall notify the Board in writing of the change.

(C) The Board shall send all notices to the Landlord at the most current address provided by the Landlord. Failure to receive a notice as a result of noncompliance with this section shall not be a good cause for purposes of waiving penalties owed to the Board.

Chapter 7. Vacancy Rent Increases

701. New Maximum Allowable Rent

(A) Pursuant to Section 1954.50, et seq. of the Civil Code, the Landlord may establish the lawful Maximum Allowable Rent for any Controlled Rental Unit consistent with this regulation. The new rent level shall thereafter be the new Maximum Allowable Rent for the unit for all purposes including, but not limited to, the computation of all future rent adjustments. The unit shall otherwise remain controlled by the Ordinance and all other regulations of the Rent Board.

(B) In these Regulations the terms "new Maximum Allowable Rent" and "initial rental rate" refer to the rent established by the Landlord for a Tenant whose tenancy becomes effective after July 21, 2015. For tenancies commencing on or after July 21, 2015, the "initial rent" for a Rental Unit shall be the monthly rent established by the parties at the commencement of the most recent tenancy. Where the rental agreement includes periods for which the Tenant pays reduced, discounted or "free" rent, the Maximum Allowable Rent is calculated as the average of the monthly payments made during the initial term of the agreement or, in the case of a month-to-month tenancy, during the first twelve months of the tenancy.

702. Vacancy Rent Levels

(A) Commencing July 21, 2015, a Landlord may establish the initial rent rate for all new tenancies consistent with Civil Code Section 1954.50, et seq., and any Board regulations enacted consistent therewith, except where any of the following applies:

(1) (a) The previous tenancy has been lawfully terminated by the Landlord pursuant to Civil Code Section 1946, or;

(b) The previous tenancy has been lawfully terminated upon a change in terms of tenancy noticed pursuant to Civil Code Section 827, except a change permitted by law in the amount of rent or fees or resulting from the owner's termination of or failure to renew a contract or recorded agreement with a Housing Authority or any other governmental agency that provided for a rent limitation to a qualified Tenant of the unit. A tenancy shall be presumed to have terminated upon a change in terms of tenancy if the Tenant(s) vacate(s) the Rental Unit within twelve months of the Landlord's unilateral change in the terms of the rental agreement. Absent a showing by the Landlord that the Tenant(s) vacated for reasons other than the change in the terms of the rental agreement, the initial rental rate for the new tenancy shall be no greater than the most recent Maximum Allowable Rent (prior to the new tenancy).

(2) A new tenancy begun within three years of the date that the owner terminated or failed to renew a contract or recorded agreement with a Housing Authority or any other governmental agency that provided for a rent limitation to a qualified Tenant of the unit unless the new tenancy is exempted from this limitation pursuant to Civil Code Section 1954.53 (a) (1) (B). During the three year period, the rental rate for any new tenancy established in that vacated unit shall be at the same rate as under the terminated or non-renewed contract or recorded agreement, increased by any subsequently authorized Annual General Adjustments.

(3) The Landlord has otherwise agreed by contract with a public entity to limit or otherwise restrict rent levels in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of title 7 of the Government Code.

(4) The dwelling or unit has been cited in an inspection report by the appropriate government agency as containing serious health, safety, fire or building code violations as defined by Health and Safety Code Section 17920.3 excluding those caused by disasters or damages incurred by the Tenant or associated occupants, guests, or pets, the citation was issued at least sixty (60) calendar days prior to the date of the vacancy, and the cited violation had not been abated when the prior Tenant vacated and has remained unabated for at least sixty (60) calendar days, unless the time for correction was extended by the agency that issued the citation.

(5) The prior Tenant was the spouse, registered domestic partner, child, parent or grandparent of a Landlord who recovered possession of the unit pursuant to RMC 11.100.050 (a) (6).

(6) The prior Tenant vacated the property as a proximate result of the conduct by the Landlord such that the vacancy is non-voluntary, except for evictions for just cause as provided under RMC 11.100.050.

703. Voluntary and Non-Voluntary Vacancies

(A) For the purposes of this Regulation, a "voluntary" vacancy shall mean a vacancy that results from the independent choice of the Tenant, without intimidation, pressure, or harassment. For purposes of this section "abandonment" is defined as the Tenant's independent choice, without intimidation, pressure, or harassment to relinquish all right and possession of the premises, with the intention of not reclaiming or resuming its possession or enjoyment, and the Landlord terminates the tenancy pursuant to Civil Code Section 1951.3. Abandonment is considered voluntary.

(B) Non-Voluntary Vacancy means a vacancy resulting from conduct by the Landlord which constitutes:

(1) Acts prohibited by law;

(2) Constructive eviction;

(3) A breach of the covenant of quiet enjoyment of the property;

(4) Harassment;

(5) Threats to withdraw the property from the rental market pursuant to the Government Code Section 7060-7060.7 (Ellis Act) and Rent Board Regulation 17-07; and,

(6) Notices of any kind that negligently or intentionally misrepresent to a Tenant that the Tenant is required to vacate the Rental Unit.

(C) "Harassment" shall be defined as a knowing and willful act or course of conduct directed at a specific Tenant or Tenants which:

(1) Would cause a reasonable person to fear the loss of use or occupancy of a Rental Unit or part thereof, or of any service, privilege or facility connected with such use or occupancy, without legitimate reason or legal justification; or

(2) Materially interferes with a Tenant's peaceful enjoyment of the use and/or occupancy of a Rental Unit.

(3) A single act may constitute harassment for purposes of determining whether a vacancy was voluntary. A course of conduct is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

(4) Acts constituting harassment include, but are not limited to the following:

(a) Eviction on the grounds of an Owner Move-In pursuant to Ordinance section 11.100.050 (a) (6) which was not in good faith.

(b) The threat or repeated threat to evict a Tenant in bad faith, under circumstances evidencing the Landlord's purpose to cause the Tenant to vacate a Rental Unit.

(c) Reduction in housing services under circumstances evidencing the Landlord's purpose to cause the Tenant to vacate a Rental Unit;

(d) Reduction in maintenance or failure to perform necessary repairs or maintenance under circumstances evidencing the Landlord's purpose to cause the Tenant to vacate a controlled Rental Unit;

(e) Abuse of the Landlord's right of access into a residential unit within the meaning of California Civil Code §1954; or

(f) Verbal or physical abuse or intimidation.

(5) A vacancy occurring as result of the filing of a Notice of Intent to Withdraw under Government Code Section 7060-7060.7 (the Ellis Act and Rent Board Regulation 17-07) shall not be considered voluntary.

(6) A tenancy and subsequent vacancy created as a sham shall not be considered voluntary. A sham tenancy may be presumed where the occupant did not have a bona fide Landlord-Tenant relationship with the Landlord, or occupied the property for less than four (4) months and principally for the purpose of vacating the property to establish eligibility for vacancy-related increase.

704. No Vacancy Rent Increase for Original Occupants

(A) The Maximum Allowable Rent for a Controlled Rental Unit occupied by an Original Occupant shall not be increased under the provisions of this Regulation while the existing Tenant occupies the unit as their principal residence. For purposes of this Regulation, the term "original occupant" as used herein includes any Tenant in the Rental Unit, with the Landlord's knowledge, was residing in the unit on or before July 21, 2015, or when the Landlord last established an initial rent for the unit.

(B) No existing Tenant shall be required to vacate a Rental Unit as a result of a covenant or condition in a rental agreement requiring the Tenant to surrender possession except as permitted under Section 11.100.040(a)(1) of the Ordinance.

705. Increase and Decrease Petitions

Nothing in this Regulation prohibits Tenants or Landlords from filing rent adjustment petitions pursuant the Board's regulations.

706. Fraud or Intentional Misrepresentation

Any increase in the Maximum Allowable Rent authorized pursuant to this regulation that is obtained by fraud or misrepresentation by the Landlord or the Landlord's agent or employee shall be void.

707. Subletting

(A) An owner may increase the rent by any amount allowed by Civil Code section 1954.50 et seq., and subsection (B) of Regulation 707, to a sub-lessee or assignee when the original occupant or occupants who took possession of the Rental Unit pursuant to a rental agreement with the owner no longer permanently reside in the Rental Unit. The term "original occupant" as used herein includes any Tenant in the Rental Unit, with the Landlord's knowledge, was residing in the unit on or before July 21, 2015, or when the Landlord last established an initial rent for the unit.

Within fifteen (15) calendar days of any rent increase pursuant to this subsection, a Tenancy Registration form(s) described in Section (A)(1) of Regulation 402 shall be filed with the Board.

(B) Where one or more of the occupants of the Rental Unit pursuant to the agreement with the owner, remain an occupant in lawful possession of the Rental Unit, this Regulation shall not apply to partial changes in occupancy of the Rental Unit made with the consent of the owner. Nothing contained in this Regulation shall establish or create any obligation of an owner to permit or consent to a sublease or assignment.

(C) New roommates are considered subtenants of the original occupants as long as they do not sign a lease or rental agreement with the Landlord, and the Landlord may increase the rent when the unit is occupied only by subtenants who are not Original Occupants. Thus, a Landlord may set a new initial rent by giving proper written notice if: (1) there has been a complete turnover of original occupants; (2) none of the remaining occupants has signed a lease or rental agreement with the landlord; and (3) the Landlord has not accepted rent after receiving written notice from the last original occupant that they have moved out or will be moving out permanently. If the subtenants hide the fact that the last original occupant has moved out permanently, the Landlord's acceptance of rent does not preclude the Landlord from implementing a vacancy increase. The Landlord can defer a vacancy rent increase for up to six months after receiving written notice of the last original occupant's departure, by agreeing in writing with the remaining tenants to do so.

(D) Where the Landlord initially rents a Rental Unit to a Tenant and authorizes more than one Tenant to occupy the unit, but fails to place the name of more than one Tenant on the Rental Housing Agreement, all Tenants who occupy the unit within one month, with permission of the Landlord, express or implied, shall be considered original occupants.

708. Rent Level following an Owner Move-In Notice or Eviction

(A) A written request from a Landlord for a Tenant to vacate a unit so the Landlord or a qualifying relative of the Landlord may occupy the unit as a principle residence shall be treated as a Notice to Terminate Tenancy pursuant to Civil Code Section 1946 for the purpose of determining the rent level when the unit is subsequently rented.

(B) A Landlord who serves a 30 or 60-Day Notice of Termination of Tenancy pursuant to Richmond Municipal Code section 11.100.050(A)(6) for the purpose of recovering possession of the unit for their own use or occupancy as a principle residence or the principle residence of a qualifying relative may rescind the notice or stop eviction proceedings but, if the Tenant vacates within one year of the date of service of the notice, the tenancy is presumed to have been terminated by the Landlord as a result of the notice. The rental rate for the next tenancy established in the vacated unit shall be no more than the Maximum Allowable Rent under the Ordinance for the Tenant who vacated, plus any subsequent increases authorized by the Rent Board.

(C) This presumption applies even though the Tenant vacates the unit after the notice has been rescinded. A written statement from the Tenant that the Tenant is leaving of their own volition signed as part of a settlement whereby the Tenant is required to vacate the unit is insufficient to rebut this presumption.

(D) A Landlord may rebut the presumption at a hearing based on a preponderance of the evidence. Such a hearing shall follow the process established for an Individual Rent Adjustment.

Chapter 9: Standards for Individual Maximum Allowable Rent Adjustments

901. Purpose of Chapter

The purpose of this Chapter is to protect Tenants from unwarranted rent increases, while at the same time allowing rent levels which provide Landlords with a fair return on their investment. It is the intent of these regulations that individual upward adjustments in the Maximum Allowable Rent be made only when the Landlord demonstrates that such adjustments are necessary to provide the Landlord with a fair return on investment under the Ordinance (RMC Sections 11.100.070 (e - k) and as required by the California or United States Constitution.

902. Procedure

Unless otherwise specified, petitions for rent increases and decreases under this Chapter shall follow the procedures in Chapter 8, Subchapters A and B.

903. Changes in Number of Tenants

(A) **Base Occupancy Level.** The Base Occupancy Level for a Rental Unit, as used in this Chapter, shall be the number of Tenants allowed by the Rental Housing Agreement as defined in Section 11.100.030(k) of the Ordinance for the unit effective July 21, 2015, or at the beginning of any subsequent tenancy established after a vacancy.

(B) Increase in Tenants

(1) If the number of Tenants allowed by the Rental Housing Agreement actually occupying a unit as the Tenants' principal residence has increased above the Base Occupancy Level for that unit, then the Maximum Allowable Rent for the unit may be increased by up to fifteen percent (15%) for each additional tenant above the base occupancy level, in addition to any Maximum Allowable Rent adjustment to which the Landlord is otherwise entitled. A petition seeking rent adjustments solely for an increased number of Tenants will be processed under subsections (D) of this regulation.

(2) No increase in the Maximum Allowable Rent for additional Tenants, as provided for in subsection (B) (1), shall be granted for any additional Tenant who is a spouse, registered domestic partner, child, grandchild, parent, grandparent, legal guardian of a child, parent of any of the Tenants, or caretaker/attendant as required for a reasonable accommodation for a person with a disability, unless the Tenants agree in writing to the specific Maximum Allowable Rent increase.

(3) If the number of Tenants actually occupying a Rental Unit as a principal residence decreases subsequent to any Maximum Allowable Rent increase for additional Tenants granted pursuant to subsection (B)(1), then the Maximum Allowable Rent increase for that Rental Unit shall automatically decrease by the amount of the Maximum Allowable Rent increase that is no longer justified, as a result in the decrease in the number of Tenants, unless the Tenant and Landlord agree in writing to permanently increase the Base Occupancy Level.

(4) Increases in the Maximum Allowable Rent due to an increase in the Base Occupancy Level shall remain permanent. As such, if the number of Tenants actually occupying a Rental Unit as the Tenants' principal residence decreases subsequent to any Maximum Allowable Rent increase for additional Tenants granted pursuant to subsection (B) (1), then the Tenants may replace the departing Tenant with another Tenant (subject to the Landlord's standard screening methods).

(C) Decrease in Number of Tenants Allowed.

If any policy or policies imposed by the Landlord unreasonably prevent the Tenant from maintaining the Base Occupancy Level for that unit, then the Maximum Allowable Rent for that unit shall be decreased by an amount equal to the percentage by which the number of allowable Tenants has been reduced. As used in this regulation, "policy" or "policies" means any rule, course of conduct, act or actions by a Landlord.

- (1) A policy shall be deemed unreasonable if it is different from and more restrictive than the policies originally used to screen the current Tenant(s).
- (2) Refusal based on the proposed additional occupant's lack of creditworthiness shall be deemed unreasonable if that person will not be legally obligated to pay some or all of the rent to the Landlord. (RMC Section 11.100.050(a) (1) (i) (c)).
- (3) Refusal shall be deemed reasonable if the increase would bring the total number of occupants above the maximum allowable under Section 503b the Uniform Housing Code as incorporated by California Health and Safety Code Section 17922. (RMC Section 11.100.050(a) (1) (i) (c)).

(D) Petitions for Rent Increases

Grounds for Tenant Objection. Tenants responding to petitions under subsection (B) (1) may file objections with the Board on one or more of the following grounds:

- (1) The base occupancy level alleged by the landlord is incorrect; however, a tenant may not contest a base occupancy level that was established in a prior decision;
- (2) The number of tenants alleged by the landlord as being currently allowed by the lease and actually occupying the unit as a principal residence is incorrect;
- (3) An additional tenant claimed by the landlord as justifying a rent increase is a spouse, registered domestic partner, child, grandchild, parent, grandparent, legal guardian of a child or caretaker/attendant as required for a reasonable accommodation for a person with a disability and the original tenant(s) did not agree in writing to an increase for such person(s);
- (4) The unit is not eligible to receive annual general adjustments for any period since its rent was last certified or individually adjusted by the Board. Any such objection shall identify each challenged annual general adjustment and the reason for the alleged ineligibility;
- (5) The landlord is collecting rent in excess of the Maximum Allowable Rent; or

(6) The unit is substantially deteriorated, fails to comply substantially with applicable state rental housing laws or local housing, building, health and safety codes, or the landlord does not currently provide adequate housing services.

904. Changes in Space or Services

(A) Increase in Space

The Maximum Allowable Rent may be adjusted upward when, with the written agreement of the Tenant(s), there is an increase in the usable space or in the Housing Services beyond that which was provided to a unit on July 21, 2015, or when the Base Rent was first established.

(1) Additional or reconfigured space. Where a Landlord adds habitable living space to a unit or reconfigures it, the Maximum Allowable Rent for such unit shall be permanently increased as provided under Section 8XX Capital Improvements.

(2) Additional services. Where a Landlord adds non-habitable space or increases the services provided to a unit, the Maximum Allowable Rent for such unit shall be increased by an amount representing the commercially reasonable value of the additional space or increased services. If the additional or reconfigured space or the services are subsequently reduced or eliminated, the rent increase authorized herein shall be reduced or terminated. Any increase for an additional bedroom shall result in an increase to the Base Occupancy Level for an additional occupant.

(a) Increases may be denied if the added or reconfigured space or services do not clearly benefit a majority of the affected Tenants and a Tenant objects.

(b) If the added or reconfigured space or services clearly benefit a majority of the affected Tenants, then increases may be denied if a majority of the affected Tenants object.

(B) Decrease in Space or Services; Substantial Deterioration; Failure to Provide Adequate Services; Failure to Comply with Codes, the Warranty of Habitability or the Rental Agreement.

1. Decreases in Space or Services. The Maximum Allowable Rent shall be adjusted downward where a Landlord is aware of and causes a Tenant to suffer a decrease in housing services or living space from the services and space that were provided on July 21, 2015, or from any services or space provided at the beginning of the tenancy. The amount of the rent decrease shall be calculated by multiplying the percentage of impairment of the Tenant's use of and benefit from the unit (as a result of the reduction in living space or housing services) by the Maximum Allowable Rent in effect at the time of the impairment, and for past decreases, multiplied by the period of time the impairment existed. In determining the amount of the downward rent adjustment by the percentage of impairment of use/benefit method, the hearing examiner may consider the reasonable replacement cost of the space or service in question. Decreases in the Maximum Allowable Rent shall not be granted due to a decrease in space or services that is a direct result of intentional actions on the part of the Tenant to purposefully cause a decrease in space or services.

2. Denial of Petitions for Unilateral Removal.

The Board will not accept petitions from Landlords who seek a Maximum Allowable Rent decrease for the unilateral removal or reduction of space or services from a Tenant's base level space or services. Landlord petitions shall be accepted only when a Tenant has expressly agreed in writing to the removal of such space or services. "Base level space or services" are the housing services or living space that was provided at the unit on July 21, 2015, or at the beginning of the tenancy.

3. Inadequate Services, Substantial Deterioration

The Maximum Allowable Rent shall be adjusted downward for any substantial deterioration in a Rental Unit and/or for any failure to provide adequate Housing Services occurring during the petitioner's tenancy. For purposes of this subsection, a substantial deterioration means a noticeable decline in the physical quality of the Rental Unit resulting from a failure to perform reasonable or timely maintenance and adequate Housing Services means all services necessary to operate and maintain a Rental Unit in compliance with all applicable state and local laws and with the terms of the Rental Housing Agreement. The amount of the rent decrease shall be calculated by multiplying the percentage of impairment of the Tenant's use of and benefit from the unit (as a result of the deterioration or failure to provide adequate service, violation, breach or failure to comply) by the Maximum Allowable Rent in effect at the time of the impairment.

4. Code Violations, Breach of the Warranty of Habitability.

(A) Where a condition at the Rental Unit threatens the health or safety of the occupants but does not actually impair the use of the unit, the Maximum Allowable Rent decrease shall be in an amount that reflects the reduction in value of the Rental Unit due to the unsafe or unhealthy condition.

(B) A substantial lack of any of the affirmative standard characteristics for habitability set forth in Civil Code section 1941.1 shall be deemed a violation of the warranty of habitability and the Maximum Allowable Rent shall be decreased by no less than 10% or, for a violation of subsections (b), (c) or (d) of Civil Code section 1941, no less than 20%, until the condition is corrected, notwithstanding seasonal variations in or an absence of impairment to a Tenant's use of or benefit from the unit.

(C) The rent decrease authorized under this subsection for a violation of the warranty of habitability or for a code violation that poses a significant threat to the health or safety of Tenants (e.g., dangerous window bars, missing smoke detector) shall be automatically doubled prospectively if proof of correction of the violation is not submitted to the Rent Board within thirty-five (35) calendar days of mailing of the hearing examiner's decision unless the Landlord establishes that the violation cannot be corrected within that time due to circumstances beyond the Landlord's control.

(D) No rent shall be charged for a period in which the Landlord is found to be in violation of California Civil Code Section 1942.4.

(E) For purposes of this subsection, a breach of the warranty of habitability occurs when the Rental Unit is not in substantial compliance with applicable building and housing code standards,

which materially affect health and safety. Minor housing code violations which do not interfere with normal living requirements do not constitute a breach of the warranty of habitability.

5. Maximum Allowable Rent reductions pursuant to this Section shall be effective from the date the Landlord first had notice of the space or service reduction, deteriorated condition, service inadequacy, or code or habitability violation in question and shall terminate on the date of the first rent payment due after adequate proof has been submitted to the Board that the condition for which the reduction was granted no longer exists.

6. A Tenant who files a petition pursuant to this regulation must be able to establish the basis for the reduction and when the Landlord first received notice of the decreased service, deterioration, code violation or habitability violation. Notice may be actual or constructive. A Landlord is deemed to have notice of any condition existing at the inception of a tenancy that would have been disclosed by a reasonable inspection of the Rental Unit. A copy of a housing code inspection report from the City of Richmond should be submitted with the petition.

905 – 910 Reserved for MNOI, Capital Improvements, Historically Low Rent, etc.

911. Overcharges and Other Violations

(A) Overcharges. If on or after July 21, 2015, the Landlord has received rent in violation of the Ordinance, the Landlord shall be ordered to refund the overcharge. Any overcharge refund shall be paid to the person or persons overcharged, except as provided in Subsection (B) below. For purposes of this Regulation, any receipt or retention of rent, including security deposits and interest earned on security deposits, in violation of any order, rule or regulation of the Board or any other applicable law shall be deemed to be an overcharge.

(B) Overcharges paid by former Tenants. If any of the rent overcharge was received from former Tenant(s), the Landlord shall make reasonable efforts to find the former Tenant(s) and refund the overcharge. The Landlord shall notify the Board in writing of the nature, extent, and result of those efforts within sixty (60) calendar days of the overcharge refund order.

If the Landlord does not refund any past overcharge(s) to any former Tenant(s) within sixty (60) calendar days, or has made reasonable but unsuccessful efforts to locate the former Tenant(s), the Landlord shall pay the overcharge(s) to the Richmond Rent Board to be held in trust for the former Tenants for one year. Staff shall annually provide the Rent Board with an accounting of any unclaimed funds, following which, the Board, by resolution, shall designate a program of the City of Richmond that benefits low- and/or moderate-income Tenants to which the unclaimed funds shall be transferred.

(C) Other Violations. If the Landlord has failed to comply with the Ordinance or any rule or regulation of the Board or in any way charges unlawful rent, the hearing examiner may make an appropriate order for compliance or other appropriate relief.

(D) Limitation on Liability for the Refund of Overcharges.

(1) Except as provided in subsection (2), no order for the refund of rent overcharges shall require the repayment of overcharges that were actually received by the Landlord more than three years prior to the date upon which the Individual Rent Adjustment petition is filed.

(2) The three year limitation period shall not apply and the Landlord shall be ordered to refund to the Tenant(s) of the affected unit(s) that portion of the rent payments made by such Tenant(s) that have been illegally retained by the Landlord from the date which the Tenant(s) first paid excess rent, upon proof of any of the following:

(a) The Landlord willfully failed to register the affected property, or

(b) the Landlord willfully provided false or inaccurate information to the Board and the Tenant(s) were thereby induced to pay excess rent in reliance upon said information, or

(c) The Landlord, through threats of eviction, physical violence, coercive actions, or intentional misrepresentation on which the Tenant reasonably relied, prevented a timelier filing of the petition.

(3) If the Landlord has willfully failed to register the affected property, the three year limitations period shall commence to run on the date upon which the Landlord completes all required registration forms for the affected property.

(E) Supporting documentation.

For Tenant petitions under this Regulation, the documentary evidence attached to the petition shall include any copies of canceled checks, rent receipts or other documentary evidence of the claimed overcharge. If no such documentary evidence is in the possession of the Tenant, the Tenant shall state on the petition that they do not have documentary evidence of the overcharge and set forth the factual basis for the claim of overcharge. Where the basis of any overcharge is ineligibility for Annual General Adjustments due to violation of housing codes, the Tenant shall attach documentation indicating that the unit was in violation of the warranty of habitability prior to and as of September 1st of the applicable year and that the Landlord was aware of such violation of the warranty of habitability. Such documentation may include a copy of an inspection report issued by the City of Richmond.

912. Petition to Obtain Previously Lost Annual General Adjustments (AGAs)

(A) General. When a Landlord who has previously been out of compliance comes into compliance with the Ordinance, regulations, or applicable housing, health and safety codes, the Hearing Examiner may grant all Annual General Adjustment rent increases denied during the period of noncompliance prospectively. For any Rental Unit which has been registered and for which a Base Rent has been listed or for any Rental Unit which a Landlord can show, by a preponderance of the evidence, a good faith attempt to comply with the registration requirements, all Annual General Adjustments which may have been denied during the period of the Landlord's non-compliance shall be restored prospectively once the Landlord is in compliance with the Ordinance or regulation.

In addition, to be eligible for an Annual General Adjustment, the Landlord must state under penalty of perjury that the unit is in substantial compliance with the ordinance, regulations and applicable codes. Specifically, the Landlord shall certify to payment of all fees and penalties owed to the Richmond Rent Program which have not otherwise been barred by the statute of limitations, substantial compliance with applicable local and state housing code provisions, and satisfaction of all claims for refunds of rental overcharges brought by Tenants or by the Rent Board on behalf of Tenants of the affected unit.

The Landlord is not entitled to recover any Annual General Adjustments which have been previously regained through a net operating income analysis or for new tenancies that were established after the loss of the Annual General Adjustment.

(B) Petition. Upon the petition of the Landlord, the Landlord's eligibility for previously lost Annual General Adjustments shall be determined. At the time of filing the petition, the owner shall submit a proof of service showing that all affected Tenants have been provided with a complete copy of the documents filed. Chapter 8 Subsections A and B of these regulations shall govern all additional petition procedures for Annual General Adjustment petitions.

(C) Rent increases permitted under this Section shall be applied in a manner consistent with Regulation 17-09 (Banking of Annual General Adjustment rent increases.)

I, the undersigned, hereby certify that the foregoing Regulation was duly adopted and passed by the Richmond Rent Board in a regular meeting assembled on February 21, 2018, by the following vote:

AYES: Boardmembers Combs, Finlay, Maddock, Vice Chair Gerould and Chair Gray.

NOES: None.

ABSENT: None.

ABSTENTIONS: None.

CYNTHIA SHAW
Cynthia Shaw, Rent Board Clerk

DAVID GRAY
David Gray, Chair

