

## Chapter 6.20 RENT STABILIZATION\*

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### **6.20.010 Application of rent stabilization—Scope, rent increases, notification requirements, annual reporting.**

A. Application of Rent Stabilization. The provisions of this chapter shall apply to all residential rental units except as provided in Sections [6.20.020](#) and [6.20.030](#).

B. Rents—Rent Increases, Frequency and Notification Requirements.

1. Rent Increases. Rent increases shall be limited to the rent increase amounts authorized by this chapter for regulated rental units.

2. Frequency of Rent Increases. Rents for any individual rental unit may not be increased more often than permitted by this chapter.

3. Notice of Rent Increases. Notification of any rent increase authorized by this chapter shall be provided in writing to the tenant at least two months prior to the date the rent increase is to take effect.

C. Reporting of Rents. Landlords must file an annual rent report with the Department on a form prescribed by the Department in accordance with Section [6.20.070](#). (Ord. 2013-25 § 1, 2013/Ord. 2007-40 § 1 (part), 2007)

### **6.20.020 Buildings exempt from rent stabilization.**

A. Scope of Exemptions. The provisions of this chapter shall not be applicable to the following:

1. Any unit in a licensed facility, the primary purpose of which is the diagnosis, cure, mitigation and treatment of illnesses;
2. Any unit in a facility owned or leased by an organization exempt from Federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code, the primary purpose of which is to provide temporary sanctuary or shelter for qualified clients; provided, that the organization has notified the clients residing in the facility of the temporary nature of their housing at the inception of their residence;
3. Any owner-occupied group house;
4. Religious facilities such as churches, synagogues, parsonages, rectories, convents and parish homes;
5. Transient facilities such as motels, tourist homes, and bed and breakfast facilities;
6. School dormitories;
7. Licensed assisted living facilities and nursing homes;
8. Single-family residences;
9. Any building originally designed and constructed to contain only two dwelling units one of which the owner currently occupies as his or her principal residence; and
10. Any accessory apartment. (Ord. 2013-25 § 1, 2013/Ord. 2007-40 § 1 (part), 2007)

### **6.20.030 Rental facilities and rental units eligible for exemption from rent stabilization pursuant to an application for exemption.**

A. Grant of Exemption. The Department shall, upon application of the owner, grant an exemption from the provisions of this chapter to the following rental units and rental facilities:

1. Individual rental units leased to tenants assisted under Federal tenant based assistance programs or similar federally funded rent subsidy program.
2. Rental facilities subject to a regulatory agreement with a governmental agency that controls the rent levels of not less than one-half of the rental units in the rental facility and restricts the occupancy of those rental units to low and moderate income tenants.
3. Newly Constructed Rental Facilities. For a period of five years after the issuance of a rental license, any newly constructed rental facility with two or more dwelling units. Renovated or reconfigured rental facilities or combined rental units are not eligible for an exemption from rent stabilization.

B. Termination of Exemption.

1. Exemptions granted pursuant to subsection (A)(1) of this section shall expire after one year or when the conditions entitling the rental unit to an exemption cease to exist, whichever shall first occur. The exemptions are renewable annually upon reapplication.
2. Exemptions granted pursuant to subsection (A)(2) of this section shall expire upon the termination of the agreement with the governmental agency entitling the rental facility to the exemption or when the conditions entitling the rental facility to an exemption cease to exist, whichever shall first occur.
3. Exemptions granted pursuant to subsection (A)(3) of this section shall expire on the fifth anniversary date of the issuance of the rental facilities initial rental housing license, regardless of when the application for an exemption was made by the owner.

C. Rents upon Termination of Exemption.

1. For rental facilities and rental units receiving an exemption pursuant to subsections (A)(1) and (A)(2) of this section, upon the termination of the exemption, the base rent for the units and the reference point from which the rent

shall be increased in accordance with this chapter shall be the allowable rent as reported in the annual rent report for each unit at the time the exemption commenced plus the annual rent stabilization allowance for each year that the unit was exempt.

2. For rental facilities receiving an exemption pursuant to subsection (A)(3) of this section, upon the termination of the exemption, the base rent for the units and the reference point from which the rent shall be increased in accordance with this chapter shall be the rent charged for each unit at the time of the expiration of the exemption. For any units not rented when the exemption period terminates, the base rent shall be the rent charged when the unit is first rented to a tenant. If the actual rent paid by a tenant differs from the rent stated in the report or the lease, then the actual rent shall be the base rent. (Ord. 2013-25 § 1, 2013/Ord. 2007-40 § 1 (part), 2007. Formerly 6.20.040)

#### **6.20.040 Establishment of base rent for certain units.**

##### **A. Definitions.**

“Discontinued rental unit” means a rental unit in a rental facility or previously licensed rental facility that is not occupied by tenants and for which the Department has approved an application for discontinuation.

“Existing rental unit” means a rental unit or a discontinued rental unit.

##### **B. Rents for Discontinued Rental Units.**

1. Except as provided in subsection (B)(2) of this section, the base rent for discontinued rental units, and the reference point from which the rent shall be increased in accordance with this chapter, shall be the banked rent reported in the annual rent report at the time the rental unit was discontinued plus the annual rent stabilization allowance for each year that the rental unit was discontinued.

2. If a rental unit remains discontinued for an uninterrupted period of five years, the owner may charge market rent for the unit when it is first newly rented to a tenant. The rent the owner charges the tenant shall establish the base rent for the unit and the reference point from which the rent shall be increased in accordance with this chapter.

C. Rents Following Renovation, Reconfiguration or Consolidation of Existing Rental Units.

1. This subsection applies to renovation, reconfiguration, and consolidation projects performed in vacant existing rental units.
2. If the renovation or reconfiguration of an existing rental unit does not result in a 10% or greater change in the floor area of the unit, then the banked rent reported for the unit in the annual rent report at the time the rental unit became vacant plus the annual rent stabilization allowance for each year that the rental unit remained vacant shall be the maximum rent that the owner may charge for the unit when it is first rented to a tenant.
3. If the floor area of a renovated or reconfigured unit is more than 10% smaller or larger than the unit it replaces, then the banked rent reported for the unit in the annual rent report at the time the rental unit became vacant plus the annual rent stabilization allowance for each year that the rental unit remained vacant, reduced or increased by a percentage equal to the reduction or increase in the floor area of the unit prior to its renovation or reconfiguration, shall be the maximum rent that the owner may charge for the unit when it is first rented to a tenant.
4. When two or more rental units are consolidated to create a single rental unit, the base rent for the new unit, and the maximum rent that the owner may charge when the unit is first rented to a tenant, shall be the base rent of the largest unit increased by the percentage increase in the floor area from the largest unit to the resulting unit.
5. Application for Rent Adjustments. Before an owner may increase the rent for a unit in accordance with subsection (C)(3) or (4) of this section, the owner must first obtain approval from the Department. The owner must submit a completed application form and documentation demonstrating the appropriate adjustment to the base rents (which may include, but shall not be limited to, construction plans, photographs and video recordings of the original and reconfigured units), and may be required to undergo an inspection of the property.

D. Rents Following Purchase of an Owner-Occupied Condominium Unit. The new owner of a previously owner-occupied condominium unit, purchased in a bona fide arm's length transaction, may charge market rent for the unit. The rent the owner charges his or her

initial tenant shall establish the base rent for the unit and the reference point from which the rent shall be increased in accordance with this chapter.

E. Reset of Base Rent for Owner-Occupied Condominium Units. When the owner of a previously rented condominium unit occupies the unit for at least 12 consecutive months as his or her principal residence, the owner may charge market rent for the unit when the owner next rents the unit to a tenant. The rent the owner charges the tenant shall establish the base rent for the unit until the owner again occupies the unit for at least 12 consecutive months. (Ord. 2013-25 § 1, 2013/Ord. 2007-40 § 1 (part), 2007. Formerly 6.20.050)

### **6.20.050 Annual rent increases, frequency of rent increases and notification.**

A. Annual Rent Stabilization Allowance.

1. The Department shall calculate an annual rent stabilization allowance equal to the percentage increase in the Consumer Price Index (CPI) from March in the preceding year to March in the current year. Notice of the allowance shall be published in the May edition of the Takoma Park Newsletter and on the City website.
2. The annual rent stabilization allowance shall remain in effect for a 12-month period beginning July 1st of each year and ending on June 30th of the following year.
3. Rent increases for rent-stabilized rental units may be increased by an amount not to exceed the annual rent stabilization allowance in effect at the time of the rent increase.
4. Rent increases less than permitted in subsection (A)(3) of this section may be banked in accordance with Section [6.20.060](#).

B. Frequency of Rent Increases.

1. Occupied Rental Units. Only one rent stabilization increase pursuant to subsection (A)(3) of this section shall be permitted within a 12-month period.
2. Fair Return Rent Increases. An additional rent increase pursuant to a fair return rent increase petition subsequently approved by the Commission in accordance with Section [6.20.080](#) may be taken pursuant to the terms and the conditions of the Commission's administrative decision and final order.

3. Vacant Rental Units. The rent for vacant rental units may be increased up to the banked rent and the annual rent stabilization allowance may be applied prior to the leasing of the rental unit in accordance with Section [6.20.060](#).

C. Notice of Annual Rent Increases.

1. A landlord shall not increase or attempt to increase the rent for any occupied rental unit without having first given the tenant living therein at least two months' written notice of the increase.

2. Notice of a rent increase shall be in the form and manner prescribed by Department regulations. (Ord. 2013-25 § 1, 2013/Ord. 2007-40 § 1 (part), 2007. Formerly 6.20.060)

**6.20.060 Banking of authorized annual rent stabilization increases.**

A landlord may increase the rent for a vacant rental unit by the actual dollar amount of any annual rent stabilization allowances that were not charged to the tenant vacating the rental unit. Such increase may be taken if the rental unit became vacant as a result of a voluntary termination of the tenancy by the tenant or a termination of the tenancy by the landlord for cause. This rent increase may be in addition to any rent stabilization allowance increase that the landlord may impose on or after 12 months from the date of the last rent stabilization allowance increase for that rental unit. (Ord. 2013-25 § 1, 2013/Ord. 2007-40 § 1 (part), 2007. Formerly 6.20.070)

**6.20.070 Annual reporting requirements.**

A. Reporting Requirements. On or before September 30th of each year, each landlord shall complete and submit to the Department a rent report for the 12-month period beginning July 1st and ending on the preceding June 30th on a form provided by and in the manner prescribed by Department regulations.

B. Penalty for Failure to Comply with Reporting Requirements. Failure to file a complete or accurate rent report by September 30th of each year shall constitute a Class A violation of this chapter unless an extension of time for good cause is granted by the Department prior to the due date. (Ord. 2013-25 § 1, 2013/Ord. 2007-40 § 1 (part), 2007. Formerly 6.20.080)

**6.20.080 Rent increases pursuant to a fair return petition.**

A. Fair Return Rent Increase. Landlords have a right to petition for a rent increase in order to obtain a fair return. A fair return rent increase is intended to protect tenants from unwarranted rent increases, while allowing rent levels that provide landlords with a fair return.

B. Standards for Rent Increases Pursuant to a Fair Return Petition.

1. Fair Return. Fair return is defined as base year net operating income adjusted by 70% of the percentage increase in the Consumer Price Index (CPI) from the base year until 2007, and 100% of the percentage increase in the CPI since 2007.

2. Base Year. The landlord may select any of the following as the base year when petitioning for a fair return rent increase:

a. 1979, unless the property contains four or fewer dwelling units;

b. 1987, if the property contains four or fewer rental units;

c. 1990;

d. 2000.

3. Current Year. The current year shall be either the calendar year or the fiscal year (July 1st to June 30th) immediately preceding the date that the application is filed.

4. Current Year CPI. If the current year is a calendar year, the current year CPI shall be the annual CPI for that year. If the current year is a fiscal year, the current year CPI shall be the CPI for December during the current year.

5. Net Operating Income. Net operating income equals gross income minus operating expenses.

6. Imputed Base Year Net Operating Income. If the base year is 1990, at the landlord's option, the 1990 net operating income shall be imputed based on estimated base year operating expenses. In estimating the base year operating expenses, it shall be presumed that each operating expense increased by the same percentage as the CPI since the base year. However, if data, rate information, or other sources of cost information indicate that particular operating expenses increased at a different rate than the percentage increase in the CPI, the estimate of the percentage increase in that expense shall be based on the best



available data on increases in that type of expense. Information on the rate of increases and/or other relevant data on trends in increases in particular types of expenses between the base year and the current year may be introduced by the landlord, affected tenants, the Department, and the Rents Analyst.

7. Gross Income. Gross income is the annual scheduled rental income for the property based on the rents and fees (other than fees that are reimbursed to the tenants) the landlord was permitted to charge at the time of the application.

8. Operating Expenses. Operating expenses means all reasonable operating and maintenance expenses.

a. Operating expenses shall include, but not be limited to, the following:

i. Utilities paid by the landlord, unless these costs are passed through to the tenants;

ii. Administrative expenses, such as advertising, legal fees, accounting fees, etc;

iii. Management fees, whether performed by the landlord or a property management firm; it shall be presumed that management fees increased by the percentage increase in the CPI between the base year and the current year, unless the level of management services either increased or decreased during this period. Management fees shall not exceed 6% of gross income unless the landlord demonstrates by a preponderance of the evidence that a higher percentage is reasonable;

iv. Payroll;

v. Amortized cost of capital improvements. An interest allowance shall be allowed on the cost of amortized capital expenses; the allowance shall be equal to the interest the landlord would have incurred had the landlord financed the capital improvement with a loan for the amortization period of the improvement, making uniform monthly payments, at an interest rate equal to the Federal Reserve Board bank prime loan rate as of the date of the initial submission of the petition plus 2% per annum;

vi. Maintenance related material and labor costs, including self-labor costs computed in accordance with the regulations adopted pursuant to this section;

vii. Property taxes;

- viii. Licenses, government fees and other assessments; and
  - ix. Insurance costs.
- b. Reasonable operating and maintenance expenses do not include the following:
- i. Expenses for which the landlord has been or will be reimbursed by any security deposit, insurance settlement, judgment for damages, agreed-upon payments or any other method;
  - ii. Payments made for mortgage expenses, either principal or interest;
  - iii. Judicial and administrative fines and penalties;
  - iv. Damages paid to tenants as ordered by COLTA or the courts;
  - v. Depreciation;
  - vi. Late fees or service penalties imposed by utility companies, lenders or other entities providing goods or services to the landlord or the rental facility;
  - vii. Membership fees in organizations established to influence legislation and regulations;
  - viii. Contributions to lobbying efforts;
  - ix. Contributions for legal fees in the prosecution of class-action cases;
  - x. Political contributions for candidates for office;
  - xi. Any expense for which the tenant has lawfully paid directly or indirectly;
  - xii. Attorney's fees charged for services connected with counseling or litigation related to actions brought by the City under City regulations or this title, as amended. This provision shall apply unless the landlord has prevailed in such an action brought by the City;
  - xiii. Additional expenses incurred as a result of unreasonably deferred maintenance; and
  - xiv. Any expense incurred in conjunction with the purchase, sale, or financing of the rental facility, including, but not limited to, loan fees, payments to real estate agents or brokers, appraisals, legal fees, accounting fees, etc.

c. When an expense amount for an item during a particular year is determined not to be a reasonable projection of ongoing or future expenditures for that item, said expense shall be averaged with other expense levels for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for that item that most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses.

C. Rent Increase Petition Based on Fair Return Standard.

1. Form of Petition. Whenever a landlord proposes a rent increase of more than the amount permitted by Section [6.20.050](#), the landlord shall file a petition with the Commission on a form provided by the Department.

2. Required Submission of Income and Expense Information. The landlord shall be required to submit income and expense information for the two years prior to the current year with the petition.

3. Petition Restrictions. Petitions filed pursuant to this section must address an entire rental facility. The landlord filing a petition must own the rental facility for the entire current year.

4. Adjustments to Petition—Base Year Net Operating Income.

a. Adjustment of Base Year Net Operating Income by Commission. It may be determined that the base year net operating income yielded other than a fair return, in which case the base year net operating income may be adjusted. In order to adjust the base year net operating income, the Commission must make at least one of the following findings:

i. Base year net operating income was abnormally low due to one of the following factors:

(A) The landlord made substantial capital improvements that were not reflected in the base year rents and the landlord did not obtain a rent adjustment for these capital improvements;

(B) Substantial repairs were made due to exceptional circumstances; or

(C) Other expenses were unreasonably high, notwithstanding prudent business practice.

ii. Base year rents did not reflect market transaction(s), due to one or more of the following types of circumstances:

(A) There was a special relationship between the landlord and tenant resulting in abnormally low rent charges (such as a family relationship);

(B) The rents had not been increased for the five years preceding the base year;

(C) The tenant lawfully assumed maintenance responsibilities in exchange for low rent increases or no rent increases; or

(D) Other special circumstances that establish that the rent was not set as the result of an arms-length transaction.

b. Establishment of a New Base Year Net Operating Income—Prior Year Petitions. The net operating income, income, and expenses, determined to be fair and reasonable pursuant to a prior petition for a fair return rent increase, shall constitute the base year income, expenses, and net operating income in the new petition.

5. Consideration of Fair Return Petition by Commission.

a. Issuance of a Decision by the Commission. The Commission shall, in good faith, endeavor to issue its preliminary administrative decision ruling on the request within 90 days of the review or hearing on the petition. Upon its determination of the rent increase to be granted to the landlord, the Commission shall issue a decision in accordance with Section [6.24.110](#) and furnish a copy of the decision to the landlord.

b. Rejection of Petition.

i. The Commission shall not consider the landlord's fair return petition:

(A) Until the properly completed petition form, including required supporting documentation, has been submitted to the Commission;

(B) When the landlord has not properly registered the rental property with the City and/or when the landlord has outstanding fees or fines with the Department;

(C) When the landlord has not filed required rent reports for each of the three years prior to the filing date of the petition; provided, that the Commission may, at its discretion, waive the above requirement for good cause shown; or

(D) When the landlord has failed to comply with a final order of the Commission concerning any rental unit owned by the landlord in the City. However, the failure to comply with an order of the Commission shall not constitute a basis to decline to consider the landlord's request if the order has been appealed to the Circuit Court and no decision has been rendered on appeal.

ii. If the Commission declines to consider the landlord's request, it shall provide a written explanation for its action.

#### 6. Ceiling on Fair Return Adjustments.

a. Fair Return Rent Increases on Occupied Rental Units. Fair return rent increases shall not exceed 15% in any 12-month period. If the Commission awards a fair return rent increase greater than 15%, then the landlord may impose the remainder of the increase in subsequent years in increments not to exceed 15%.

b. Fair Return Rent Increases on Vacant Rental Units. If the Commission determines that a rental unit requiring an increase of more than 15% is vacant or if the unit becomes vacant before the required rent increase has been taken in full, the Commission shall allow the required increase for that unit to be taken in one year or upon the vacancy of that unit, provided the unit became vacant as a result of a voluntary termination by the tenant or a termination of the tenancy by the landlord for cause.

#### 7. Notification Requirements.

a. Notice of Petition for a Rent Increase. The Department shall provide written notification to each tenant affected by a proposed rent increase within one week after the filing date of the petition. Such notification shall include a copy of the petition form and a listing of all requested rent increases.

b. Notice of a Rent Increase Granted Pursuant to a Rent Increase Petition. The landlord shall provide written notice to each affected tenant of the rent increase that has been authorized by the Commission, no less than two months prior to the date the proposed increase is to take effect. Said increase shall be contingent on the decision of the Commission becoming final in accordance with Sections [6.24.110](#) and [6.24.130](#).

#### 8. Rollbacks—Bad Faith Fair Return Petitions.

a. Authority to Require Rollback. If, upon consideration of a fair return petition, the Commission finds that the adjusted base year net operating income included in the petition is less than the landlord's actual petition year net operating income and the fair return petition was filed in bad faith, the Commission may require the landlord to roll back the rents charged on the rental units covered by the petition to result in a net operating income equal to the adjusted base year net operating income.

b. Purpose of Rollbacks. The purpose of the rollback provision in this subsection is to ensure that fair return petitions are filed in good faith, that the landlord reviews the records of the rental property for which rent increases are sought to ensure that a rent increase is justified under this section and to balance both the tenant and the landlord interests in each petition to increase rents above the rent stabilization allowance.

c. Definition of Bad Faith.

i. Bad faith can be found, but is not limited to, instances in which the landlord:

(A) Listed expenses for repairs or services never performed;

(B) Materially misrepresented expenses claimed;

(C) Knowingly filed a false rent report, in whole or in part; or

(D) Acted in some manner which is a clear abuse of the petition process.

ii. The following shall not constitute bad faith under this provision:

(A) Miscalculations and simple mathematical errors; or

(B) Claims for expenses or other items that are not specifically addressed in this section and that the Commission disallowed, but that could plausibly have fallen within this section.

d. Determination of Bad Faith by Commission. The Commission shall verify the information upon which it makes its findings of bad faith and shall issue a decision clearly stating the basis for its finding. The landlord shall be required to notify all tenants affected by the rent rollback, and, if the landlord was permitted to increase rents by the rent stabilization allowance pending a decision on the fair return petition, all rent increases so collected shall be refunded to the affected tenants within 30 days. If the landlord fails to roll back the rents or fails to refund the rent increases collected, the affected tenants may begin

paying the rolled-back rent or may deduct any rent refunds or rollbacks owed the tenants in accordance with subsection (C)(8)(a) of this section.

9. Scope of Commission Authority in Setting Rents. Notwithstanding any other provision of this chapter or regulations instituted pursuant to this chapter, the Commission shall be authorized to take into account any factors that it is required to consider by law and grant whatever rent increase is constitutionally required to yield a fair return.

10. Burden of Proof. The landlord shall have the burden of proof in demonstrating that a rent increase should be authorized pursuant to this section. (Ord. 2013-25 § 1, 2013/Ord. 2007-40 § 1 (part), 2007. Formerly 6.20.090)

