

RENT STABILIZATION REGULATIONS THE CITY OF WEST HOLLYWOOD

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CHAPTER 2

REGISTRATION

20000. Purpose.

The purpose of the registration requirement is to enable the Commission to control and monitor rents as mandated by the Rent Stabilization Ordinance. Landlord registration will provide the Commission with information necessary to facilitate implementation of the Ordinance. Registration shall include information about rents and housing services existing at each residential rental property in West Hollywood.

The registration form and procedures are adopted in order to effectuate Section 6407 (Municipal Code Chapter 17.28) of Ordinance No. 59u.

20001. Times When Registration is Required.

Pursuant to Section 17.28.010 of the Municipal Code, the Commission requires registration

and/or re-registration at the following times:

- (a) Initial Registration. Initial registration is required on or before September 15, 1985, sixty-five (65) days following adoption of the Ordinance.

- (b) Change in Ownership.
 - (1) Whenever a change in ownership occurs, the Seller shall provide the Department with written notice of the change in ownership including the date of transfer, and the name, address and telephone number of the new owner. (Amended by Res. 14-4573, as approved by City Council on 5-19-14)

 - (2) The new owner is required to file a registration form with the Department within sixty (60) days of such change; otherwise, a delinquent registration filing fee, established by Resolution of the City Council, shall be assessed along with the penalties set forth in Regulation 21001. The new owner's registration form will only be accepted by the Department if it is accompanied by a copy of a written notification on a form prescribed by the Rent Stabilization Director from the landlord to all tenants advising the tenants of the change of ownership of the building and setting forth the name, address and telephone number of the new owner and of the new owner's property manager or representative, and a declaration that the new owner served the written notification on all the tenants of the building(Amended by Res. 14-4573, as approved by City Council on 5-19-14)

 - (3) Registration amendments also shall be required to be filed with the Department within sixty (60) days of a change of the property manager or authorized agent or if the address of the owner or authorized agent changes; otherwise, a delinquent filing registration fee, established by Resolution of the City Council, shall be assessed along with any of the separately applicable penalties set forth in Regulation 21001. (Amended by Res. 14-4573, as approved by City Council on 5-19-14)

- (c) Re-registration Following a Vacancy.
 - (1) Effective January 1, 1996, the landlord shall, in the manner described herein, re-

register a rental unit with the Rent Stabilization Department each time a vacancy has occurred and the unit is re-rented.

- (2) Within thirty (30) days after a rental unit is reoccupied following a vacancy, the landlord shall provide to the Rent Stabilization Department such information as the Department deems necessary to verify and record the new Maximum Allowable Rent and otherwise effectuate the purposes of the Rent Stabilization Ordinance. The information shall be provided on a form provided for that purpose by the City, and shall be certified as true under penalty of perjury by the landlord or authorized agent for the landlord. The form shall be accompanied by a re-registration fee, in an amount established by Resolution of the City Council. (Amended by Res. 14-4573, as approved by City Council on 5-19-14)
- (3) Failure to file a complete and accurate vacancy re-registration form with the Department shall result in the property being deemed not to be in substantial compliance with the Rent Stabilization Ordinance.
- (d) Application for Exemption. If an owner has not previously registered, upon filing an exemption application, a registration form must be filed as well.
- (e) Termination of Exemption. Any time a property which has been exempted under the provisions of the Ordinance and Regulations promulgated thereunder loses its exempt status due to termination of the conditions qualifying it for exemption, the owner of such property is required to file a registration amendment form within thirty (30) days of the change in status. Otherwise, penalties as set forth in Regulation 21001 shall be assessed.
- (f) Rent Stabilization Commission Findings and Decision. If a hearing conducted by the Rent Stabilization Commission or one of its hearing examiners reveals that a property is either improperly registered or not registered, the owner is required to file a new registration form containing complete and correct information within thirty (30) days following the date of the final administrative decision. If the landlord fails to amend the registration form, the Department shall amend the form in accordance with the final decision. (Amended by R.S. Res. #95-24, as approved by City Council on 12/04/95)

20002. Acceptance of Registration Form for Filing.

- (a) A Registration Form shall be accepted for filing by the Rent Stabilization Department

only if it is deemed proper as defined in Section 20003 below. Mere submission of a Registration Form prior to September 15, 1985 or by any other required time pursuant to Section 20001, does not guarantee acceptance.

- (b) Upon acceptance of a Registration Form for filing, a landlord shall receive a Certificate of Compliance from the Rent Stabilization Department. The Certificate of Compliance shall be posted by the landlord in a conspicuous location on the property or copies of the Certificate shall be delivered by the landlord to each individual tenant, and to each new tenant upon occupancy. (Amended by R.S. Res. 92-13, as approved by City Council 3-2-92)

20003. Proper Registration.

A property shall be deemed to be properly registered only when all registration fees required by Regulation Section 30000(b) are paid and a Registration Form containing the following information is completely and accurately provided on the registration form:

- (a) Name, current address and telephone number of current owners, authorized representatives and property managers;
- (b) Addresses of all buildings on the property;
- (c) Date of assumption of ownership by current owners;
- (d) Housing services provided building-wide on April 30, 1984;
- (e) The letter or number identifying each and every unit on the property;
- (f) The April 30, 1984 rents except:
 - (1) where a unit was vacant on April 30, 1984 and was rented between January 1 and April 29, 1984, the rent in effect during the last month the unit was rented prior to April 30, 1984;
 - (2) where a unit was vacant on April 30, 1984 and was not rented between January 1

and that date, the rent first charged for the unit after April 30, 1984; and

- (3) where a unit was rented for the first time after April 30, 1984, the first rent charged for the unit.
- (g) Identification of every unit not currently occupied by the tenant occupying the unit on April 30, 1984 or on the applicable date consistent with subsection (f) above;
- (h) The amount of security deposits currently held for each unit;
- (i) Housing services provided to individual units on April 30, 1984 or on the applicable date consistent with subsection (f) above;
- (j) Identification of every unit currently occupied by an owner or employee or a government subsidized tenant; and
- (k) Signature of the owner or authorized representative under penalty of perjury. (Amended by R.S. Res. 89-40, as approved by City Council on 12-27-89)

21000. Failure to Register.

- (a) Any landlord who fails to initially register and pay registration fees shall:
 - (1) Not be entitled to increase rents above the base rent levels set forth in Municipal Code Section 17.08.010 until the property has been properly registered, including the payment of fees;
 - (2) Not be entitled to pass through 1985-1986 registration fees to tenants; and
 - (3) Be subject to late fees in the amount of 100 percent of the registration fees.
- (b) Any landlord who does not register any pay registration fees by September 15, 1985 shall be notified in writing by the Board that if s/he does not do so within thirty days, tenants shall be notified of his/her failure to register and the consequences thereof.
- (c) As of September 15, 1985, no petition, application, claim or request will be accepted

from any landlord, and no hearing or other proceeding shall be scheduled or take place on any such petition, application, claim or request, and no rent increases granted by hearing officers or the Board shall take effect for any property for which there is no complete Registration Form on file.

21001. Failure to Maintain Accurate Registration.

- (a) Any landlord who fails to maintain accurate registration records in compliance with the provisions of Regulation 20001 shall:
 - (1) Not be entitled to increase rents in accordance with the applicable provisions of the Rent Stabilization Ordinance until the property has been properly registered, including the payment of fees;
 - (2) Not be entitled to pass through the allowable registration fees to tenants, until the property has been properly registered, including the payment of fees; and
- (b) Any landlord who fails to pay the annual registration fee by July 15th shall be subject to late fees which shall be added on the 16th day of each month in an amount equal to twenty percent (20%) of the registration fee up to a maximum of one hundred percent (100%). (Amended by R.S. Res. 94-08, as approved by the City Council on 5-16-94)
- (c) As of September 15, 1985, no petition, application, claim or request will be accepted from any landlord, and no hearing or other proceeding shall be scheduled or take place on any such petition, application, claim or request, and no rent increases granted by hearing officers or the Commission shall take effect for any property for which there is no complete Registration Form on file or there are outstanding fees or penalties. (Amended by R.S. Res. 89-40, as approved by City Council on 12-27-89)

22000. Incomplete or Disputed Re-Registration Information: Procedures for Resolution.

A. Failure to Provide Required Information.

1. If a re-registration form submitted to the Department is incomplete, illegible, or otherwise fails to provide the information required pursuant to Municipal Code Section 17.28.020(b) and Regulation 20001(c), the landlord shall be notified of the deficiency within thirty (30) days of the Department's receipt of the form. The Department's failure to notify the landlord within thirty (30) days shall not relieve the landlord of any obligation under the Rent Stabilization Ordinance or these Regulations.

2. The landlord shall be notified that until any defects in the re-registration form are cured, the re-registration form is deemed incomplete and will not be accepted for filing.

3. The landlord shall have fifteen (15) days to cure any defects after being notified by the Department of a deficiency in the re-registration form.

4. If the landlord fails to respond to the Department's notice of deficiency, or fails to cure all defects, within fifteen (15) days, the Department shall notify the landlord and tenant in writing that the re-registration form has not been accepted for filing and that the property is not in substantial compliance with the Rent Stabilization Ordinance.

5. A determination of non-compliance by the Department may be appealed to the Director pursuant to the provisions of Chapter 7 of these Regulations.

B. Tenant Unavailable or Refuses to Sign Re-registration Form.

1. An otherwise complete re-registration form without the tenant's signature may be submitted provided that the landlord attests, under penalty of perjury, that: (i) a good faith attempt was made to locate the tenant, and the tenant could not be located; or (ii) the landlord presented the form to the tenant for his or her signature, and the tenant refused to sign the form.

2. If the tenant is unavailable or refuses to sign a re-registration form, the Department shall notify the tenant that a re-registration form has been filed for the tenancy, including a request that the tenant, within fifteen (15) days of the notice, either: (i) confirm the information provided in the re-registration form; or (ii) reject and modify the information

provided in the re-registration form.

3. If the tenant fails to respond to the Department's notice within fifteen (15) days, or confirms the information provided in the re-registration form, the re-registration form shall be deemed complete and filed, and the landlord and tenant shall receive notice thereof.

4. If the tenant rejects and modifies the re-registration form within fifteen (15) days of the Department's notice, the Department shall provide the landlord with the tenant's modifications and a request for confirmation or rejection of the tenant's modifications within ten (10) days of the request. If the landlord confirms the tenant's modifications, then the re-registration form, along with the tenant's modifications, will be deemed complete and filed. If the landlord rejects the modifications, the Department shall set a hearing to resolve any disputed information pursuant to the provisions of Subchapter J of Chapter 6 of these Regulations. Following a final determination by the hearing examiner or Rent Stabilization Commission, the re-registration form shall be deemed filed in accordance with said determination.

C. Nothing in this Section shall be construed to preclude Department staff from facilitating the informal resolution of disputes between landlords and tenants arising from the submission of incomplete or disputed re-registration forms.

CHAPTER 3

REGISTRATION FEE

30000. Registration Fee.

- (a) Purpose. The registration fee required by this section is to finance the reasonable and necessary expenses of the Rent Stabilization program of the City of West Hollywood for each fiscal year from July 1st through June 30th.
- (b) Amount of Registration Fee. A landlord shall pay to the City of West Hollywood a Rent Stabilization registration fee for each rent stabilized unit he/she owns in the City. The amount of the fee is to be determined each year by Resolution of the Rent Stabilization Commission of the City of West Hollywood, or after December 2, 1987, by Resolution of the City Council.
- (c) Deadline for Landlord Payment of Registration Fee. Prior to 1990, a landlord shall pay annual registration fees due and owing pursuant to this section on or before September 1st, and commencing in 1990, annual registration fees shall be due and owing on or before July 1st, except insofar as he/she falls within the following exception:
 - (1) When a landlord has been granted an exemption for a stabilized rental unit which exemption is valid on the deadline to pay registration fees to the City. If an exemption lapses on or after that date, the landlord shall pay prorated registration fees for the period of time between the date when the exemption terminates and the date when the registration fees are due. Such prorated fees shall become due and owing thirty (30) days following the date on which an exemption terminates. Commencing in 1991, any landlord who wishes to renew an application for an exemption must do so annually on or before April 1st. (Amended by R.S. Res. 90-03, as approved by the City Council 3-5-90)
 - (2) If a landlord has been granted a fee deferral which is effective on September 1st, but such fee deferral terminates prior to August 31st, the landlord shall pay prorated registration fees for the period of time between the date on which the unit is no longer eligible for a fee deferral and August 31st. Such prorated fees shall become due and owing thirty (30) days following the date on which the fee

deferral terminates.

- (3) Prior to 1990, if a landlord has received Rent Stabilization Department approval for an alternate payment schedule as set forth in subsection (i) which is effective on or before September 15th, but such payment schedule terminates on or before March 1st of the following year.
- (4) Commencing in 1990, if a landlord has received Rent Stabilization Department approval for an alternate payment schedule as set forth in subsection (i) which is effective on July 1st, but such payment schedule terminates on or before January 1st of the following year. (Revised 10/11/89)

(d) Pass-Through of Registration Fee to Tenants.

- (1) A landlord may increase the amount of the monthly pass-through to tenants on any controlled unit for which the annual registration fee is paid by an amount to be determined by Resolution of the Rent Stabilization Commission of the City of West Hollywood, or after December 2, 1987, by Resolution of the City Council. The rent surcharge provided by this subsection may be implemented on September 1st, and must terminate on August 31st of the following year. The registration fee pass-through shall not be considered part of the rent in calculating the rent increase to which a landlord is entitled pursuant to the General Adjustment.
- (2) Notice Requirements. Increases pursuant to this Section shall not be effective until the landlord has first given notice to the affected tenant(s) as required by State law.

(e) Delinquent Registration Fees.

- (1) Prior to 1990, if the landlord does not pay the registration fee by September 15th, or commencing in 1990 by July 15th, he/she may not pass the registration fee through to tenants. Once the registration fee and any applicable penalties are paid, the Landlord may commence passing the registration fee through to the tenants in accordance with the provisions of this Section.
- (2) Prior to 1990, if the landlord does not pay the amount provided in subsection (b)

by September 15th, or commencing in 1990 by July 15th, a late charge shall be assessed in an amount equal to 100 percent of the registration fee.

- (3) For only the year 1989, if a landlord paid one-half for the \$96.00 registration fee, or \$48.00, by September 15, 1989, then the landlord shall be able to pay the second half of the registration fee, or \$48.00, on or before October 16, 1989.
- (4) A waiver of the penalty for late payment of registration fees may be granted by the Department upon a showing of exceptional circumstances beyond the control of the property owner which made it impossible for the registration fees to be paid in a timely manner. (Amended by R.S. Res. 89-45, as approved by City Council 12-14-89)

(f) Registration Fee Deferral.

Prior to 1990, a landlord may apply to the Rent Stabilization Department for approval of deferral of the payment of annual registration fees from September 1st until August 15th of the following year. Commencing in 1990, a landlord may apply to the Rent Stabilization for approval of deferral of the payment of annual registration fees from July 1st until June 15th of the following year. To be eligible for a fee deferral, the landlord must demonstrate to the Department, by providing satisfactory documentation and/or an affidavit signed under penalty of perjury, that:

- (1) The property owner is elderly as defined by HUD (62 years or older) or handicapped; and
- (2) The property owner is in the very low income category as defined by HUD (the property owner's annual income does not exceed fifty percent (50%) of the median income for the County of Los Angeles as determined by the Department of Housing and Urban Development).

(g) Registration Fee Rebate to Income Eligible Tenants.

After September 1st of each year, a tenant who is eligible may apply to the Rent Stabilization Department for a refund of the registration fees which the tenant paid to the landlord during the preceding three years, if not previously reimbursed. To be eligible for

a registration fee rebate, the tenant must demonstrate to the Department, by providing satisfactory documentation and/or an affidavit signed under penalty of perjury, that:

- (1) The tenant is in a unit subject to the provisions of the Rent Stabilization Ordinance, and the landlord has paid the registration fees for the unit to the City;
- (2) The tenant reimbursed the landlord for the registration fees by paying the monthly registration fee pass-through established by subparagraph (d);
- (3) The tenant is elderly as defined by HUD, 62 years or older, or handicapped; and
- (4) The tenant is in the very low income category as defined by HUD, the tenant's annual income does not exceed fifty percent (50%) of the median income for the City of Los Angeles as determined by the Department of Housing and Urban Development.

(h) Registration Fee Rebate to Income Eligible Property Owners.

Commencing September 1, 1990, a property owner who is eligible may apply to the Rent Stabilization Department for a refund of the property owner's share of the registration fees which the property owner paid during the preceding year. To be eligible for a registration fee rebate, the property owner must demonstrate to the Department, by providing satisfactory documentation and/or an affidavit signed under penalty of perjury, that:

- (1) The property owner is elderly as defined by HUD (62 years or older) or handicapped; and
- (2) The property owner is in the very low income category as defined by HUD (the property owner's annual income does not exceed fifty percent (50%) of the median income for the County of Los Angeles as determined by the Department of Housing and Urban Development.

(i) Alternate Schedule of Registration Fee Payment.

Commencing September 1, 1989, a property owner who is eligible may apply to the Rent Stabilization Department for approval of an alternate payment schedule of the property owner's portion of the annual rent registration fee. To be eligible for an alternate payment

schedule, the property owner must demonstrate to the Department, by providing satisfactory documentation and/or an affidavit signed under penalty of perjury, that:

- (1) The property owner's current monthly operating expense budget for the property exceeds the projected monthly income from the property and;
- (2) The property owner's liability for annual rent registration fees on the property will be paid in full in 1 to 6 equal installments on or before the 1st day of the 6th month following the date on which the annual rent registration fee is due.

This paragraph shall be effective for one year and six months. The effective date of this subsection may be extended by Resolution of the Rent Stabilization Commission. (Amended by R.S. Res. 89-30, as approved by City Council on 10-2-89)

31000. Partial Pass-Through of Water Surcharge to Residents.

- (a) Pass-Through of Water Surcharge. A landlord may impose a one-time surcharge upon the resident of a residential rental unit in order to recover 50% of a surcharge imposed upon the landlord by a water provider. No surcharge may be passed through if it has not actually been paid by the landlord.
- (b) Eligibility to Impose Surcharge Pass-Through. In order to impose this surcharge, the landlord must be in full compliance with all registration requirements, including the payment of any applicable registration fees and penalties. In addition, the landlord must have repaired known leaks and completed installation of the following water conservation devices in all dwelling units at the property: low-flow shower heads, toilet tank water displacement devices (unless an ultra-low-flush toilet is provided), and water faucet aerators.
- (c) Notice Requirements. A surcharge pursuant to this Section shall not be collectible until the landlord has first given notice to the affected resident(s) as required by State law. The notice shall include a photocopy of the statement of the water provider indicating the surcharge levied upon the landlord, and the property owner's statement indicating the mathematical calculations upon which the amount of surcharge imposed upon the individual resident(s) was arrived at.
- (d) Apportionment of Water Surcharge. Of the total water surcharge levied by a water

provider, 50% of the total may be passed through to residents. This amount shall be allocated to each unit based on the number of people living in the unit during the month for which the surcharge is imposed. Each person in the building shall be considered one share. The per share cost shall be determined by dividing 50% of the surcharge by the total number of shares in the building; the per share cost is then multiplied by the number of shares for that unit.

- (e) Status of Water Surcharge. The partial pass-through of water surcharges imposed upon landlords constitutes recovery of such charges, and is not rent as defined in Municipal Code Section 17.08.010, and as referred to in Municipal Code Chapter 17.52. The water surcharge pass-through shall not be considered part of the rent in calculating the rent increase to which a landlord is entitled pursuant to the General Adjustment.
- (f) Repeal of This Section. The City Council shall repeal this Section upon a finding that the drought emergency is over. (Amended by City Council Res. 842, as approved by the City Council 5-20-91)

CHAPTER 4

ANNUAL GENERAL ADJUSTMENTS

40000. General Adjustment.

- (a) Commencing on September 1, 1985, all landlords may increase rents above the April 30, 1984 base rent by an amount not to exceed three (3%) percent. On September 1st of each subsequent year, all landlords may increase rents by a general adjustment in an amount to be determined by Resolution of the Rent Stabilization Commission of the City of West Hollywood. In addition, except as provided in subparagraph (1) below, any landlord who provides gas to tenants without charge may increase the rent by an additional 0.5 percent; any landlord who provides electricity to tenants without charge may increase the rent by an additional 0.5 percent. If a landlord provides both gas and electricity without charge, he/she may increase the rent by an additional one percent.
 - (1) No additional increase for utilities may be taken in connection with the annual general adjustments that are effective September 1, 1994, September 1, 1995, and September 1, 1996.
- (b) If a landlord was entitled to a vacancy increase prior to September 1, 1985, such increase shall be added to the base rent after calculating the increase authorized by this section.
- (c) Commencing with the annual general adjustment that becomes available on September 1, 1996, a rent adjustment permitted pursuant to this section may not be taken if the tenant(s) have occupied the unit for less than twelve (12) months or if a prior annual general adjustment has been taken within the preceding twelve months.
- (d) Commencing with the annual general adjustment that becomes available on September 1, 1996, annual rent adjustments permitted pursuant to this section must be made effective during the period of September 1 of the year in which the adjustment is announced through August 31 of the following year or be forfeited.
- (e) In order to increase rents pursuant to this section, a landlord must give the notice required by California Civil Code Section 827.

- (f) A landlord shall not demand, accept or retain increased rents pursuant to this section unless the landlord has registered the rental unit for which the rent increase is sought, has re-registered the property on vacancy as required, and has paid the required registration fees and other fees.
- (g) In any notice of a rent increase pursuant to this section, a landlord must certify that there has been compliance with all provisions of this chapter, including filing of the required Registration Form and payment of required fees.
- (h) The registration fee pass-through shall not be considered part of the rent in calculating the rent increase to which a landlord is entitled pursuant to this section. (Amended by R.S. Res. #96-36, as approved by City Council on 07/15/96)

41000. Rent Adjustments Following a Vacancy.

- (a) A landlord may establish, subject to the limitations provided by this section and Municipal Code Chapter 17.40, the initial rental rate for a tenancy, which begins on or after January 1, 1996. The rental rate established shall thereafter constitute the Maximum Allowable Rent for all purposes under the Rent Stabilization Ordinance, including the calculation of all future rent adjustments.
- (b) The initial rental rate established pursuant to Section 41000(a) of the Regulations and Municipal Code Chapter 17.40 shall not exceed the existing Maximum Allowable Rent for the rental unit if any of the following apply:
 - (1) The landlord has agreed by contract with the City or other public entity to limit or otherwise restrict rent levels in consideration for a direct financial contribution or any other form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
 - (2) The landlord is obligated by contract with any individual, person, firm, organization or public entity to limit or otherwise restrict the amount of rent that may be charged on a residential unit.
 - (3) The rental unit contains serious health, safety, fire or building code violations,

excluding those caused by disasters, for which a citation has been issued by the appropriate governmental agency and which has remained unabated for six months preceding the vacancy.

- (4) The prior tenant vacated the property as a proximate result of conduct by the landlord or the landlord's agent, which constitutes harassment prohibited by law, or which constitutes constructive eviction or a breach of the covenant of quiet enjoyment of the property.
 - (5) The prior tenant did not have a *bona fide* landlord-tenant relationship with the property owner or occupied the property for less than six months and principally for the purpose of vacating the property to establish eligibility for an upward adjustment in the Maximum Allowable Rent under this Section.
- (c) During the period of January 1, 1996 through December 31, 1998, any upward adjustment in the Maximum Allowable Rent authorized by this Section is subject to the following additional limitations:
- (1) No upward rent adjustment may be taken unless the prior tenant voluntarily vacated the rental unit, abandoned the unit, or was evicted for non-payment of rent pursuant to Code of Civil Procedure Section 1161(2);
 - (2) A rent adjustment may be taken no more than twice during the three-year period;
 - (3) The rental rate established for the new tenancy pursuant to this section shall not exceed the amounts authorized herein.
- (d) During the period of January 1, 1996 through December 31, 1998, the initial rent established for a single-family residence following a vacancy pursuant to this section and Municipal Code Chapter 17.40 shall not be limited in amount.
- (e) During the period of January 1, 1996 through December 31, 1998, the initial rent established for all rental units, other than single-family residences, following a vacancy pursuant to this section and Municipal Code Chapter 17.40 shall not exceed the greater of the following amounts:
- (1) One-hundred-fifteen percent (115%) of the Maximum Allowable Rent for the

rental unit.

- (2) Seventy percent (70%) of the applicable adjusted Fair Market Rent for the rental unit. As used herein, the adjusted Fair Market Rent applicable to a particular rental unit shall be the amount set forth for a unit of the same number of bedrooms in the Schedule of Fair Market Rents for the Los Angeles-Long Beach Primary Metropolitan Statistical Area, published annually in the Code of Federal Regulations by the United States Department of Housing and Urban Development, adjusted downward by the applicable allowance for utilities where one or more utilities are not provided. Additional adjustments to the applicable Fair Market Rent may be made if the rental unit is unusual in size or in type or number of amenities and housing services or if the rental unit is located in a neighborhood which warrants such an adjustment.

- (f) Commencing January 1, 1999, upward adjustments in the Maximum Allowable Rent authorized by this section are not limited in amount or frequency, but may not be taken if the previous tenancy was terminated by the landlord pursuant to Section 1946 of the California Civil Code, or was terminated upon a change in terms of tenancy noticed pursuant to Section 827 of the California Civil Code, except a change permitted by law in the amount of rent or fees. (Amended by R.S. Res. #95-24, as approved by City Council on 12/04/95)

41001. Procedures for Monitoring Upward Rent Adjustments Following a Vacancy and Recording New Maximum Allowable Rents.

- (a) Upon receipt of the re-registration form which the landlord is required to file within thirty (30) days after re-rental of a unit pursuant to Regulation 20001(c)(2), the Rent Stabilization Department shall review the information provided on the re-registration form. If the initial rental rate established for the new tenancy is in excess of the Maximum Allowable Rent in effect for the prior tenancy, the Department shall verify that the rental unit qualifies for such an increase pursuant to Regulation 41000 and Municipal Code Chapter 17.40 and shall confirm that it is within the amounts permitted therein. (Amended by Res. 14-4573, as approved by City Council on 5-19-14)

- (b) Within thirty (30) days after receipt of the vacancy re-registration form the Rent Stabilization Department shall record the initial rental rate as the Maximum Allowable Rent for that unit, provided that it does not exceed the amount authorized by the Ordinance, and shall notify the tenant and landlord of the new Maximum Allowable Rent

for the unit. (Amended by R.S. Res. #95-24, as approved by City Council on 12/04/95)

42000. Security Deposits.

- (a) All interest accrued on tenant security deposits through the period ending December 31, 1993 pursuant to Municipal Code Section 17.32.020, shall become due and payable on or before February 28, 1994, at the rate of 5 1/2% per annum. Payment of such accrued interest may be made by an authorized rent credit or direct payment to the tenants.

In the event that no payment is made or rent credit authorized by the landlord before March 1, 1994, tenants entitled to accrued interest may reduce the amount of their rent for the month of March 1994, or a subsequent month, by the amount of interest due.

- (b) On or before September 1 of each year, the Rent Stabilization Commission shall announce the interest rate to be paid on security deposits for that calendar year. This rate shall be calculated by averaging the rates for regular passbook accounts at five West Hollywood banks as of July 1 and rounding to the nearest 1/4 of one percent. (Amended by R.S. Res. 02-189, as approved by the City Council 9-23-02)
- (c) Payment must be made or a credit towards rent given for interest accrued during the year ending December 31, no later than January 31 of the following year, or the tenant may deduct the amount due from the February rent.
- (d) Notwithstanding the requirement of this regulation that payment of interest on security deposits be made annually, tenants who vacate a rental unit shall be entitled to interest accrued through the last full month of their tenancy upon their departure from the premises. Such interest shall be paid at the applicable rate for the prior calendar year.
- (e) All interest due will be rounded to one-month increments. For a landlord to be liable for interest for a particular month, they must have received the security deposit on or before the first day of that month. (Amended by R.S. Res. 93-23, as approved by the City Council 9-20-93)

CHAPTER 5

EXEMPTIONS

50000. Exemption Procedures.

(a) Filing of Application and Notice Thereof.

Any person seeking an exemption determination pursuant to Municipal Code Section 17.24.010 must submit an application on the form prescribed by the Rent Stabilization Department and approved by the Rent Stabilization Commission. All forms shall specify, and all written statements shall be made, under penalty of perjury. Within five (5) business days of filing, the owners shall either serve a copy of such application on tenants from every rental unit for which the owner seeks an exemption, or post copies of such application in conspicuous locations on the property. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)

(b) Submission of Required Information in Support of Application for Exemption.

The applicant has the burden of proving entitlement to an exemption. In order to facilitate the processing of an application for exemption, any person submitting such an application shall provide information of the nature of the claimed exemption and the specific facts upon which the applicant relies in support of the exemption. The applicant shall supply such further information and documentation as required by the Rent Stabilization Department to investigate and verify the claimed exemption. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)

(c) Administrative Dismissal of Application for Exemption.

(1) The Rent Stabilization Department shall dismiss an application for exemption and shall neither schedule a hearing nor grant an exemption if the application submitted is not completed or where the application fails, on its face, to state a basis for exemption under Municipal Code Section 17.24.010. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)

(2) Prior to dismissal of an application for exemption, Rent Stabilization Department staff shall mail to the applicant a written notice of intention to dismiss stating the

applicable reasons for such dismissal. The applicant shall have ten (10) business days from the date of the notice to cure the defects in the application prior to dismissal. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)

- (3) The Rent Stabilization Department may make an administrative determination to dismiss an application pursuant to this section. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)
- (4) A copy of a notice of administrative determination to dismiss an application containing the applicable reasons for dismissal shall be mailed to the applicant and affected tenant(s).

(d) Time for Determination.

The Department shall make a final determination as to the exempt or non-exempt status of a property within twenty (20) business days of the date when a complete application was received by the Department. Where necessary, the Department may hold a hearing for the purpose of receiving evidence upon which to make the determination. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)

(e) Written Notice of Determination.

If an exemption is granted, the applicant shall receive a Certificate of Exemption, which shall be posted in a conspicuous location on the property or delivered to all affected tenants. If an exemption is denied, the notice of determination shall contain a statement of the reasons for denial of the application. (Amended by R.S. Res. 92-13, as approved by the City Council on 3-2-92)

50001. Effective Date of Exemption.

A property shall not be considered exempt from the Rent Stabilization Ordinance until the owner of such property has applied for, and received, a determination by the Rent Stabilization Department that his/her property is exempt.

Upon determination by the Department that a property is exempt from the Rent Stabilization Ordinance, the exemption shall be deemed to relate back to the date upon which the application

for exemption was filed, provided that the conditions entitling an applicant to an exemption existed and have continued to exist at all times since that date. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)

50002. Monitoring and/or Renewal of Exemption Certificates.

(a) Renewal of Exemption.

Renewal of an exemption certificate is required annually on or before April 1st and whenever a change in ownership occurs. If the exemption is not renewed by April 1, the exemption shall expire by its terms. A new owner of residential rental property is required to file an exemption application within thirty (30) days of such change in ownership or the exemption shall terminate automatically. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)

- (1) Commencing in 1991, renewal of an Exemption Certificate is required annually on or before April 1st. If the exemption is not renewed by April 1st, a late filing fee in an amount established by Resolution of the City Council shall be assessed. (Amended by R.S. Res. 90-03, as approved by the City Council on 3-5-90)

(b) Periodic Monitoring of Exemption Status.

(Reserved for monitoring schedules to be adopted by the Commission.)

50003. Termination of Exemption.

(a) Automatic Expiration of Exemption.

- (1) If the use of a property or unit which has been granted an exemption changes such that the property or units are no longer used for the purpose pursuant to which the owner was granted an exemption, the exemption shall be deemed to terminate automatically. This section does not apply to properties which receive exemptions as new construction rather than exemptions due to use.
- (2) If the ownership of a property or unit which has been granted an exemption changes, the new owner shall be allowed a one-hundred eighty (180) day grace period in which to apply for an exemption. If the new owner fails to apply within

that period, the exemption shall terminate automatically, effective with the date of the ownership change. Section 50003 (a) (2) shall only apply to exemptions granted for uses pursuant to WHMC § 17.24.010 (a) (9) and (10). The grace period for probate properties shall begin when probate is settled. (Amended by R.S. Res. 12-403, as approved by the City Council on 6-18-12)

(b) **Revocation of Exemption.**

- (1) A proceeding to revoke an exemption may be initiated by the Department upon request by a tenant who has shown good cause and/or upon facts revealed by staff investigation. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)
- (2) The Department may revoke a grant of exemption where it determines that the exemption was obtained through misrepresentation of facts by the owner, that the use entitling an owner to an exemption for a particular property or unit(s) has changed or that the exemption was granted through Department error. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)
- (3) Prior to revocation of an exemption, notice shall be mailed to the owner stating the reasons that the Department is considering revocation. Upon at least ten (10) business days notice to the owner, a revocation hearing shall be held by the Department. The owner shall be entitled to submit testimony, records, or any information relevant to his/her entitlement to an exemption. Subsequent to the hearing, a written determination shall be mailed to the owner. (Amended by R.S. Res. 91-04, as approved by the City Council on 2-4-91)

CHAPTER 6

INDIVIDUAL RENT ADJUSTMENTS

60000. Scope of Regulations.

The regulations contained in this chapter shall govern the application, hearing, appeal processes and time periods thereunder applicable when any person or group seeks a rent adjustment under Municipal Code Chapter 17.44 of the City of West Hollywood. All time periods of ten (10) days or less shall not include weekends and official municipal holidays.

SUBCHAPTER A. APPLICATION

60001. Application Filing Requirement.

Any person or group seeking a rent adjustment must file an application and obtain approval under this chapter. Other than an application concerning common areas controlled by a condominium or homeowner's association, an application for failure to perform required maintenance in a common area or for a substantial reduction or discontinuance of a housing service in a common area may be filed by one or more tenants. (Amended by Res. 04-680, Effec. 04-20-04)

60002. Application and Submission Forms.

- (A) Application and submission forms shall be prescribed by the Rent Stabilization Director with the approval of the City Attorney as to form. All forms shall specify, and all written statements shall be made, under penalty of perjury.
- (B) Application forms for upward rent adjustment will be available commencing October 1, 1985.
- (C) Application forms for downward rent adjustment will be available commencing October 15, 1985. An application for downward rent will only be accepted if accompanied by a copy of a written notification to the landlord from the tenant setting forth the grounds for the requested rent reduction and a request for remediation of the conditions or services or performance of the maintenance (if applicable), and a declaration that he/she served this written notification on the landlord, that at least a thirty (30) day period has elapsed since service of the written notification, or the landlord has refused to perform the work, and no remediation of the condition or services has occurred. In cases where the unit is rendered untenable, the Department may accept an application immediately after the tenant serves the landlord with the written notice.

The provision of this subsection requiring that written notification be provided to the landlord does not apply to an application seeking a determination of the base rent or of

the maximum allowable rent charged for units.

An application for a rent increase will only be accepted if accompanied by a copy of a written notification on a form prescribed by the Rent Stabilization Director from the landlord to all tenants that the landlord is filing a rent increase application and setting forth the grounds for the requested rent increase and the proposed increases for each unit and a declaration that he/she served the written notification on all the tenants. (Amended by R.S. Res. 94-21, as approved by City Council 1-3-95)

60003. Application Fee.

- (A) The filing fee for an individual rent adjustment application filed by a landlord shall be paid at the time the completed application is submitted to the Rent Stabilization Department. The filing fee shall be established by Resolution of the Commission or after December 2, 1987, by Resolution of the City Council.
- (B) The filing fee for an individual rent adjustment application filed by a landlord to establish the amount of the maximum allowable rent or a tenant alleging violations of Municipal Code Section 17.44.040 due to reduction in services, failure to comply with maintenance requirements set forth in Municipal Code Section 17.56.010, to establish or contest the amount of the maximum allowable rent or collection of rent in excess of the maximum allowable rent, otherwise in violation of the Ordinance shall be paid at the time the completed application is submitted to the Rent Stabilization Department. The filing fee shall be established by Resolution of the Commission, or after December 2, 1987, by Resolution of the City Council. If a tenant application for rent adjustment is found meritorious, the tenant(s) shall be reimbursed for the filing fee by the landlord.
- (C) All filing fees are non-refundable.
- (D) All fees for applications filed by tenants or landlords shall be waived where:
 - (1) Applicants declare in writing that they are receiving benefits pursuant to:
 - (a) the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Section 12200-12205.2 of the Welfare and Institutions Code);

- (b) the Aid to Families with Dependent Children (AFDC) program (42 U.S.C. 601-644);
 - (c) the Food Stamp program (7 U.S.C. 2011-2017); or
 - (d) Section 17000 of the Welfare and Institutions code (general assistance, county aid and relief to indigents); or
- (2) Applicants meet the same eligibility standards as the Commission adopts for the registration fee rebate program. (Amended by R.S. Res. 89-40, as approved by the City Council on 2-5-90)

60004. Procedure for Filing.

- (A) Applications under this chapter may be submitted to the Rent Stabilization Department during normal business hours or may be submitted by mail. Applications shall not, however, be deemed accepted for filing upon mere submittal. Applications must meet the requirements set forth in Section 60005 prior to acceptance.

60005. Acceptance for Filing.

- (A) An application for a rent adjustment will not be accepted for filing for any of the following circumstances:
- 1. Where the application is not made on the application form prescribed by the Rent Stabilization Department;
 - 2. Where the application is not accompanied by payment in full of the applicable application fee in the form of cash, money order, certified check or other form satisfactory to the Rent Stabilization Department and no waiver of the filing fee has been received; or
 - 3. Where the applicant is a landlord and the building in which the unit or units for which a rent adjustment is requested has not been properly registered with the Department of Rent Stabilization or any applicable registration fees or penalties have not been paid in full.
 - 4. Where less than six (6) months have elapsed since a previous final decision or

dismissal of a rent adjustment application with respect to the property, unit or units in question which was filed by the applicant, any one or more of the group of applicants sharing tenancy, unless applicant declares and demonstrates that one of the following circumstances applies:

- (a) the grounds upon which applicant seeks a rent adjustment could not have been raised in the prior application;
 - (b) currently available evidence which supports a rent adjustment was not available for good reason at the time of the prior hearing;
 - (c) rent adjustments were not sought in the prior application in relation to the particular units in question in the current application; or
 - (d) the hearing examiner, Commission, or court of competent jurisdiction has explicitly stated in the prior decision that the frequency of filing limitation set forth above shall not apply to applicant;
5. Where the application is not accompanied by the notice required by Regulation 60002 C.
6. Where the landlord is seeking an adjustment based on Municipal Code Section 17.44.030 and the application is not accompanied by any appraisal and all information supporting the landlord's application relative to the issue of rents charged for comparable units. This paragraph shall become effective on June 3, 1991. (Amended by R.S. Res. 91-15, as approved by the City Council on 6-3-91)

60006. Incomplete Applications.

- (A) Within ten (10) business days after the date of acceptance for filing of an application for rent adjustment, the Senior Hearing Examiner or Hearing Examiner shall determine whether said application is complete.
- (B) If the application is determined not to be complete, the Senior Hearing Examiner or Hearing Examiner shall notify applicant in writing of the additional information required to complete the application. Applicant may amend the application to include the required information or may notify the hearing examiner

in writing that the required information is unavailable. The 115-day time limit for consideration of the application set forth in Municipal Code Section 17.44.020 shall not begin to run until the application is accepted as complete for filing.

- (C) If the Applicant fails to file the response required by Paragraph B to the Notice of Incompleteness within sixty (60) days of the date of mailing the Notice, the application shall be deemed to be withdrawn. (Amended by R.S. Res. 87-61, as approved by the City Council on 11-24-87)

60007. Applicant Waivers.

Applicant may waive the 115-day time limit for consideration of the application set forth in Municipal Code Section 17.44.020. Such waiver shall be submitted on a form prescribed by the Rent Stabilization Director and approved by the City Attorney as to form. Such waiver may specify an extension of the 115-day time period by a stated number of days, or may waive the time limit in its entirety. Nothing in this section shall be construed to prohibit the filing of more than one such waiver by applicant.

60008. Applicant Withdrawals.

Applicant may at any time withdraw his/her application for a rent adjustment. Such withdrawal shall be submitted on a form prescribed by the Rent Stabilization Department and approved by the City Attorney as to form.

SUBCHAPTER B. HEARING ON APPLICATION FOR RENT ADJUSTMENT

60009. Hearing Officer.

- A. Any person who has been appointed by the City Manager, or the designee of the City Manager, on a part-time or full-time basis may serve as a hearing examiner at a rent adjustment hearing.
- B. The hearing officer shall have the authority to:
 - 1. Administer oaths and affirmations;
 - 2. Cause the Rent Stabilization Department to issue subpoenas for the attendance of

persons to testify and produce books, records and other documents;

3. Cause inspections to be made of the property, rental unit or rental units for which a rent adjustment is sought;
4. Rule on offers of proof and receive relevant evidence;
5. Control the course of the hearing;
6. Rule on procedural requests;
7. Render decisions on applications for rent adjustments; and
8. Take other actions authorized by this chapter and any other duly adopted ordinances, resolutions, rules and regulations of the City Council and/or Rent Stabilization Commission pursuant to the Rent Stabilization Ordinance.

C. The functions of the hearing officer shall be performed in an impartial manner.

60010. Notice of Hearing on Application for Rent Adjustment.

- A. As soon as practicable after the determination of the completeness of an application for a rent adjustment and in no event later than ten (10) business days prior to the hearing, the Rent Stabilization Department shall mail to the applicant and all affected parties, a notice of the hearing on the application.
- B. Said notice shall state:
 1. The date, time and place of the hearing;
 2. A brief summary of the stated justification therefor, and
 3. That all submitted documents and materials as well as any report prepared by the hearing officer or staff will be available for public review prior to the hearing.
- C. Incorporated within the notice of hearing, or in a separate notice or subpoena, the hearing officer may, through the subpoena power granted to the Rent Stabilization Director or

his/her designee by Municipal Code Section 17.44.010, request or subpoena persons to testify and/or to produce books, records and other documentation at, or at a designated time prior to, the hearing on the application. If the Director issues a subpoena at the request of a party to the proceeding, the party at whose request the subpoena is issued shall pay any witness fees or mileage fees to the witness and shall arrange for service of the subpoena in accordance with State law.

- D. The applicant shall post a copy of the notice of the hearing in a conspicuous place on the affected property at least five (5) business days prior to the hearing. If the applicant is a tenant or group of tenants, the affected landlord shall permit the applicant to so post the notice.

60011. Hearing Date.

Within thirty (30) days after an application for a rent adjustment is determined to be complete, the hearing examiner:

- A. Shall hold a hearing on the application, unless an administrative determination to dismiss such application has been made or a continuance has been granted; or
- B. Shall issue a decision denying the application on the grounds that even if everything stated in the application is accepted as true, the application has no merit under the provisions of this Chapter.

60012. Continuance.

An affected party may submit a written request for a continuance or a rent adjustment hearing. Such request shall be submitted on a form prescribed by the Rent Stabilization Department, and shall state the reasons for the requested continuance, what efforts have been made to ascertain the position of other affected parties in relation to the requested continuance, and the desired alternative dates for the hearing. Requests for continuances should be submitted at the earliest possible date, and must be received by the hearing officer at least seventy-two (72) hours prior to the scheduled hearing unless good cause is shown for a later request. The person submitting the request for continuance shall declare that all affected parties have been served with copies of the request.

60013. Conduct of Hearing.

- A. The hearing officer shall control the conduct of the hearing and rule on procedural requests. The hearing shall be conducted in the manner deemed by the Hearing Examiner to be most suitable to ensure fairness to all concerned parties, to secure that information and documentation which is necessary to render an informed decision, and to result in a fair decision without unnecessary delay. There shall be no oral communication outside the hearing between the Hearing Examiner and any party or witness, except at a pre-hearing conference, if any, to clarify and resolve issues. All discussion during the hearing shall be recorded by any electronic recording device. The device used to record the hearing may be turned off only if the Hearing Examiner is required to leave the room. The Hearing Examiner shall summarize the purpose of the recess prior to turning off the recording device. All written communication from the Hearing Examiner after the hearing has commenced shall be provided to all parties. (Amended by R.S. Res. 93-19, as approved by the City Council on 8-2-93)

- B. If a landlord is seeking a rent adjustment pursuant to Municipal Code Section 17.44.030, the landlord may not introduce evidence regarding rents charged for comparable units except the evidence filed with the application. However, the landlord may introduce such evidence for rebuttal purposes, or if such evidence is requested by the Hearing Examiner, or upon a showing that despite the exercise of due diligence the evidence could not have been produced at the time of the filing of the application. This paragraph shall become effective on June 3, 1991. (Amended by R.S. Res. 91-15, as approved by the City Council on 6-3-91)

60014. Rules of Evidence.

Formal rules of evidence shall not be applicable to hearings on applications for rent adjustment. At such a hearing, the applicant and other affected parties may offer any documents, testimony, written declarations, or other evidence that, in the opinion of the hearing officer, is credible and relevant to the requested rent adjustment. The hearing officer may consider the results of inspections of the property in question and the results of any other investigations conducted by or at the request of the hearing officer. The hearing officer shall consider any relevant evidence if it is the sort of evidence which a reasonable person might consider in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Evidence unduly repetitious, lacking credibility, or irrelevant evidence shall be excluded upon order by the hearing officer.

60015. Order of Proceedings.

A hearing on an application for rent adjustment shall ordinarily proceed in the following manner, unless the hearing officer determines that some other order of proceedings would better facilitate the hearing:

- A. Presentation by or on behalf of applicant, if applicant desires to expand upon the information contained in or appended to the application for rent adjustment, including presentations of any other affected parties and witnesses in support of the application;
- B. Presentation by or on behalf of opponents to the application, including presentations of any other affected parties and witnesses in opposition to the application;
- C. Presentation of the results of any investigations or staff reports in relation to the application;
- D. Rebuttal by applicant.

60016. Speakers' Presentations.

The presentation of each person speaking during a hearing shall be concise and to the point; visual and other presentation aids may be used as deemed appropriate by the hearing officer. The hearing officer may establish equitable time limits for presentations at a hearing.

60017. Right of Assistance.

All parties to a hearing shall have the right to seek assistance in developing their positions, preparing their statements, and presenting evidence from an attorney, recognized tenant organization representatives, landlord association representative, translator, or any other person designated by said parties to a hearing.

60018. Hearing Record.

The hearing officer shall maintain an official hearing record, which shall constitute the exclusive

record for decision. The hearing record shall include:

- A. A copy of the application for rent adjustment;
- B. Any written responses to the application received from concerned parties;
- C. All exhibits, papers, and documents offered either before or during the hearing;
- D. A list of participants present at the hearing;
- E. A summary of all testimony upon which the decision is based;
- F. A statement of all materials officially noticed;
- G. All findings of fact and conclusions of law;
- H. All recommended or final decisions, orders, or rulings.

60019. Public Inspection of Hearing Record.

The hearing record is a public record and may be inspected and copied by any person. Copying fees shall be required consistent with City policy.

60020. Quantum of Proof.

No individual rent adjustment shall be granted unless supported by the preponderance of the relevant and credible evidence noted in the hearing record and no individual rent adjustment shall be supported solely by hearsay evidence.

60020.1 Re-Opening of Hearing.

The Hearing Examiner may re-open the hearing record when she or he believes that further evidence should be considered to resolve a material issue, where the hearing record has been closed and where a decision has not yet been issued by the Hearing Examiner. The parties may waive further hearing by agreeing in writing to allow additional exhibits into evidence. (Amended by R.S. Res. 94-20, as approved by City Council on 1-3-95)

60021. Decision.

Within thirty (30) days after the close of the hearing, the hearing examiner shall issue a decision, approving, partially approving or disapproving the requested rent adjustment. The decision shall include findings of fact and conclusions of law which support the decision, and shall specify the following:

- A. The amount of the adjustment in the Maximum Allowable Rent, if any, for each unit.
- B. In the case of a downward adjustment in the Maximum Allowable Rent, an itemization of each housing service on which the reduction is based, and the amount of reduction attributable to that housing service.
- C. The date on which any adjustment to the Maximum Allowable Rent is effective, consistent with commission regulations. (Amended by R.S. Res. 98-87, as approved by City Council on 10-05-98)

60022. Notice of Decision.

Within one (1) business day after issuance of the decision of the hearing examiner, a notice of the decision shall be mailed to the applicant and each affected party. The notice of decision shall notify the parties of the decision and their rights of appeal, and shall be accompanied by a copy of the written decision. (Amended by R.S. Res. 93-18, as approved by City Council on 8-16-93)

SUBCHAPTER C. APPEAL TO RENT STABILIZATION COMMISSION

60023. Right of Appeal.

The determination of a hearing officer on an application for rent adjustment may be appealed to the Rent Stabilization Commission by an affected party.

60024. Grounds for Appeal.

The determination of a hearing officer on an application for rent adjustment may be appealed on any of the following grounds:

- A. that the determination is clearly in error;
- B. that the determination is not reasonably supported by the findings made or the evidence in the hearing record;
- C. that the determination constitutes an abuse of discretion;
- D. that the determination violates provisions of Ordinance 59 of the City of West Hollywood or governing State law.

60025. Time for Appeal.

An appeal of the determination of a hearing officer must be properly filed within ten (10) business days of the date of the notice of determination of the hearing officer.

60026. Appeal Forms.

Appeal forms shall be prescribed by the Rent Stabilization Director with the approval of the City Attorney as to form.

60027. Appeal Fee.

The filing fee for an appeal of the Rent Stabilization Commission shall accompany the filing of the appeal form. The amounts of the fees shall be established by Resolution of the Commission, or, after December 2, 1987, by Resolution of the City Council. (Amended by R.S. Res. 89-40, as approved by the City Council on 2-5-90)

60028. Procedure for Filing of Appeal.

- A. An appeal to the Rent Stabilization Commission must be filed with the Rent Stabilization Department during normal business hours or by mail.
- B. Appellant shall file the original completed appeal form and one additional copy.
- C. Appellant shall have copies of the completed appeal form served upon all other affected parties; proof of such service must accompany the original completed appeal form when it is filed with the Rent Stabilization Department.

60029. Acceptance of Filing of Appeal.

- A. An appeal of a determination of a hearing officer will not be accepted for filing in any of the following circumstances:
 - 1. Where the appeal is not made on the appeal form prescribed by the Rent Stabilization Director;
 - 2. Where the appeal form is not accompanied by payment in full of the applicable appeal fee in the form of cash, money order, certified check or other form satisfactory to the Commission and such fee has not been waived by the Rent Stabilization Director or his/her designee;
 - 3. Where appellant is not a party affected by the hearing officer determination being appealed; or
 - 4. Where the appeal fails to state any facts or arguments supporting the grounds alleged in the appeal.

60030. Evidence.

Upon acceptance of filing of an appeal of a hearing officer determination, the complete hearing record shall be transferred to the Rent Stabilization Director or his/her designee for preparation for consideration by the Commission.

60031. Staff Report.

A staff report on an appeal of a hearing officer determination shall be prepared by the Rent Stabilization Director or his/her designee. The staff report may include a written recommendation to the Commission to affirm, reverse, modify or remand the decision of the hearing officer and shall set forth all pertinent facts upon which said recommendation is based. The staff report shall be mailed to the parties and be made available for public inspection at least ten (10) business days prior to the date set for Commission action on the appeal.

60032. Determination of Type of Hearing by Commission.

- A. The Commission may conduct any of the following types of hearing on an appeal

of a hearing officer determination:

1. Appeal on the Written Record. The Commission may consider the appeal solely on the basis of the official hearing record. No new matter or evidence shall be received or considered unless it is shown why such matter or evidence could not with due diligence have been produced at the hearing before the hearing officer.
 - (a) Oral Argument. The appellant or any affected party may request oral argument in writing within ten (10) business days of the filing of the appeal. Oral argument shall be limited to five (5) minutes per party, unless extended by the Commission due to the complexity of a particular matter.
2. De Novo Hearing. The Commission may conduct a de novo hearing on the application for a rent adjustment upon a finding of egregious circumstances requiring a de novo hearing to rectify a manifest injustice. In this case, the hearing will be noticed and conducted in a manner consistent with the applicable procedural requirements of Subchapter B. of this Chapter. The Commission shall have the power of subpoena of any and all documents or witnesses deemed relevant and necessary to evaluate the appeal. The Commission may undertake or cause to be undertaken any inspections of the property in question or other investigations it deems necessary or desirable, and may take official notice of the results thereof in its consideration of an appeal.
 - B. At least ten (10) business days prior to the date set for Commission action on an appeal, the Rent Stabilization Director shall mail to the appellant and all affected parties, a notice of the type of hearing, the time, date and place set for Commission action on the appeal.
 - C. At any time during formal Commission consideration of the appeal, the Commission may, by majority vote, choose to change the type of hearing on the appeal. In the event that the type of hearing chosen by the full Commission provides greater opportunity for participation on the part of appellant and affected parties than the type of hearing specified in the notice required in subsection B above, the Commission may on its own motion and shall on the motion of the

appellant or other affected parties, continue the hearing for up to ten (10) business days to allow time for the parties to prepare.

60033. Continuances.

An affected party may submit a written request for a continuance of the date set for Commission action on an appeal of a hearing officer decision. Such request shall be submitted on a form prescribed by the Rent Stabilization Director, and shall state the reasons for the requested continuance, what efforts have been made to ascertain the position of other affected parties in relation to the required continuance and the desired alternative dates for Commission action. Requests for continuances should be submitted at the earliest possible date, and must be received by the Rent Stabilization Director at least seventy-two (72) hours prior to the schedule date for Commission action unless good cause is shown for a later request. The person submitting the request for continuance shall declare that all affected parties have been served with copies of the request.

60034. Notice of Time Set For Commission Action.

At least ten (10) business days prior to the date set for Commission action on an appeal, notices shall be mailed to appellant and all affected parties of the date, time and place set for Commission action. The notice shall state that the hearing record and any staff report on the appeal are available for inspection by the parties. No less than five (5) business days prior to the date set for Commission action, the appellant or any affected party may submit to the Department for Commission consideration a written argument.

60035. Commission Action on Appeal.

- A. The Rent Stabilization Commission shall make a decision on a properly filed appeal, affirming, reversing, modifying or remanding the determination of a hearing examiner, not later than one hundred-fifteen (115) days after the initial application for rent adjustment was determined to be complete, unless such time limit has been waived by the applicant.
- B. The action of the Commission on an appeal shall be by majority vote or the determination of a hearing officer shall be final.
- C. The Commission shall consider the hearing officer determination final with respect to matters not raised in the appeal.

- D. When the Commission affirms the determination of the hearing officer or considers the determination of the hearing officer final with respect to matters not raised in the appeal, it adopts the relevant findings of fact and conclusion of law in the hearing officer's determination unless the motion to affirm states otherwise. When the Commission reverses or modifies a decision on appeal, it shall adopt findings and conclusions in support of such decision.

- E. The written findings, conclusions and determination on appeal shall be mailed to the appellant and all affected parties within five (5) business days of the action of the Commission.

SUBCHAPTER D. EFFECT AND FINALITY OF DECISION

60036. Finality of Hearing Decision.

Unless the decision of a hearing examiner is appealed to the Rent Stabilization Commission in accordance with procedures set forth in the Ordinance and Regulations, it shall constitute the final decision of the Commission. (Amended by R.S. Res. 93-18, as approved by City Council on 8-16-93)

60037. Appealed Decision.

The decision of a hearing examiner is stayed by the filing of an appeal to the Commission. If the Commission upholds the hearing examiner's decision to grant a rent reduction, the tenant may take the rent reduction as of the effective date stated in the decision. Any violation of a hearing examiner's decision which has not been reversed, modified or vacated by a subsequent decision on the same issue constitutes a violation of this chapter. (Amended by R.S. Res.09-333, as approved by City Council on 8-17-09)

60038. Effect of a Decision Granting a Rent Adjustment.

- A. If an upward adjustment in the Maximum Allowable Rent is approved by decision of the hearing examiner, after the time for filing an appeal has passed, the landlord may increase the rent by giving the tenant written notice as provided by Section 827 of the California Civil Code. If the hearing examiner's decision is appealed, the decision is stayed pending the outcome of the appeal.

- B. If an application for a downward adjustment in the Maximum Allowable Rent is granted by decision of the hearing examiner, the effective date of decision is the next rental due date, provided that such date is at least five days after the mailing of the notice of decision. The tenant may not begin taking the rent reduction until after the time for filing the appeal. If the hearing examiner's decision is appealed, the decision is stayed pending the outcome of the appeal.

- C. If an application for a refund of illegally collected rents is granted by decision of the hearing examiner, the decision shall specify the manner in which the excess rent shall be refunded or credited as to each affected tenant. In no event shall a refund be required to be paid or a rent credit be allowed to be taken prior to the time within which an appeal to the Commission may be filed. If an appeal is filed, the hearing examiner's decision shall be stayed pending the outcome of the appeal. (Amended by R.S. Res. 09-333, as approved by City Council 8-17-09)

SUBCHAPTER E. SUBSTANTIVE GROUNDS FOR RENT ADJUSTMENT DETERMINATIONS

60039. Calculation of Owner-Performed Labor for Purposes of Application for Upward Rent Adjustment.

In calculating net operating income, operating expenses shall include an allowance for owner-performed labor as follows, provided that applicant provides documentation showing the date, time, and nature of the work performed by the property owner:

General Maintenance: \$ 7.00
Skilled Labor: \$13.00

Notwithstanding the above, the allowance for owner-performed labor may be higher or lower upon a showing by the applicant that the amounts set forth above are substantially unfair in relation to a given application for rent adjustment.

Also notwithstanding the above, the maximum allowable for owner-performed labor shall be five percent (5%) of gross income, unless applicant shows that a higher level of owner-performed labor was in fact performed and resulted in significant benefit to the tenants of the property.

60040. Substantive Standards for Consideration of Capital Improvement Expenses in Upward Rent Adjustment Application.

- A. In calculating net operating income, capital expenditures for building improvements, major repairs, and replacement except insofar as such expenses are compensated by insurance proceeds, shall be limited to those actually incurred in the base year or in the current year and shall be amortized according to the following schedule:

<u>IMPROVEMENT</u>	<u>AMORTIZATION PERIOD IN YEARS</u>
Air Conditioner	10
Appliances (other than those listed)	7
Cabinets	10
Carpentry	10
Carpeting	7
Dishwasher	7
Doors	10
Dryer	7
Electric Wiring	15
Elevator	20
Fan	10
Fencing	10
Fire Alarm System	10
Fire Escape	10
Floor Covering (linoleum or vinyl)	7
Flooring	7
Furniture	7
Garbage Disposal	7
Gates	10
Gutters	10
Heating	10
Insulation	10
Landscaping	10
Locks	7
Painting (interior)	4
Painting (exterior)	7

Paving	10
Plastering	10
Plumbing	10
Pumps	10
Refrigerator	10
Roofing	10
Security Entry Telephone Intercom	10
Smoke Detector	5
Stove	10
Stucco	10
Washing Machine	7
Water Heater	7
Window Coverings	7

- B. Any portion of a requested rent increase that is based on recovery of the cost of a capital expenditure shall be granted only if the landlord demonstrates that the capital expenditure was necessary or reasonable to maintain and/or improve the property and resulted in real benefit to the tenants of the property as opposed to merely increasing the value of the property to the benefit of the landlord without commensurate benefit to the tenants, that any required permits were obtained, and all applicable requirements of the Building Code have been satisfied. There is a rebuttable presumption that the tenants are not receiving a real benefit from a capital expenditure if the discontinuance or removal of the capital expenditure is not a proper basis for a rent decrease application, or if an inspection ordered by the Department discloses that the work was not performed properly.

- C. Allowance capital improvement costs shall be added to the maximum allowable monthly rent applicable to a given rental unit according to the following formula: Cost of capital improvement apportioned to the rental unit divided by amortization period (in years) divided by 12.

- D. Reasonable financing costs incurred in financing the cost of an allowable capital expenditure shall be added to the maximum allowable monthly rent for a given rental unit according to the following formula: Cost of financing that portion of the capital expenditure apportioned to the rental unit, divided by the greater of (1) the amortization period (in years) of the expenditure or (2) the actual length of financing (in years) divided by 12. In the event that the costs of an allowable

capital expenditure are financed by an individual or entity affiliated with the landlord, by the landlord, or otherwise arranged through other than arm's-length negotiation, recovery of financing costs through a rent increase shall be equal to interest at a rate of 5 1/2% per annum. (Amended by R.S. Res. 93-25, as approved by the City Council on 9-9-93)

- E. If the aggregate cost of all capital expenditures, including pertinent financing costs, apportionable to a given rental unit is less than one hundred dollars (\$100) during a year, that cost shall be considered as a repair cost and shall be expensed on a one-year basis.

- F. A landlord may submit an application for conditional approval of a rent increase on the basis of expenses for major capital improvements proposed to be made within a twelve (12) month period after the date of filing. The hearing examiner or the Commission may, upon application, grant an extension of time, not to exceed twelve (12) months, to complete improvements which have already been approved but not yet completed within the initial twelve (12) month period following the filing of the application. Such extension may be granted upon a showing of good cause demonstrating that the inability to complete the work was due to the nature of the work itself or other unforeseen or extenuating circumstances beyond the landlord's control. The application requesting the extension must be filed within the initial twelve (12) month period. If the requested rent increase is granted in whole or in part, such rent increase shall be conditioned upon submittal by the applicant of documentation of the actual costs incurred and shall not take effect until the anticipated capital improvements have been made. This procedure is not intended for use for anticipated expenses for ordinary repairs and maintenance. (Amended by R.S. Res. 90-16, as approved by the City Council on 7-2-90)

- G. Until regulations are adopted pursuant to Municipal Code Section 17.44.030 to provide otherwise, no rent increase shall be allowed on the basis of anticipated or actual expenses for major capital improvements unless a net operating income analysis is performed and such increases are warranted in order to provide a landlord with the net operating income to which he/she is entitled pursuant to Municipal Code Section 17.44.030.

60040.1 Determination of Professional Expenses, Fees and Costs.

- A. Pursuant to Civil Code Section 1947.15, reasonable expenses, fees and other costs for professional services reasonably incurred in the course of successfully pursuing or defending rights under or in relation to the Rent Stabilization Ordinance, shall be included in the calculation of net operating income and operating expenses as set forth in this regulation.
1. Definitions:
 - (a) Professional services include, but are not limited to legal, consulting, bookkeeping, accounting, appraisal, licensed property management and architectural services.
 - (b) "Successfully pursuing or defending" means that the landlord obtained an upward adjustment in rents, prevailed in a rent decrease application (that is, a decision was issued in which no decrease was awarded), successfully defended his or her rights in an administrative proceeding brought by a tenant or the Department (that is, the petition was denied), or prevailed in a proceeding pursuant to Civil Code Section 1947.7.
 - (c) Fees, expenses and costs for professional services incurred in the preparation and presentation of rent increase applications shall be determined and authorized by way of the addendum process following a final Commission decision in the underlying rent increase application, as set forth in subsections (2), (3), and (4) below. The addendum process shall include expenses for professional services whether actually incurred in the current year of the increase application or incurred within thirty days thereafter.
 - (d) Fees, expenses and costs for professional services incurred in administrative applications for excess rent, rent decrease, base rent adjustments pursuant to Civil Code Section 1947.7 or in any other hearing involving the owner's rights shall be determined by way of the addendum process set forth in subsections (2), (3) and (4)(a), below. The amount determined pursuant to the addendum shall be considered an allowable professional expense under Municipal Code Section 17.44.030 in a subsequently filed rent increase petition if the expense was incurred during

the current year of the subsequently filed rent increase petition.

2. Procedures: Within thirty (30) days of the notice of final decision of the Commission in an administrative case, the landlord shall submit a written request for a determination of expenses, fees and costs for professional services.
 - (a) The request for determination of reasonable expenses, fees and costs for professional services shall be on a form provided by the Department which shall include: a detailed compilation of the time spent; the reasonable hourly rate claimed for each professional service; the tasks performed; billing records; written contracts for services; a breakdown of payments, if any, made to date; a summary of the amounts paid; copies of cancelled checks; and, a detailed summary of all other claimed costs and expenses. The form must be signed under penalty of perjury by the landlord and the professional.
 - (b) Any and all of the following factors shall be considered in the determination of the reasonableness of the expenses and fees:
 - (I) The rate charged for those professional services in County of Los Angeles;
 - (II) The complexity of the matter;
 - (III) The degree of administrative or judicial burden imposed on the landlord;
 - (IV) The amount of adjustment sought and the results obtained;
 - (V) The relationship of the result obtained or rights defended to the expenses, fees, and other costs incurred (that is, whether professional assistance was reasonably related to the result achieved).
 - (c) A copy of the written form, plus all supporting documents, shall be mailed to all tenants by the Department.

- (d) Tenants shall have ten days from the mailing of the form by the Department to respond by filing written comments or objections with the Department.

3. Addendum:

- (a) The hearing examiner shall make a determination of the reasonableness of the fees, expenses and costs claimed, within forty-five days of the submission of the claim and supporting documentation. If the hearing examiner determines that additional information is necessary, the hearing examiner has the discretion to schedule a hearing, in which case the determination shall be made within forty-five days of the hearing.
- (b) The determination shall be made by way of an addendum to the final decision, which shall include findings of fact and conclusions of law. The Department shall mail the notice of the addendum to all parties.
- (c) The final addendum is appealable to the Commission pursuant to subchapter C of the regulations.

4. Standards:

- (a) Amortization: If the hearing examiner determines, based upon substantial evidence, that the allowable reasonable expenses, fees or costs will not recur annually, they shall be amortized over a period of five years.
 - (I) Actual and reasonable professional expenses, fees, and costs that are amortized shall include an interest equal to that provided in Regulation 60040(d).
 - (II) The cost shall be allowed according to the following formula: The reasonable cost, plus interest, divided by the amortization period.
- (b) Increase Petitions: For expenses, fees and costs incurred pursuant to subsection 1(c) above (rent increase applications), the addendum shall authorize an additional monthly increase, amortized as set forth above. The amortized expense shall be added as an operating expense to the application's current year net operating income and said net operating

income recalculated to determine the additional monthly increase. The increase shall not be considered part of the maximum allowable rent for which general adjustments or vacancy increase are added. The authorization to collect the increase shall terminate at the end of the amortization period.

5. Tenant's Recovery of Fees, Costs and Expenses for Professional Services:

If it is determined that a landlord application assisted by attorneys or consultants is wholly without merit, a tenant shall be awarded a reduction in rent to compensate for the reasonable costs of professional services retained by the tenant to defend the application brought by the landlord. The reasonableness of the costs of the tenant's defense shall be determined pursuant to the procedure set forth in subsections 1 through 4 above. (Amended by R.S. Res. 95-03, as approved by the City Council on 1-12-95)

60041. Substantive Grounds for Downward Rent Adjustments.

- A. A downward rent adjustment shall be approved if necessary to refund to a tenant rents which were collected in excess of allowable amounts pursuant to Ordinance No. 59, its predecessor moratorium ordinance adopted November 29, 1984, and/or this chapter, to compensate a tenant for failure to perform required maintenance or for a discontinuance or substantial reduction of housing services without a corresponding reduction in rent; provided, however, that the basis for the application arose on or after April 30, 1984.

- B. In evaluating the amount of rent decrease that may reasonably compensate the tenant, the hearing examiner or the Rent Stabilization Commission on appeal may consider the extent to which the reduction in services affects the tenant(s) of a given rental unit, the relative significance of the reduced service in relation to the safety, health, convenience and comfort of the tenant(s), the prevailing market value of the housing service in question as a rental amenity, the extent to which the tenant(s) were led to rely upon the fact that the service would be provided, and such other factors as are deemed to be relevant by the hearing examiner or Commission. If a rent decrease application is approved for the loss of a housing service which was added to a unit after the base date and for which additional rent was charged, the amount of the rent decrease which is ordered shall be the

additional rent which was charged for the housing service. (Amended by R.S. Res. 89-25, as approved by the City Council on 8-7-89)

- C. An application filed on behalf of all tenants in a building shall be approved to compensate the tenants for failure to perform required maintenance in a common area or for a discontinuance or substantial reduction in housing services in a common area without a corresponding reduction in rent; provided, however, that the basis for the application arose on or after April 30, 1984. If a rent decrease application is granted pursuant to this paragraph, the hearing examiner shall reduce the maximum allowable rent for each unit by an identical amount. This paragraph shall not apply to an application filed by a tenant concerning common areas controlled by a condominium or homeowners' association.

60042. Change in Housing Services.

This Section is intentionally left blank. (Amended by R.S. Res. 93-09, as approved by the City Council on 4-19-93)

60043. Rents Charged for Comparable Rental Unit.

- A. If a party wishes to assert at a hearing on a rent increase application that the rent(s) charged on the base date was disproportionately low, pursuant to Municipal Code Section 17.44.030, evidence of rents charged for comparable units may be considered and evaluated along with the other relevant evidence, in light of the circumstances of the case. In order for a unit to be considered as comparable under Municipal Code Section 17.44.030, the party must demonstrate:
 - 1. The other units are located within the City of West Hollywood and are regulated by the Rent Stabilization Ordinance; and
 - 2. The other units have substantially the same number of rooms and size as the units in the premises; and
 - 3. The other units have substantially the same amenities or housing services provided to them as the units in the premises; and
 - 4. The maintenance provided by the landlords to the other units is

substantially the same as the maintenance provided to the premises by this landlord; and

5. The other building(s) have substantially the same number of units, building amenities and housing services; and
6. If the units are in a building owned by another landlord, the landlord(s) who own the other units are presumed to be receiving a just and reasonable return under Municipal Code Section 17.44.030 of the Ordinance, unless demonstrated otherwise. (Amended by R.S. Res. 87-16, as approved by City Council on 5-20-87)

SUBCHAPTER F. COMPLIANCE DETERMINATION IN RENT ADJUSTMENT DECISIONS CONCERNING HOUSING SERVICES AND MAINTENANCE.

60044. Restoration of MAR Based Upon Restoration of Housing Services or Performance of Maintenance.

After a rent decrease application has been granted by a hearing examiner or by the Rent Stabilization Commission and the landlord has performed the maintenance or restored the housing service(s), as ordered, the landlord may file a written request that the Maximum Allowable Rent be restored to its prior level or such level as is warranted by the maintenance performed or the services restored. Such request shall be filed with the Department on a form provided by the Department for that purpose, and shall be accompanied by acceptable documentation demonstrating compliance. Such documentation shall include:

- A. Copies of vendor receipts, invoices, or cancelled checks which identify the nature and cost of the services performed and materials used.
- B. If the work was performed by the landlord or the landlord's employee, a statement under penalty of perjury identifying the person(s) who performed the work, describing the work performed, and stating the date of performance, in addition to the documentation described in Subparagraph A.
- C. If the documentation described in Subparagraph A is unavailable, a statement

under penalty of perjury providing the information described in subparagraph B, and further stating the reasons why supporting documentation is unavailable.

Submission of credible supporting documentation, as described in Subparagraph A and B above, shall create a presumption that the work was performed. (Amended by R.S. Res. 93-18, as approved by City Council on 8-16-93)

60045. Procedure for Restoration of Maximum Allowable Rent.

A. Within five (5) business days of receipt of a written request to restore the Maximum Allowable Rent and acceptable supporting documentation, the Department shall mail a notice to all affected tenants, stating that such a request has been filed. The notice shall include a description of the work alleged to have been performed and the housing services alleged to have been restored. The notice shall also advise the affected tenants that they may file an objection to the request if they contend that there has not been compliance, and shall advise them of the procedures for doing so.

B. Within ten (10) business days of the date of the notice described above, any affected tenant may file a written statement objecting to the request for restoration of the Maximum Allowable Rent. The statement shall set forth the basis for the objection and may be accompanied by relevant documents or other evidence in support of the objection.

C. Upon receipt of a written request to restore the Maximum Allowable Rent and any written statements from tenants objecting to the restoration, the Department shall evaluate the statements and evidence submitted to determine whether the request should be granted, partially granted, or denied. The Department may investigate any issues regarding the alleged compliance, may conduct an inspection of the premises for the purpose of determining compliance, and, as it deems appropriate, may schedule a hearing to take testimony and resolve factual disputes regarding compliance.

D. If a hearing is to be held for the purpose of determining compliance, notice of the hearing shall be issued within ten (10) days of the date by which affected tenants were required to file a statement objecting to restoration of Maximum Allowable Rent. The hearing shall be scheduled within twenty (20) days of such notice. The procedures applicable to hearings set forth elsewhere in this Chapter shall be applicable to such hearings.

60046. Decision on Statement of Compliance.

Upon review of the evidence regarding compliance with a rent decrease decision, the Department shall issue a decision granting, partially granting, or denying restoration of the Maximum Allowable Rent to its previous level. Such decision shall be issued within ten (10) days of the date by which affected tenants were required to file a statement of objection or, if a hearing was conducted, within ten (10) days of the close of the hearing. The decision shall identify the specific items of maintenance determined to have been performed and the specific housing services determined to have been restored, and shall indicate amount of the adjustments to the Maximum Allowable Rent associated with each such item. (Amended by R.S. Res. 93-18, as approved by the City Council on 8-16-93)

60047. Right of Appeal of Compliance Determinations.

Any affected party may appeal the compliance determination by the Department or by a Hearing Examiner to the Rent Stabilization Commission. Appeals must be filed within ten (10) days of the date of issuance of the decision and shall be accompanied by a fee in an amount established by Resolution of the City Council. An appeal of a compliance determination shall not stay the decision of the hearing examiner.

If, on appeal, the Commission reverses the hearing examiner's compliance determination, the Commission's decision, as to each issue on which it reversed, shall relate back to the date of the hearing examiner's determination. The party benefiting from the hearing examiner's decision

shall be required to make retroactive payments or rent credits to the other party, as though the hearing examiner's decision was the same as the Commission's decision. If oral argument is requested, it shall be conducted in compliance with Regulation 60032(A).

60048. Procedure for Restoration of Rent Following Tenant Performed Maintenance (Municipal Code Section 17.56.010(g)).

A. A tenant may perform reasonable maintenance ordered by the hearing examiner or Rent Stabilization Commission provided:

1. The order is to perform maintenance on one or more of the following individual unit issues:

- a. Paint;
- b. Window Coverings;
- c. Carpet;
- d. Vinyl or linoleum flooring;
- e. Wall paper;
- f. Appliances.

2. The landlord has not performed the ordered maintenance within three months of the date of hearing examiner's decision or, if appealed, the Commission's resolution; and

3. The tenant has provided the landlord at least thirty days' notice of the tenant's intention to perform the maintenance.

B. If a tenant performs maintenance in compliance with Subsection A, the rent reduction ordered by the hearing examiner or Commission shall remain in effect and the landlord shall be precluded from restoring the rent to its former level until the tenant has been fully reimbursed for all costs expended in performing the maintenance including, but not limited to, reasonable financing costs, either actual or imputed, as determined in accordance with the provisions of Regulation 60040(D).

C. Upon the tenant being fully reimbursed for all costs for tenant performed maintenance, the landlord may file with the Department a request for restoration of the rent. Such request shall be filed with the Department on a form provided by the Department for that purpose, and shall be accompanied by documentation proving completion of the ordered maintenance and such documentation as shall be necessary for determining the costs as set forth in Subsection B.

D. Within five (5) business days of receipt of a request for restoration of the rent and acceptable documentation, the Department shall mail a notice to the tenant, as applicable, stating that such a request has been filed. The notice shall include a description of the maintenance alleged to have been performed. The notice shall also advise the tenant that they may file an objection to the request if they contend that they have not performed the maintenance or they have not received full reimbursement for the work and the procedures for doing so.

E. Within ten (10) business days of the date of the notice to the tenant, the tenant may file a written statement objecting to the request for restoration of the rent. The statement shall set forth the basis for the objection and may be accompanied by relevant documents and other evidence in support of the objection.

F. Upon receipt of a written request to restore the Maximum Allowable Rent and any written statements from tenants objecting to the restoration, the Department shall evaluate the statements and evidence submitted to determine whether the request should be granted, partially granted, or denied. The Department may investigate any issues regarding alleged compliance, and, as it deems appropriate, may schedule a hearing to take testimony and resolve factual disputes regarding compliance.

G. If a hearing is to be held for the purpose of determining compliance, notice of the hearing shall be issued within ten (10) days of the date by which the tenant was required to file a statement objecting to the restoration of the Maximum Allowable Rent. The hearing shall be scheduled within twenty (20) days of such notice. The procedures applicable to hearings set forth elsewhere in this Chapter shall be applicable to such hearings.

SUBCHAPTER G. APPLICATION OF SECTION 6415 TO RENT INCREASE APPLICATIONS.

60050. Scope of Ordinance Section 6415 (Municipal Code Section 17.60.010).

Municipal Code Section 17.60.010 is a savings clause which provides a basis for a hearing examiner or the Rent Stabilization Commission to receive relevant evidence, in accordance with the regulations in this Chapter, demonstrating that the landlord is not receiving a just and reasonable return under provisions of the Net Operating Income Formula, that the components of the Formula cannot be adjusted to provide a fair return, and the amount of return which the landlord alleges is fair and reasonable, so that the application of the components of the Formula may be modified to permit adjustment of the maximum allowable rents. However, Section 6415 does not provide a test or standard for evaluating rent increase applications which is wholly independent of the Net Operating Income Formula.

60051. Applicability of Chapter.

This Chapter shall apply to rent increase applications where, after completion of an analysis of such an application pursuant to the Net Operating Income Formula, the landlord contends that he or she is not receiving a just and reasonable return under the Formula.

60052. Burden of Proof.

The landlord shall have the burden of proof and the burden of persuasion to establish that he/she is not receiving a fair return under the Net Operating Income Formula.

60053. Adjustment of Maximum Allowable Rent(s).

If the Commission or hearing examiner finds that the landlord has established that he/she is not receiving a just and reasonable return, the maximum allowable rents charged for the units in the premises may be adjusted accordingly so that after considering the expenses permitted under the Ordinance, the landlord received a just and reasonable return.

SUBCHAPTER H. CERTIFICATION OF RENTS

60060. Applicability.

By December 31, 1987, the Rent Stabilization Department will certify the amount of the maximum allowable rent (MAR) for each rental unit which has been registered with the Department and the rent of which is regulated by the provisions of the Rent Stabilization Ordinance. Commencing on _____, 1987, applications filed pursuant to Municipal Code Section 17.44.040 to determine the base rent or the maximum allowable rent charged for units shall be reviewed pursuant to the Regulations set forth in this subchapter.

60061. Notice of MAR.

A Notice of MAR will be issued by the Department to the landlord and the tenant(s) residing in the unit setting for the amount of the MAR.

60062. Objection to Amount of MAR.

- A. The landlord or the tenant(s) may contest the amount of the MAR set forth in the Notice by filing a petition with the Department, on the Department's form, within thirty (30) days of the date of the mailing of the Notice. An extension for filing the petition may be granted by the Senior Hearing Examiner upon a showing of exceptional circumstances making it impossible for the party to timely file the petition, provided that the final certification has not yet been issued by the Department.

The Records, Administration and Monitoring Division of the Rent Stabilization

Department may contest the amount of the MAR set forth in the Notice and may correct clerical errors and omissions affecting the amount of the MAR set forth in the Notice at any time provided that the final certification has not yet been issued by the Department. (Amended by R.S. Res. 87-62, as approved by the City Council on 11-24-87)

- B. A party may object to the amount of the MAR set forth in the Notice on the following grounds:
 - i. A mathematical or computational error, or the amount fails to properly reflect a decision issued by a hearing examiner, the Rent Stabilization Commission, or the Department affecting the MAR for the unit;
 - ii. The base rent for the unit is incorrect.
- C. A party may not object to the amount based upon housing services provided to a unit, a vacancy increase application or any other provision of the Rent Stabilization Ordinance which provides a basis for filing an application for a rent adjustment where no determination thereon has been issued.

60063. Acceptance of Petition.

- A. A petition shall not be accepted as complete by the Department when;
 - i. The petition is not made on the form prescribed by the Director; or
 - ii. The petition has not been substantially completed.
- B. Within ten (10) business days after the date when the petition is filed with the Department, the Department shall determine whether the petition is complete.
- C. If the petition is determined to be incomplete, the Department shall notify the petitioner in writing of the deficiency within the ten-day period. The petitioner shall have ten (10) business days from the date of mailing of the notice to cure the defect(s).

- D. If a complete petition objecting to the Notice of MAR is not timely filed, the rent set forth in the Notice shall become the certified rent for the unit and shall become final and cannot be changed except upon a showing of misrepresentation or fraud.

60064. Action by Department on Accepted Petition.

- A. If the ground(s) set forth in the petition is an arithmetic calculation, which does not require the resolution of disputed evidence, the Department may contact the petitioner and may resolve the dispute. The Department also may contact any affected party and may schedule a conference to resolve a dispute without a further hearing.
- B. If the Department cannot resolve the dispute as provided in subparagraph A, or if the petition requires the resolution of factual issues or an issue concerning the application of the Ordinance and Regulations to the facts, the Department shall schedule a hearing before a hearing examiner, to resolve the issues raised by the petition. The Regulations set forth in Subchapter B or Chapter 6 of the Rent Stabilization Regulations, Sections 60012-60020, shall govern the hearing on the petition.
 - 1. As soon as practicable after the determination of the completeness of a petition and in no event later than five (5) business days prior to the hearing, the Rent Stabilization Department shall mail to the applicant and all affected parties a notice of the hearing on the application. (Amended by R.S. Res. 88-3, as approved by City Council on 1-13-88)
 - 2. Said notice shall state:
 - a. The date, time and place of the hearing;
 - b. A brief summary of the stated justification for the petition; and
 - c. That all submitted documents and materials as well as any report prepared by the hearing examiner or staff will be available for public review prior to the hearing.
 - 3. Incorporated within the notice of hearing, or in a separate notice or

subpoena, the hearing examiner may, through the subpoena power granted to the Rent Stabilization Director or his/her designee by Municipal Code Section 17.44.010, request or subpoena persons to testify and/or to produce books, records and other documentation at, or at a designated time prior to, the hearing on the petition. If the Director issues a subpoena at the request of a party to the proceeding, the party at whose request the subpoena is issued shall pay any witness fees or mileage fees to the witness and shall arrange for service of the subpoena in accordance with State law.

4. If the Department determines that common issues may exist concerning other units in the same building, the Department may schedule a joint hearing before the hearing examiner.
 5. Within thirty (30) days after a petition is determined to be complete, the hearing examiner shall hold a hearing on the petition, unless an administrative determination to dismiss the petition has been made, the dispute has been resolved, or a continuance has been granted.
- C. Any affected party wishing to respond to the petition must submit his/her response to the Department, on the Department's form, within five (5) business days of the date of mailing of the notice. This Section shall not preclude parties from submitting written materials at the hearing or conference.

60065. Appeal of the Decision on the Petition.

- A. An administrative determination by the Department on a petition may be appealed to the Director pursuant to the provisions of Chapter 7 of these Regulations, except that:
1. The appeal must be properly filed within five (5) business days of the date of mailing of the determination; and
 2. Any affected party may submit a written argument or statement within five (5) business days of the date of filing of the appeal.
- B. A determination of a hearing examiner on a petition challenging the amount of the

MAR may be appealed to the Rent Stabilization Commission by any affected party. If a party does not file a timely appeal to the Commission, the hearing examiner's decision shall become final. The Regulations set forth in Subchapter C of Chapter 6 of the Rent Stabilization Regulations shall govern such appeals, except that:

1. The appeal must be filed within five (5) business days of the date of the Notice of Determination;
 2. Oral argument must be requested in writing at the time of filing of the appeal and if granted by the Commission shall be limited to three (3) minutes a party unless extended by the Commission;
 3. A Notice of the Appeal will be mailed to the appellant and all affected parties at least five (5) business days prior to the date set for Commission action on an appeal; and
 4. The staff report shall be made available for public inspection at least three (3) business days prior to the date set for Commission action on the appeal (Amended by R.S. Res. 87-62, as approved by City Council on 11-24-87)
- C. The Director may remand to a hearing examiner an administrative determination which has been appealed to the Director if the Director finds that there are disputed factual issues which require a hearing.
- D. When a final determination on petition has been issued, the certified rent for the unit shall become final and cannot be changed except upon a showing of misrepresentation or fraud. However, nothing in these Regulations shall be construed to prohibit the subsequent lawful adjustment of the MAR pursuant to rent decrease or increase applications and other procedures authorized by the Rent Stabilization Ordinance or to correct a computational or typographical error. (Amended by R.S. Res. 88-3, approved by the City Council on 1-13-88)

60066. Issuance of Certificate.

- A. A landlord or tenant may request from the Rent Stabilization Department a certificate setting forth the permissible rent levels for tenancies subject to the

certification requirement of Civil Code Section 1947.8.

- B. The Department shall issue the certificate to the landlord and tenant(s) within five (5) business days after the request is filed with the Department provided that:
 - 1. The request was submitted in writing, and signed under penalty of perjury by the requestor, to the Department on a form prescribed by the Director;
 - 2. The request is accompanied by the payment in full of the applicable fee in the form of cash, money order, certified check or other form satisfactory to the Rent Stabilization Department; and
 - 3. The request provides the following information:
 - a. The date the tenancy was created;
 - b. The initial rent for the tenancy; and
 - c. The years in which the annual general adjustment was applied by the landlord, beginning on September 1, 1996.
- C. The permissible rent levels reflected in the certificate shall, in the absence of intentional misrepresentation or fraud, be binding and conclusive upon the Department unless the determination of permissible rent levels is appealed.

60067. Appeal of Amount in Certificate.

The landlord or the tenant(s) may appeal the determination of the permissible rent levels as reflected in the certificate by filing an appeal with the Department, on the Department's form, within fifteen (15) days of the date when the certificate was issued by the Department.

60068. Acceptance of Appeal.

- A. An appeal shall not be accepted as complete by the Department when:
 - 1. The appeal is not made on the form prescribed by the Director;

2. The appeal form has not been substantially completed; or
 3. The appeal form is not accompanied by the payment in full of the applicable fee in the form of cash, money order, certified check or other form satisfactory to the Rent Stabilization Department.
- B. If the appeal is determined to be incomplete, the Department shall notify the appellant in writing of the deficiency within the five (5) business days of filing. The appellant shall have ten (10) business days from the date of mailing of the notice to cure the defect(s).
- C. If a complete appeal is not timely filed, the rent set forth in the certificate shall become binding on the Department.

60069. Action by Department on Accepted Appeal.

- A. If the ground(s) set forth in the appeal is an arithmetic calculation which does not require the resolution of disputed evidence, the Department may contact the appellant and other affected parties and may resolve the dispute.
- B. If the Department cannot resolve the dispute as provided in subparagraph A, or if the appeal requires the resolution of factual issues or an issue concerning the application of the Ordinance and Regulations to the facts, the Department shall schedule a hearing before a hearing examiner, to resolve the issues raised by the appeal. The Regulations set forth in Subchapter B of Chapter 6 of the Rent Stabilization Regulations, Sections 60012-60020.1, shall govern the hearing on the appeal.
- C. Within thirty (30) days after the close of the hearing, the hearing examiner shall make his/her determination with written findings of fact and conclusions of law in support thereof. The determination of the Hearing Examiner shall be appealable to the Rent Stabilization Commission by any affected party pursuant to Subchapter C of Chapter 6 of the Rent Stabilization Regulations.
- D. Within one (1) business day after issuance of the decision of the hearing examiner, a notice of the decision shall be mailed to the applicant and each affected party. The notice of decision shall notify the parties of the decision and

their rights of appeal, and shall be accompanied by a copy of the written decision.

SUBCHAPTER I. RENT ADJUSTMENTS FOR SEISMIC RETROFITTING

60070. Scope of Regulations.

- A. The regulations contained in this subchapter shall apply to rent adjustment applications filed by the owners of buildings which are subject to Chapter 17.48 of the West Hollywood Municipal Code, relating to the reduction of earthquake hazards in unreinforced masonry buildings. These Regulations shall become effective on December 6, 1990.

- B. Unless otherwise specifically set forth herein, the Regulations set forth in Subchapters A, B, C, D and E of Chapter 6 of the Rent Stabilization Regulations, Sections 60000 through 60043, shall govern the Application, the Hearing on Application, the Appeal to Rent Stabilization Commission, the Effect and Finality of Decision and the Substantive Grounds for Rent Adjustment Determinations.

60071. Application Fee.

For purposes of these applications, the application filing fees required in Regulation Section 60003 (A) and 60005 (A)(2), are waived.

60072. Rules of Evidence.

Formal rules of evidence shall not be applicable to hearings on applications for rent adjustment. At such a hearing, the applicant and other affected parties may offer any documents, testimony, written declarations, or other evidence that, in the opinion of the hearing officer, is credible and relevant to the requested rent adjustment. The hearing officer may consider the results of inspections of the property in question and the results of any other investigations conducted by or at the request of the hearing officer. The hearing officer shall consider any relevant evidence if it is the sort of evidence which a reasonable person might consider in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Evidence unduly repetitious, lacking credibility, or irrelevant evidence shall be excluded upon order by the hearing officer.

60073. Substantive Standards for Consideration of Capital Improvement Expenses in Upward

Rent Adjustment Applications

- A. For purposes of this subchapter, in calculating net operating income expenditures for building improvements, major repairs and replacement the amortized life of work specifically related to seismic Retrofitting, including but not limited to roofing, strengthening interior walls, parapets, wall anchors, plumbing and electrical work shall be thirty (30) years.

- B. It shall be presumed that seismic Retrofitting work performed pursuant to Chapter 17.48 of the West Hollywood Municipal Code, for which the landlord has obtained the required City of West Hollywood building permit, results in real benefit to the tenants as opposed to merely increasing the value of the property to the benefit of the landlord without commensurate benefit to the tenants. (Amended by R.S. Res. 90-25, approved by the City Council on 11-5-90)

**SUBCHAPTER J. DEPARTMENT INITIATED HEARINGS RESULTING IN
INDIVIDUAL RENT ADJUSTMENTS AND OTHER
DETERMINATIONS**

60074. Applicability.

The regulations contained in this subchapter shall govern the hearing and appeal procedures for rent adjustment hearings initiated by the Rent Stabilization Department. Such hearings may be initiated by the Department at its discretion, as deemed necessary or appropriate by the Department. The authority of the Department to conduct Department initiated hearings is not intended in any way to impose any obligation or responsibility on the Department to initiate hearings in any particular case. Nor is the availability of such procedure intended to substitute for the ordinary procedure whereby interested parties are expected and required to initiate the hearing process by filing an application with the Department and submitting the necessary documentation and other evidence in support of the application.

The provisions of this subchapter are in addition to and not exclusive of other mechanisms for making determinations in the administration and enforcement of the Rent Stabilization Ordinance. Nothing herein shall be construed as limiting, in any way, the ability of the Department to utilize other decision-making or enforcement procedures without conducting a hearing.

60075. Scope of Department Initiated Hearings.

The City may schedule, notice, and conduct hearings for any of the following purposes:

- (A) To determine or establish the base rent for a unit or units within a building, including but not limited to units which have been enlarged, down-sized or otherwise significantly modified.
- (B) To determine the validity of an existing exemption and revoke exemptions determined to be invalid.
- (C) To determine the nature and identity of base rent housing services and/or current housing services provided.
- (D) To make any other determination necessary or appropriate for the fair and effective application or enforcement of the Ordinance.

60076. Notice of Hearing.

- A. Upon determination of the need for a hearing for the purpose of making one or more of the determinations enumerated in Section 60075, above, the Rent Stabilization Department shall mail a notice of hearing to the landlord and all other affected parties.
- B. Such notice shall state the following:
 - 1. The date, time and location of the hearing;
 - 2. A brief description of the issues to be determined at the hearing;
 - 3. A brief summary of the facts on which the determination to conduct a hearing was based.
 - 4. A statement that all submitted documents and materials as well as any report prepared by staff will be available for public review prior to the hearing.

- 5. If known, the estimated range of adjustment in the Current Maximum Allowable Rent that might occur as a result of the hearing.

- C. Incorporated within the notice of hearing, or in a separate notice or subpoena, the Rent Stabilization Department may, through the Director or the Director's designee, request or subpoena persons to testify and/or to produce books, records and other documentation at the hearing or at a designated time prior to the hearing. If the Director issues a subpoena at the request of a party to the proceeding, the party at whose request the subpoena is issued shall pay any witness fees or mileage fees to the witness and shall arrange for service of the subpoena in accordance with State law.

60077. Continuance.

Continuances shall be requested and granted in accordance with the procedures set forth in Section 60012 of these regulations.

60078. Conduct of Hearing.

The hearing shall be conducted in accordance with the procedures and principles set forth in 60013A of these regulations.

60079. Rules of Evidence.

Formal rules of evidence shall not apply to hearings conducted pursuant to this Subchapter. Documents, testimony, written declarations or other evidence shall be considered in accordance with the criteria and principles set forth in Section 60014 of these regulations.

60080. Order of Proceedings.

A Department initiated hearing shall ordinarily proceed in the following manner, unless the hearing officer determines that some other order of proceedings would better facilitate the hearing:

- A. Presentation by or on behalf of Department, including presentations of any other affected parties and witnesses in support of the application;

- B. Presentation by or on behalf of opponents to the application, including

presentations of any other affected parties and witnesses in opposition to the application;

- C. Presentation of the results of any investigations or staff reports in relation to the application;
- D. Rebuttal by applicant.

60081. Speakers' Presentation.

The presentation of each person speaking during a hearing shall be concise and to the point; visual and other presentation aids may be used as deemed appropriate by the hearing officer. The hearing officer may establish equitable time limits for presentations at a hearing.

60082. Right of Assistance.

All parties to a hearing shall have the right to seek assistance in developing their positions, preparing their statements, and presenting evidence from an attorney, recognized tenant organization representatives, landlord association representative, translator, or any other person designated by said parties to a hearing.

60083. Hearing Record.

The hearing officer shall maintain an official hearing record, which shall constitute the exclusive record for decision. The hearing records shall include:

- A. A copy of the Department issued notice stating the basis for the hearing;
- B. All exhibits, papers, and documents offered either before or during the hearing;
- C. A list of participants present at the hearing;
- D. A summary of all testimony upon which the decision is based;
- E. A statement of all materials officially noticed;
- F. All findings of fact and conclusions of law;

G. All recommended or final decisions, orders, or rulings.

60084. Public Inspection of Hearing Record.

The hearing record is a public record and may be inspected and copied by any person. Copying fees shall be required consistent with City policy.

60085. Quantum of Proof.

No individual rent adjustment shall be granted unless supported by the preponderance of the relevant and credible evidence noted in the hearing record, and no individual rent adjustment shall be supported solely by hearsay evidence.

60086. Determination.

Within sixty (60) days after the close of the hearing, the hearing examiner shall make a determination, with written findings of fact and conclusions of law in support thereof. The decision shall include the determination of the maximum allowable rent of all affected units. The determination by the hearing examiner shall be final ten (10) business days from the date of the notice of determination unless that determination is appealed in writing as set forth in Subchapter C.

60087. Notice of Determination.

Within one (1) business day after the determination, the Rent Stabilization Department shall mail notice of the determination to all affected parties. Said notice of determination shall notify the parties of the decision and of their rights of appeal.

60088. Appeal.

An appeal of the determination of a hearing examiner in a Department Initiated Hearing may be filed by the Department or an affected party and shall be in accordance with the procedure outlined in Subchapter C of Chapter 6 herein.

SUBCHAPTER K. RENT ADJUSTMENTS FOR BUILDING IMPROVEMENTS AND CHANGES IN HOUSING SERVICES.

60089. Rent Adjustments for Security Related Building Improvements.

- A. A landlord may apply for an increase in the Maximum Allowable Rent for improvements made to a building which enhance security. Such improvements may include, but are not limited to, the installation of fences, walls, gates, exterior or common area doors (including automatic garage doors), intercom systems, exterior or common area lighting, peepholes, intercoms, security bars, locks and security windows.

No increase shall be available pursuant to this chapter for:

- 1. Repair or replacement of existing housing services to which the affected tenants are already entitled;
 - 2. Improvements which are otherwise required by law; or
 - 3. Improvements for which public funds are available.
- B. A property may qualify for an increase under this Section only if it is in compliance with all provisions of this chapter and all applicable state and local health, building and safety and fire codes.
 - C. Increases approved pursuant to this Section shall be calculated on the basis of one of the following formulas:
 - 1. Dividing the per unit cost of the improvement by the amortization period for security related improvements set forth in Regulation 60040 A.
 - 2. Dividing the per unit cost of the improvement, including interest at a rate equal to 5 1/2% per annum, by an accelerated cost recovery period of one half of the number of years set forth in Regulation 60040 A.

Either of the above-described rent increase calculations may be elected by the owner, subject to approval of 75% of the affected tenants. If the increase is calculated based upon the accelerated cost recovery period, it shall remain in effect only for the cost recovery period, and shall expire at the end of that period. If the increase is based upon the standard amortization period established by the regulations, it shall remain in effect as

long as the benefit of the security related improvement remains. (Amended by R.S. Res. 93-24, as approved by the City Council on 9-9-93)

- D. A landlord seeking an increase pursuant to this provision shall complete an Application for Security Related Rent Adjustments and submit the application to the Department. Such application shall include or be accompanied by:
 - 1. A description of the proposed security related improvement(s).
 - 2. A projection of the cost allocated to each affected unit for the improvement.
 - 3. The proposed monthly rent increase for each affected unit, based upon the cost of the improvement and the proposed cost recovery period.
 - 4. Approval of the tenants of at least 75% of the non-exempt affected units, as indicated by their original signatures on a form provided by the Department. Such form shall include a description of the proposed improvements and the amount of the proposed increase for each unit.
 - 5. A filing fee in an amount established by resolution of the City Council.

- E. Following submission of a completed application, the Department shall determine if the building and the proposed improvements qualify for a rent adjustment.

The Department shall send a notice to each affected tenant, advising the tenant(s) of the work that has been proposed, and stating the amount of the increases in the Maximum Allowable Rent that will be approved for each unit upon satisfactory completion of the work. Within ten (10) days of the mailing of such notice, any affected tenant may object to the proposed increase. Such objection may be based only on the ground that the minimum number of required signatures was obtained by fraud, misrepresentation, duress, or mistake. If deemed necessary by the Department, an evidentiary hearing may be held to resolve the objection.

- F. Following completion of the work, the applicant shall provide proof of completion and costs to the Department, including bills, receipts, proof of payment and photographs of the completed work. Upon receipt of such documentation, the Department will approve and issue notice of an adjustment in the Maximum Allowable Rent for each affected unit,

in accordance with the formula set forth in Subsection C, above. Any increase in the rent charged pursuant to such adjustments in the MAR shall be subject to the notice requirements imposed by state law and any applicable rental agreement.

- G. In the event that increases approved pursuant to this section would result in increases in excess of twelve percent of the rent currently being paid, any tenant who did not initially approve of the proposed building improvement and increase in the MAR, and who can establish that the rent increase would create a hardship, may apply to the Department to have the increase phased in by a maximum of twelve percent per year. If a tenant for whom such limitation is approved subsequently vacates the unit, the landlord may apply for and obtain a temporary adjustment in the MAR which would permit full recovery of the cost of the improvement within the time remaining in the approved cost recovery period.
- H. Upon expiration of the cost recovery period, the Maximum Allowable Rent for each unit which received an increase pursuant to this section based upon the accelerated period shall be reduced by the amount of the increase received plus the proportion of annual general adjustments attributable to the increase.

60090. Change in Housing Services.

- A. An upward or downward adjustment in the Maximum Allowable Rent for a unit may be approved by the Department, with the mutual consent of the landlord and the affected tenant(s), based upon the addition or removal of a housing service for that unit. The criteria and procedures set forth in Municipal Code Chapter 17.44 of the Rent Stabilization Ordinance shall not apply to such adjustments in the MAR.
- B. Housing services for which adjustments to the MAR may be approved pursuant to this section are services which can readily be added to or removed from the unit and which have an ascertainable market value in the community, including, but not limited to, carpeting, stoves, refrigerators, air conditioning units, and parking spaces.
- C. To obtain approval of an adjustment in the MAR based upon the addition or removal of a housing service, the landlord and affected tenant(s) shall file a joint application, signed by all affected parties. The application shall describe the housing service to be added or removed and state the amount of adjustment to the MAR proposed by the parties.

- D. Where the adjustments in the MAR are proposed pursuant to this section are based upon a shift in housing services between units on a property, not affecting the total housing services of the property, the decreases in the MAR for the unit(s) losing housing services shall be equal to the increases in the MAR for the unit(s) gaining the housing services.
- E. An upward adjustment in the MAR based upon the addition of a housing service shall be granted in accordance with the following formula: the cost of the housing service or improvement, divided by the amortization period (in years), divided by twelve (12). The provisions of Regulation 60040.D shall apply to this paragraph for the purpose of determining amortization periods. No application to add housing services to a particular unit pursuant to this paragraph shall increase the unit's MAR by an amount exceeding ten percent (10%) of the base rent. Any increase in the MAR approved pursuant to this paragraph shall be effective until the housing service is removed from the unit or discontinued.
- F. A downward adjustment in the MAR based upon the removal or termination of a housing service previously added to the unit shall be in an amount equal to the rent increases previously approved. A downward adjustment for the removal or termination of all other housing services shall be calculated in the same manner as set forth in Regulation 60041 B.
- G. No housing service for which additional rent exceeding the MAR is charged may be added to a rental unit unless approved by the Department pursuant to this Section.
- H. Any application filed pursuant to this Section shall be accompanied by the applicable fee established by Resolution of the City Council. (Added by R.S. Res. 93-09, as approved by the City Council on 4-19-93)

CHAPTER 7

APPEALS OF ADMINISTRATIVE DETERMINATIONS OF
THE RENT STABILIZATION DEPARTMENT

70000. Applicability.

Commencing February 17, 1987, this Chapter shall apply to administrative determinations of the Rent Stabilization Department which affect the amount of the rent or the payment of fees. This Chapter shall not apply to decisions by hearing examiners which are appealable to the Rent Stabilization Commission. (Amended by R.S. Res. 88-68, effective 9-6-88)

70001. Right of Appeal.

An administrative determination by the Department may be appealed to the Director of the Rent Stabilization Department by an affected party.

70002. Grounds for Appeal.

The determination may be appealed on the grounds that material information submitted to the Department was false and misleading and since the decision was based upon false information, the decision is erroneous.

70003. Time for Appeal.

An appeal of the administrative determination by the Department must be properly filed within ten (10) business days of the date of mailing of the determination.

70004. Appeal Forms.

Appeal forms shall be prescribed by the Rent Stabilization Director with the approval of the City Attorney as to form.

70005. Procedure for Filing of Appeal.

A. An appeal to the Director must be filed with the Rent Stabilization Department during

normal business hours or by mail.

- B. Appellant shall file the original completed appeal form and one additional copy.
- C. Appellant shall have copies of the completed appeal form served upon all other affected parties; proof of such service must accompany the original completed appeal form when it is filed with the Rent Stabilization Department.

70006. Acceptance of Filing of Appeal.

- A. An appeal of an administrative determination will not be accepted for filing in any of the following circumstances;
 - 1. Where the appeal is not made on the appeal form prescribed by the Rent Stabilization Director;
 - 2. Where the appeal form is not accompanied by payment in full of the applicable appeal fee in the form of cash, money order, certified check, or other form satisfactory to the Department and such fee has not been waived by the Rent Stabilization Director or his/her designee; or
 - 3. Where appellant is not a party affected by the decision being appealed.
 - 4. Where the appeal does not set forth the proper grounds for an appeal as required in Section 70002.

70007. Presentation of Appeal.

Any affected party may submit a written argument or statement to the Department within ten (10) business days of the date of the service of the appeal. The appeal shall be considered on the basis of the written record and the written arguments submitted by the affected parties.

70008. Director's Action on Appeal.

The Director shall make a decision on a properly filed appeal, affirming, reversing or modifying the decision of the Department. The Director's decision shall be issued fourteen (14) business days after the date when the affected parties shall have submitted their written statements to the

Department. The decision of the Director shall be final.

CHAPTER 8

CHANGE OF USE EXEMPTION

80000. Scope of Regulations.

The regulations contained in this Chapter shall govern the application and hearing processes and applicable time periods thereunder when any person or group seeks a change of use exemption under Section 17.24.010 of the West Hollywood Municipal Code. All time periods of ten (10) days or less shall not include weekends and official municipal holidays.

SUBCHAPTER A. APPLICATION

80001. Application Filing Requirement.

Any person or group seeking a change of use exemption must file an application and obtain approval under this Chapter.

80002. Application and Submission Forms.

- A. Application and submission forms shall be prescribed by the Rent Stabilization Director with the approval of the City Attorney as to form. All forms shall specify, and all written statements shall be made, under penalty of perjury.
- B. An application will only be accepted if accompanied by a copy of a written notification, on a form prescribed by the Director, from the landlord to the tenant(s) stating that the applicant is filing the application, and a declaration that he/she served this written notification on all affected tenants.

80003. Application Fee.

- A. The filing fee for an application for a change of use exemption shall be paid at the time the completed application is submitted to the Rent Stabilization Department. The filing fee shall be established by Resolution of the Commission, and after December 2, 1987, by Resolution of the City Council. (Amended by R.S. Res. 89-40, as approved by City Council on 2-5-90)

- B. The filing fee shall be waived where:
 - 1. Applicants declare in writing that they are receiving benefits pursuant to:
 - (a) The Supplemental Security Income (SSI) and the State Supplemental Payments (SSP) programs (Sections 12200-12205.2 of the Welfare and Institutions Code);
 - (b) The Aid to Families with Dependent Children (AFDC) program (42 U.S.C. 601-644);
 - (c) The Food Stamp program (7 U.S.C. 20011-2017); or
 - (d) Section 1700 of the Welfare and Institutions Code (general assistance, county aid and relief to indigents); or
 - 2. Applicants comply with the same eligibility standards as the Commission adopts for the registration fee rebate program.

80004. Procedure for Filing.

Applications under this Chapter may be submitted to the Rent Stabilization Department during normal business hours or may be submitted by mail. Application shall not, however, be deemed accepted for filing upon mere submittal. Applications must meet the requirements set forth in Section 80005 prior to acceptance.

80005. Acceptance for Filing.

- A. An application for a change of use exemption will not be accepted for filing in any of the following circumstances;
 - 1. Where the applications is not made on the application form prescribed by the Rent Stabilization Director.
 - 2. Where the application is not accompanied by payment in full of the application fee in the form of cash, money order, certified check or other form satisfactory to the Rent Stabilization Director an no waiver of the filing fee has been received; or

3. Where the unit or units for which a change of use exemption is requested has not been properly registered with the Department or Rent Stabilization or any applicable registration fees or penalties have not been paid in full.
- B. If a determination is not made to accept an application for filing, the Rent Stabilization Director or his/her designee shall provide to the applicant a written notification of that decision and the grounds on which it was based either in person at the time of filing or by mail, in which case the notification shall be mailed within five (5) business days after receipt of the application by the City.
- C. In the event that an application is not accepted for filing pursuant to this Section, no application fee shall be due. The filing fee received by the Rent Stabilization Department shall be refunded to the applicant.

80006. Incomplete Applications.

- A. Within ten (10) business days after the date of acceptance for filing of an application for a change of use exemption, the Senior Hearing Examiner or Hearing Examiner shall determine whether said application is complete.
- B. If the application is determined not to be complete, the Senior Hearing Examiner or Hearing Examiner shall notify applicant in writing of the additional information required to complete the application. Applicant may amend the application to include the required information or may notify the Department in writing that the required information is unavailable. The 115-day time limit for consideration of the application set forth in Municipal Code Section 17.44.020 shall not begin to run until the application is accepted as complete for filing.

80007. Applicant Waivers.

Applicant may waive the 115-day time limit for consideration of the application set forth in Municipal Code Section 17.44.020. Such waiver shall be submitted on a form prescribed by the Rent Stabilization Director and approved by the City Attorney as to form. Such waiver may specify an extension of the 115-day time period by a stated number of days, or may waive the time limit in its entirety. Nothing in this Section shall be construed to prohibit the filing or more than one such waiver by applicant.

80008. Applicant Withdrawals.

Applicant may at any time withdraw his/her application for a change of use exemption. Such withdrawal shall be submitted on a form prescribed by the Rent Stabilization Director and approved by the City Attorney as to form.

80009. Notice of Hearing on Application for Change of Use Exemption.

- A. As soon as practicable after the determination of the completeness of an application for a change of use exemption and in no event later than ten (10) business days prior to the hearing before the Rent Stabilization Commission, the Rent Stabilization Department shall mail to the applicant and all affected parties a notice of the hearing on the application.
- B. Said notice shall state:
 - 1. The date, time and place of hearing;
 - 2. That all submitted documents and materials as well as any report prepared by a hearing examiner or staff will be available for public review prior to the hearing; and
 - 3. That the applicant or any affected party may submit a written argument to the Department for Commission consideration no less than five (5) business days prior to the date of the Commission hearing.
- C. Incorporated within the Notice of Hearing, or in a separate notice or subpoena, the Rent Stabilization Commission may, through the subpoena power granted to the Rent Stabilization Director or his/her designee by Municipal Code Section 17.44.010, request or subpoena persons to testify and/or to produce books, records and other documentation at, or at a designated time prior to, the hearing on the application.
- D. The applicant shall post a copy of the notice of the hearing in a conspicuous place on the affected property at least five (5) business days prior to the hearing.

80010. Investigation by Hearings Division.

The Hearings Division of the Rent Stabilization Department shall be responsible for processing an application for a change of use exemption. Accordingly, hearing examiners may require the applicant and other affected parties to produce information and documentation necessary to the determination of the application. The hearing examiner may, through the subpoena power granted to the Rent Stabilization Director or his/her designee by Municipal Code Section 17.44.010, subpoena books, records and other documentation at, or at a time designated prior to, the meeting or fact finding proceeding. The Hearing Examiner may hold a meeting or fact finding proceeding with the applicant and any other affected parties, if necessary, for the purpose of determining the facts relevant to the application, and may order an inspection of the premises.

80011. Staff Report.

After the hearing examiner has completed his/her investigation, the hearing examiner shall prepare a staff report for the Rent Stabilization Commission. The staff report may include a written recommendation to the Commission to grant or deny the application for a change of use exemption and shall set forth all pertinent facts upon which said recommendation is based. The staff report shall be mailed to the parties and made available for public inspection at least ten (10) business days prior to the date set for the Commission hearing.

80012. Hearing Date.

Within sixty (60) days after an application for a change of use exemption is determined to be complete, the Rent Stabilization Commission shall hold a hearing on the application, unless an administrative determination to dismiss such application has been made or a continuance has been granted.

80013. Continuances.

An affected party may submit a written request for a continuance of a hearing on a change of use exemption. Such request shall be submitted on a form prescribed by the Rent Stabilization Director, and shall state the reasons for the requested continuance, what efforts have been made to ascertain the position of other affected parties in relation to the requested continuance, and the desired alternative dates for the hearing. Requests for continuances should be submitted at the earliest possible date, and must be received by the Rent Stabilization Department at least seventy-two (72) hours prior to the scheduled hearing unless good cause is shown for a later request. The person submitting the request for continuance shall declare that all affected parties have been served with copies of the request.

80014. Conduct of Hearing.

The hearing shall be conducted in the manner deemed by the Commission to be most suitable to ensure fairness to all concerned parties, to secure the information and documentation which is necessary to render an informed decision, and to result in a fair decision without unnecessary delay.

80015. Rules of Evidence.

Formal rules of evidence shall not be applicable to hearings on applications for change of use exemptions. At such a hearing the applicant and other affected parties may offer any documents, testimony, written declarations, or other evidence that, in the opinion of the Commission, is credible and relevant to the application. The Commission may consider the results of inspections of the property in question and the results of any other investigations conducted by or at the request of the hearing examiner. The Commission shall consider any relevant evidence if it is the sort of evidence which a reasonable person might consider in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Evidence unduly repetitious, lacking credibility or irrelevant evidence shall be excluded upon order by the Commission.

80016. Order of Proceedings.

A hearing on an application for a change of use exemption shall ordinarily proceed in the following manner, unless the Commission determines that some other order or proceedings would better facilitate the hearing:

- A. Presentation of the results of any investigations or staff reports in relation to the application;
- B. Presentation by or on behalf of applicant, if the applicant desires to expand upon the information contained in or appended to the application, including presentations of any other affected parties and witnesses in support of the application;
- C. Presentation by or on behalf of opponents to the application, including presentations of any other affected parties and witnesses in opposition to the

application;

- D. Rebuttal by applicant.

80017. Speakers' Presentation.

The presentation of each person speaking during a hearing shall be concise and to the point; visual and other presentation aids may be used as deemed appropriate by the Commission. The Commission may establish equitable time limits for presentations at a hearing.

80018. Right of Assistance.

All parties to a hearing shall have the right to seek assistance in developing their positions, preparing their statements, and presenting evidence from an attorney, recognized tenant organization representatives, landlord association representatives, translator, or any other person designated by said parties to a hearing.

80019. Hearing Record.

The Rent Stabilization Department shall maintain an official hearing record, which shall constitute the exclusive record for the decision. The hearing record shall include:

- A. A copy of the application for a change of use exemption;
- B. Any written responses to the application received from concerned parties;
- C. All exhibits, papers, and documents offered either before or during the hearing;
- D. A list of participants present at the hearing;
- E. A summary of all testimony upon which the decision is based;
- F. A statement of all materials officially noticed;
- G. The staff report;
- H. All findings of fact and conclusions of law;

I. All final decisions, orders or rulings.

80020. Public Inspection of Hearing Record.

The hearing record is a public record and may be inspected and copied by any person. Copying fees shall be required consistent with City policy.

80021. Quantum of Proof.

No application shall be granted unless supported by the preponderance of the relevant and credible evidence noted in the hearing record and no finding of fact or decision shall be supported solely by hearsay evidence.

80022. Standards for Decision.

The Commission may grant a change of use exemption if the preponderance of the relevant and credible evidence supports one or more of the findings set forth in Municipal Code Section 17.24.010.

80023. Determination.

The action of the Commission on an application for a change of use exemption shall be by majority vote or the application is deemed to be granted. Within thirty (30) days after the close of the hearing, the Commission shall make its determination, with written findings of fact and conclusions of law in support thereof, approving, partially approving or disapproving the requested change of use exemption. The determination of the Commission shall be final.

80024. Notice of Determination.

Within five (5) business days after the making of the Commission's determination, the Rent Stabilization Department shall mail a notice of the determination on the application for a change of use exemption and a copy of the Commission's decision to the applicant and all affected parties. The decision of the Commission and the notice of determination shall be issued not later than one hundred fifteen (115) days after the initial application for change of use exemption was determined to be complete, unless such time limit has been waived by the applicant.

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