

JUL 28 2016

RESOLUTION NO. 4758

MARK CHURCH, Chief Elections Officer
By: [Redacted] DEPUTY CLERK

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO CALLING AND ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF EAST PALO ALTO A MEASURE REVISING THE 2010 RENT STABILIZATION AND JUST CAUSE FOR EVICTION ORDINANCE AT THE CONSOLIDATED GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016

WHEREAS, a Consolidated General Municipal Election on Tuesday, November 8, 2016 has been called by Resolution Nos. 4750 and 4751, adopted on July 5, 2016; and

WHEREAS, the City Council also desires to submit to the voters at the election a question relating to revising portions of the 2010 Rent Stabilization and Just Cause for Eviction Ordinance; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO THAT:

SECTION 1. The City Council pursuant to its right and authority, does order to be submitted to voters at the Consolidated General Municipal Election the following question:

<p>Revisions to Rent Stabilization and Just Cause for Eviction Ordinance. Shall the 2010 Rent Stabilization and Just Cause for Eviction Ordinance be strengthened by simplifying administrative processes and procedures, defining "maximum allowable rent," revising the registration fee pass-through, eliminating annual registration requirements, streamlining annual general adjustment calculations, addressing nuisance-based tenancy termination, strengthening informational notice provisions, and authorizing the City Council to revise the Ordinance when in conflict with federal or state law?</p>	<p>YES</p> <hr/> <p>NO</p>
--	----------------------------

57 words

SECTION 2. The full text of the proposed measure submitted to the voters is attached as Exhibit A to this Resolution, which is incorporated herein by reference. To become effective, a majority of the City Council must vote to place the measure on the ballot and a majority of the voters voting on the measure must vote in the affirmative.

SECTION 3. The City Council hereby requests the San Mateo County Registrar of Voters to provide all services necessary to conduct the Election and to conduct and canvass the results of the Election. The City will reimburse San Mateo County for the actual cost incurred in conducting the election when the work is completed and upon receipt of a bill stating the amount due as determined by the elections official.

SECTION 4. That in all particulars not recited in this Resolution, the Election shall be held and conducted as provided by law for holding municipal elections.

SECTION 5. Notice of the time and place of holding the elections is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of election, in time, form and manner as required by law. The hours during which the polling places for the Election shall be open shall be the hours established for the Consolidated Municipal Election.

SECTION 6. The City Clerk is hereby directed to do all things required by law to effectuate the Consolidated General Municipal Election, and to present the measure submitted herein to the electorate, including, but not limited to, required publications, postings, noticing and filings.

SECTION 7. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of this resolution to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within fifteen (15) days of the adoption of this Resolution.

SECTION 8. Arguments for and against, not to exceed 300 words in length may be filed consistent with Elections Code Section 9282 requirements. The City Council declines, pursuant to the provisions of Section 9285 of the Elections Code to permit rebuttal arguments.

SECTION 9. The City Clerk is hereby directed to file a certified copy of this Resolution with the San Mateo County Board of Supervisors and San Mateo County Registrar of Voters.

ADOPTED this 19th day of July 2016 by the following vote:

AYES: ROMERO, GAUTHIER, RUTHERFORD, MOODY, ABRICA

NOES:

ABSENT:

ABSTAIN:

SIGNED:


Donna Rutherford, Mayor

ATTEST:


Terrie Gillen, Deputy City Clerk

APPROVED AS TO FORM:


Marc G. Hynes, Interim City Attorney

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO
AMENDING THE 2010 RENT STABILIZATION AND JUST CAUSE FOR
EVICITION ORDINANCE OF THE CITY OF EAST PALO ALTO**

THE PEOPLE OF THE CITY OF EAST PALO ALTO ORDAIN AS FOLLOWS:

Section 1. The following provisions of the 2010 Rent Stabilization and Just Cause for Eviction Ordinance shall be revised to read as follows:

SECTION 4. DEFINITIONS

J. MAXIMUM ALLOWABLE RENT. Maximum allowable rent for a specific rental unit is defined as the maximum amount of rent per month a landlord may charge for a tenancy in a specific rental unit, provided, however, that the MAR shall not allow an overall rent increase exceeding 10% in any twelve month period. A rent increase must comply with Section 9 (Limitations on Rent Increases), Section 10 (Annual General Adjustment of Maximum Allowable Rent), and Section 12 (Fair Rate of Return), and rent may temporarily be reduced pursuant to Section 13 (Rent Adjustments for Maintenance and Service Reductions).

1. TENANCIES COMMENCING PRIOR TO JULY 15, 2009.

a. BASED ON VALID CERTIFICATE. The maximum allowable rent for tenancies commencing prior to July 15, 2009 shall be the maximum allowable rent set forth in the last valid certificate issued prior to July 15, 2009 adjusted by annual general adjustments authorized by the Prior Ordinance subsequent to the issuance of that certificate, and annual general adjustments authorized pursuant to this 2010 Ordinance.

b. CERTIFICATE INVALID OR NO CERTIFICATE.

i. Tenancy beginning before January 1, 2006: Where either the certificate stating the maximum allowable rent is invalid or no certificate stating the maximum allowable rent has been issued and the tenancy began prior to January 1, 2006, the maximum allowable rent shall be the rent actually charged on January 1, 2006 adjusted by the annual general adjustments authorized under the Prior Ordinance and annual general adjustments authorized pursuant to this 2010 Ordinance.

- ii. Tenancy beginning on or after January 1, 2006: Where either the certificate stating the maximum allowable rent is invalid or no certificate stating the maximum allowable rent has been issued and the tenancy began on or after January 1, 2006, the maximum allowable rent shall be the rent on the date the tenancy commenced adjusted by the annual general adjustments authorized under the Prior Ordinance and annual general adjustments authorized under this 2010 Ordinance since the date the tenancy commenced.
2. TENANCIES COMMENCING ON OR AFTER July 15, 2009. The maximum allowable rent for tenancies commencing on or after July 15, 2009 shall be the initial rent for the new tenancy adjusted by annual general adjustments authorized pursuant to this 2010 Ordinance.
3. TENANCIES EXISTING ON NOVEMBER 8, 2016. The maximum allowable rent for tenancies established on or before November 8, 2016, shall be increased by \$9.75 as of November 8, 2016, to reflect the previous monthly registration fee pass-through amount which will no longer be collected as a separate charge.

SECTION 7. RENT STABILIZATION BOARD

D. POWERS. The Board shall have the following powers under this Ordinance:

8. Issue orders, rules and regulations to further the purposes of the 2010 Ordinance, with regard to all aspects of rent stabilization processes and procedures, the provision of related notices and any Board imposed reporting requirements, and charge fees, including annual program fees.

M. FINANCING. The Board, except as stated in this subsection, shall finance the reasonable and necessary expenses for its operation by charging landlords an annual program fee for each unit in an amount determined to be reasonable and necessary by the Board. The Board may make reasonable annual adjustments in the program fee charged to landlords. The Board is also empowered to request and receive funding when and if necessary from any available source, including the City's General Fund, if approved by the City Council, for its reasonable and necessary expenses, including but not limited to salaries and all other operating expenses.

SECTION 8. UNIT REGISTRATION AND CERTIFICATION

A. REGISTRATION STATEMENTS. All landlords subject to the provisions of this Ordinance shall file with the Board a registration statement for all rental units that they own in the City by January 1, 2011. Within thirty days after the commencement of a new tenancy for a specific rental unit, a landlord shall file a registration statement on a form provided by the Board. The landlord shall append a copy of the rental agreement or lease and a signed copy of the Rent Stabilization Program's Notice of Existence of the Ordinance (Section 6) to the registration statement. A landlord is not required to file a registration statement when 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. The statement shall provide:

1. The address of the rental unit.
2. The name, address and telephone number of the landlord(s) and managing agent, if any. If the landlord is a corporation, the name, address and telephone number of a corporate officer to whom correspondence may be addressed.
3. The date on which the landlord received legal title to or equitable interest in the rental unit.
4. The date on which the new tenancy was created, the initial rent and a signed copy of the rental agreement or lease.
5. The housing services provided.
6. The grounds for exemption for any rental units claimed to be exempt from the provisions of this Ordinance.
7. Any other information deemed relevant by the Board to the implementation of this Ordinance.

B. AFFIDAVIT. All registration statements provided by landlords in accordance with this Ordinance shall include an affidavit signed by the landlord declaring under penalty of perjury that the property is in compliance with the Ordinance and that the information provided in the statement is true and correct.

C. PROGRAM FEE. There shall be an annual program fee per unit, set by the Board in accordance with Section 7.D.2 of this Ordinance, which shall be paid by the first business day in January each year.

D. FORMS. The Board shall develop forms for the information required by this Section and provide them to all landlords who are known to be covered by the Ordinance. The Board shall make reasonable efforts to facilitate the fulfillment of the requirement set forth in this Section.

E. **PENALTIES.** Every fee and registration statement required by this Ordinance which is delinquent shall be subject to delinquency fees in accordance with Regulations adopted by the Board. Under no circumstances shall penalties be passed through to tenants.

F. **WAIVER OF PENALTY.** In accordance with its rules and regulations and with applicable state laws, the Board shall waive penalties or fees in those cases where a landlord who had not been in substantial compliance with the registration requirements of this Ordinance, but who had made a good faith attempt to comply, enters into substantial compliance by filing a registration statement, paying necessary fees, and fulfilling any other requirement of this Ordinance and rules and regulations adopted pursuant to this Ordinance.

G. **LIEN.** The amount of any fee or penalty imposed by the provisions of the Ordinance shall be deemed a debt to the City, and the Board may, at its discretion, cause a lien to be filed on all properties on which registration statements and fees are delinquent more than 180 days.

H. **CERTIFICATE.** Within one year following the effective date of this 2010 Ordinance, the Board shall issue a certificate stating the maximum allowable rent for each rental unit covered by this Ordinance. Thereafter, the Board shall issue a certificate of maximum allowable rent upon the written request of a landlord or tenant or following a new tenancy.

1. A request for issuance of a certificate shall be accompanied by supporting materials documenting such information as the Board deems necessary to assure an accurate determination of the maximum allowable rent, including, but not limited to, initial rent, and, if the landlord is making the request, the information that the landlord would be required to provide in a registration statement under Subsection A of this Section. Where a landlord requests a certificate of maximum allowable rent but has not supplied complete information, the Board shall immediately notify the landlord that the request for the certificate is denied because it is not complete and that the Board will not issue the certificate unless the landlord submits complete information.
2. The Board shall issue such certificates within five business days following the request or the landlord's registration of the new tenancy and mail the certificate to the landlord and tenant. All certificates issued after the adoption of this ordinance shall set the maximum allowable rent as specified in 4.J.
3. A landlord or tenant shall have the right to appeal the maximum allowable rent stated in the certificate.
4. The maximum allowable rent stated in the certificate shall, in the absence of intentional misrepresentation or fraud, be binding and conclusive upon the City as stated on the certificate unless the landlord or tenant appeals the determination of the maximum allowable rent.

5. The Board shall adopt appropriate fees and rules and regulations for issuance of certificates and appeal of the maximum allowable rent stated in such certificates.
6. If Civil Code Section 1947.7 or Section 1947.8 is repealed or otherwise determined not to apply to this Ordinance, this Subsection shall be of no force or effect.

I. EXEMPT UNITS. Landlords of formerly exempt units shall file a registration statement within 60 days after this Ordinance becomes applicable to the unit. The registration fee for this newly registered unit shall be prorated based upon the number of months remaining to the next program fee deadline.

J. REGISTRATION OF ALL UNITS. No landlord shall be deemed to be in substantial compliance with this Section with respect to a given rental unit until the landlord has completed registration for all covered units on the same Assessor's parcel and such registration is in substantial compliance with this Section. Substantial compliance shall mean that all required information has been provided, and all outstanding fees, interest and applicable penalties have been paid.

K. SECURITY DEPOSITS. The Board may establish rules and regulations for the payment of interest on tenants' security deposits.

SECTION 9. LIMITATION ON RENT INCREASES

Rental increases pursuant to this Ordinance shall be limited to increases authorized pursuant to Section 10 (Annual General Adjustments) or Section 12 (Fair Return) of this Ordinance or to increases that a landlord has a right to implement pursuant to State law, see Section 11 – Initial Rents for New Tenants (Vacancy Decontrol).

SECTION 10. ANNUAL GENERAL ADJUSTMENTS OF MAXIMUM ALLOWABLE RENT

A. ANNUAL GENERAL ADJUSTMENT BASED ON CPI. Subject to other limitations in this Ordinance, on or after July 1 of each year, the maximum allowable rent for existing tenancies in regulated units shall increase in an amount equal to 80% of the percentage increase in the CPI as defined in Section 4 of this Ordinance. If the calculation of 80% of the percentage increase in the CPI results in a percentage higher than 10%, the annual general adjustment shall be limited to 10%.

B. ONE INCREASE PER YEAR. Once each year on or after July 1, 2011 all landlords in compliance with Section 8 of this Ordinance as well as all other Sections of it, shall be permitted to increase rents in accordance with the provisions of this Section. Rents may be increased up to the amount of the maximum allowable rent, subject to the limitations of this Section, including but not limited to the 10% limit on rent increases in Section 10.F. No more than one rent increase per twelve month period may be imposed on a tenancy in a specific rental unit pursuant to this Section.

C. COMPUTATION OF ANNUAL GENERAL ADJUSTMENT. Each year, in April, the Board shall compute the annual general adjustment. The computation of all rent increases allowable under this Section shall be according to the following formula.

1. **Step One.** In 2011, subtract the February 2010 CPI index from the February 2011 CPI index. Starting in 2012, subtract the one year prior February CPI index from the current February CPI index. The resulting figure is the index point difference.
2. **Step Two.** Divide the index point difference computed in Step One by the one year prior February CPI index. The resulting figure is the applicable percentage change in the CPI.
3. **Step Three.** Multiply the percentage change in the CPI by 80% (0.80). The resulting percentage amount shall be rounded to the nearest one tenth of one percent. This figure is the percentage increase that shall be the allowable annual general adjustment.
4. If the applicable percentage change in the CPI is a negative number, there shall be no annual general adjustment for that year, but no rent decrease shall be required. The percentage decrease shall be deducted from the next allowable percentage increases authorized pursuant to this section when computing the allowable annual general adjustment for that year.

D. NOTICE OF ANNUAL GENERAL ADJUSTMENT BY RENT BOARD. Each year, the Board shall notify each properly registered landlord of the annual general adjustment allowed. Said notice shall be sent no later than May 15.

E. RENT INCREASES FOR NEW TENANCIES. No increase shall be permitted for a new tenancy in a specific unit pursuant to this section if the increase pursuant to this section was authorized within twelve months after the date that an increase was authorized pursuant to the Costa-Hawkins Act. This subsection shall apply as long as a new initial rent was authorized pursuant to the Costa-Hawkins Act, even if an increase was not actually implemented.

H. CONDITIONS UNDER WHICH RENT INCREASE NOT ALLOWED. No rent increase pursuant to this Section 10 shall be effective if the landlord:

1. Has failed to register all units under the landlord's control.
2. Has failed to substantially comply with any provisions of this Ordinance and /or orders or regulations issued thereunder, or
3. Has failed to bring the rental unit into compliance with the implied warranty of habitability, or
4. Has failed to make repairs as ordered by the City.

I. ACCUMULATING AUTHORIZED ANNUAL GENERAL ADJUSTMENTS. A landlord may increase rents pursuant to all or part of authorized annual general adjustments, so long as the rent increase is consistent with all the provisions in Section 10 and does not exceed the maximum allowable rent for the tenancy in the unit.

SECTION 11. INITIAL RENTS FOR NEW TENANTS (VACANCY DECONTROL)

C. RENT INCREASES AFTER SETTING AN INITIAL RENT. After the landlord sets an initial rent without restriction pursuant to the Costa-Hawkins Act, the landlord may only increase rent for the same tenant in conformance with Section 10 (Annual General Adjustments) and Section 12 (Fair Return) of this Ordinance. The landlord may not increase rents based on cost increases, capital improvements, or other circumstances that arose before the new tenancy began.

SECTION 15. USE AND CONFIDENTIALITY OF INFORMATION SUBMITTED TO BOARD

A. USE OF INFORMATION AND FORMS. All information and forms required by this Ordinance and submitted to the Board shall not be used by any other governmental unit of the City for the enforcement of City Ordinances other than this Ordinance, provided however that this shall not prohibit sharing of data for taxing purposes.

SECTION 16. JUST CAUSE REQUIRED FOR EVICTION

A. GROUNDS FOR LANDLORD'S RECOVERY OF POSSESSION. No landlord shall be entitled to recover possession of a rental unit unless the landlord shows the existence of one of the following grounds.

5. The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace, quiet, comfort, or safety of the landlord or other tenants of the building or rental complex containing the rental unit, or, where the rental unit is a single family dwelling, the peace, quiet, comfort or safety of the owner or residents of an adjacent property. Such disorderly conduct includes violations of state and federal criminal law that destroy the peace, quiet, comfort, or safety of the landlord or other tenants of the building or rental complex containing the rental unit, or, where the rental unit is a single family dwelling, the peace, quiet, comfort or safety of the owner or residents of an adjacent property.

C. LANDLORD'S COMPLIANCE WITH WARRANTY OF HABITABILITY. In any action to recover possession of a rental unit covered by the terms of this Ordinance, except an action to recover possession under Subsections 16.A.7 and 16.A.8, a landlord shall allege, as to each rental unit on the property, substantial compliance with the implied warranty of habitability as of the date of the notice of termination or notice to quit and as of the date of the commencement of the action for possession and compliance as of the date of the commencement of the action for possession with Section 10 (Annual Adjustments) and Section 8 (Unit Registration) of this Ordinance. The landlord shall also notify the court of any pending or standing Hearing Examiner or Board decisions affecting the tenancy in question.

D. FILING NOTICES WITH BOARD. The landlord shall file with the Board a copy of any notice of termination, notice to quit, and summons and complaints in unlawful detainer within five calendar days after the tenant has been served with such notice or summons and complaints. Failure of the landlord to comply with eviction-related notice requirements to tenants or to file the required eviction-related documents with the Board shall constitute a defense to an eviction action.

Section 2. The following provision is added to the 2010 Rent Stabilization and Just Cause for Eviction Ordinance to read as follows:

SECTION 25. REVISIONS NOT REQUIRING APPROVAL OF ELECTORATE

If the federal government or California state legislature enacts any statute overriding a provision of this Ordinance, or if any court decision results in one or more provisions of this Ordinance being in conflict with such court decision, the City Council of the City of East Palo Alto is hereby authorized to revise this Ordinance in order to comply with the law.

Section 3. All other provisions of the 2010 Rent Stabilization and Just Cause for Eviction Ordinance continue to remain in full force and effect as originally adopted.

Section 4. Severability. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of East Palo Alto hereby declare that they would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Section 5. Effective date. This Ordinance shall take effect immediately upon certification of the election.

This Ordinance was introduced by the City Council of the City of East Palo Alto at a regular meeting of said Council held on the 5th day of July 2016.