

RESOLUTION NO. NS-29,421

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ REQUESTING THAT THE CONSOLIDATED NOVEMBER 2018 GENERAL ELECTION INCLUDE A BALLOT MEASURE TO AMEND THE CITY CHARTER TO ESTABLISH AN AUTONOMOUS FIVE-MEMBER ELECTED RENT BOARD, WITH A SEPARATELY APPOINTED EXECUTIVE DIRECTOR, LEGAL COUNSEL AND STAFF, TO OVERSEE, ADMINISTER AND ENFORCE RENT CONTROL AND JUST CAUSE-EVICTION REGULATIONS IN THE CITY OF SANTA CRUZ

WHEREAS, under the provisions of State Law as it relates to the conduct of elections in California and in accordance with the City Charter, a General Municipal Election shall be held in the City of Santa Cruz on Tuesday, November 6, 2018 for the election of Municipal Officers; and

WHEREAS, on January 19, 2018, proponents of an initiative measure entitled "*The Santa Cruz Rent Control and Tenant Protection Act*" ("Initiative") submitted a Notice of Intent and written text of the measure and requested that a Ballot Title and Summary be prepared for the measure in order to circulate the petition; and

WHEREAS, the City Attorney prepared and provided the Ballot Title and Summary on February 5, 2018, with the Ballot Title "A proposed Amendment to the Santa Cruz City Charter establishing residential rent control and just cause eviction requirements in the City of Santa Cruz, to be governed by a separately elected Rent Board"; and

WHEREAS, pursuant to California Elections Code Section 9280, whenever a city measure qualifies for a place on the ballot, the City Council may direct the City Attorney to prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Santa Cruz that it hereby orders an election be called and consolidated with any and all elections also called to be held on November 6, 2018 insofar as said elections are to be held in the same territory that is in part the same as the territory of the City of Santa Cruz, and hereby requests the Board of Supervisors of the County of Santa Cruz to order such consolidation under Elections Code Section 10401 and 10403.

BE IT FURTHER RESOLVED AND ORDERED that the City Council of the City of Santa Cruz hereby requests the Board of Supervisors to permit the Santa Cruz County Elections Department to provide any and all services necessary for conducting the election and agrees to pay for said services, and

BE IT FURTHER RESOLVED AND ORDERED that the Santa Cruz County Elections Department shall conduct the election for the following measure to be voted on as the November 6, 2018 election:

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BE IT FURTHER RESOLVED AND ORDERED that the Santa Cruz County Elections Department shall conduct the election for the following measure to be voted on at the November 6, 2018 election.

“The Santa Cruz Rent Control and Tenant Protection Act”

Ballot Question:

“Shall the City Charter be amended to enact rent control and just cause eviction regulations on residential rentals in the City of Santa Cruz, with exceptions under State Law, to be governed by a separately elected and autonomous rent board, with independent authority to set rents, fees, and penalties, and appoint an executive director, legal counsel and staff to oversee implementation, administration, and enforcement of the rent control and just cause eviction regulations?”

Yes _____ No _____

BE IT FURTHER RESOLVED AND ORDERED THAT Santa Cruz County Elections Department is requested to:

- Print the attached measure text exactly as filed or indicated on the filed document in the County Voter Information Guide for the November 6, 2018 election. Cost of printing and distribution of the measure text will be paid for by the city/district.

Do NOT print the measure text in the County Voter Information Guide. Instead, send a copy to voters upon request at the cost of said city/district.

BE IT FURTHER RESOLVED AND ORDERED that the City Clerk is directed to transmit a copy of the measure to the City Attorney, and the City Attorney is directed to prepare an impartial analysis of the measure showing the effect and operation of the proposed ordinance and to file the analysis no later than the deadline established by the Elections Official.

BE IT FURTHER RESOLVED AND ORDERED that the proponents of the initiative may file a written argument in favor of the measure, and the City Council authorizes any and all members of the City Council to file a written argument against the measure and any individual voter who is eligible to vote on the measure or bona fide association of citizens or combination of voters and associations may also submit a written argument for or against the measure. Such argument, whether in favor or against, shall not exceed 300 words and be accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers. Primary arguments in favor of and against the measure must be submitted to the City Clerk by 5:00 p.m. on July 10, 2018. In the event that more than one written argument is filed in favor of or against the measure, the City Clerk shall select one of the multiple arguments

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in accordance with the provision of Elections Code Section 9287. Rebuttal arguments must be submitted to the City Clerk by 5:00 p.m. on July 20, 2018, and shall not exceed 250 words.

PASSED AND ADOPTED this 26th day of June, 2018, by the following vote:

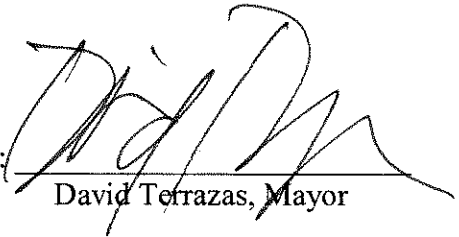
AYES: Councilmembers Krohn, Mathews, Chase, Brown, Noroyan; Vice Mayor Watkins; Mayor Terrazas.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED:



David Terrazas, Mayor

ATTEST:



Bonnie Bush, City Clerk Administrator

FULL TEXT BEGINS:

EXHIBIT A

THE CITIZENS OF THE CITY OF SANTA CRUZ do hereby enact the following amendments to the City Charter, which may be referred to as: “*The Santa Cruz Rent Control and Tenant Protection Act.*”

SECTION 1: TITLE AND PURPOSE

This Charter Amendment shall be known as the Santa Cruz Rent Control and Tenant Protection Act. The purpose of this Article is to promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Santa Cruz by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring landlords a fair return on their investment and protecting homeowners.

SECTION 2: FINDINGS

The People of Santa Cruz find and declare as follows:

(a) There is a shortage of decent, safe, affordable, and sanitary housing in the City of Santa Cruz (“the City”), resulting in a quickly gentrifying city that is pushing out long-term community members.

(b) Tenants should not have to worry constantly about losing their home due to excessive rent increases. Common-sense protections against unfair evictions and unreasonable rent increases are needed in the City to protect long-time and low-income residents from displacement and all-time high rents.

(c) Wage reports from the U.S. Bureau of Labor Statistics show that Santa Cruz County wages grew by only 4.8% in the three-year period from 2013-2016. In contrast, data from the Zillow Rent Index show that rents increased as much as 41% in Santa Cruz in the same time period (e.g., a two-bedroom house increased from \$2,008 in December 2013 to \$2,841 in December 2016).

(d) According to the National Low Income Housing Coalition’s Out of Reach report for 2017, the Santa Cruz/Watsonville Metropolitan Statistical Area (MSA) is the least affordable MSA in California, and California has the highest rents in the United States. The Out of Reach report examines “affordability” by evaluating the fair market rent of a two-bedroom apartment in proportion to the mean renter wage.

(e) Fifty-six percent (56%) of City residents are renters. The U.S. Census Bureau’s American Community Survey for 2017 indicates that over 60% of renters in Santa Cruz are rent burdened, meaning that they spend more than 30% of their household income on rent.

(f) People with incomes less than \$35,000 - including many younger than 25 - are leaving the City and being replaced by those with double the income who work outside the

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county. Service economy employers including restaurants and supermarkets are unable to fill positions with City residents due to high rents that have priced service workers out of town. Workers at both ends of the wage scale living far from their place of employment further exacerbates commute burdens and travel times. The combination of growing college enrollment and limited new housing has contributed to growing rental rates.

(g) The City of Santa Cruz Housing Element: 2015 - 2023 states that with over 20 percent of the City's households having low, very low, or extremely low incomes, the demand for affordable housing is unlikely to change in the near or even mid-term future. Many of the jobs available in the City ordinarily do not provide the income needed to buy a new home in the City. Therefore, affordable rental housing is the highest need.

(h) Historically, the City has never met the affordable housing goals in its Housing Element, as prescribed by the State Department of Housing and Community Development and allocated by the Association of Monterey Bay Area Governments. In light of this, controlling rents is the only viable option to maintain the affordability of a significant portion of the housing supply within a reasonable time frame.

(i) Given the increased housing cost burden and poverty faced by many City residents, excessive rent increases threaten the public health, safety, and welfare of City residents, including seniors, those on fixed incomes, those with very low, low, and moderate income levels, and those with other special needs, to the extent that such persons may be forced to choose between paying rent and paying for food, clothing, and/or medical care for themselves and their families, and are chronically on the verge of eviction for non-payment of rent.

(j) The City currently does not restrict rental increases or the grounds for eviction. The City does not provide information to tenants regarding their rights in the case of eviction, nor does it provide referrals to tenant counselors. The City has not provided regular funding for tenant assistance or a legal defense fund.

(k) The Consumer Price Index (CPI) is an accepted measure of the general change over time in prices and therefore the cost of living and doing business. Since 1984, increases in the CPI (All Items, All Urban Consumers, San Francisco-Oakland-San Jose region) have been modest, generally under 4% per year. Wage increases have trailed rather than stimulated general cost increases. A cap on rent increases tied to the change in the Consumer Price Index generally will protect low-wage tenants without obstructing landlords' fair return on investment.

(l) In unusual cases where a cap on rent increases poses difficulty for a particular landlord, the legal requirement for a fair return is satisfied so long as an adequate process is established for the landlord to seek an individualized adjustment. Courts in California have long upheld the constitutionality of the maintenance of net operating income (MNOI) standard in these individualized determinations. The MNOI standard is typically indexed to increases in the CPI, including indexing the MNOI standard at less than 100% of the change in CPI. One reason is that such indexing accounts for the fact that a landlord's return on investment is not limited to the revenue from rent rolls, but also includes increases to the landlord's equity in the property and overall appreciation of the property. Another reason is that a major component of the CPI is

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determined by increases in housing costs, which are often driven by speculation rather than maintenance costs and thus unduly influence the rise in the overall CPI. Over the last 40 years, the change in the CPI in the San Francisco Bay Area for "All items less shelter" was approximately 80% of the change in the CPI for "All items." The People of the City of Santa Cruz find that indexing the MNOI standard at 80% of the change in CPI for "All items" is reasonable and will guarantee that landlords will obtain a fair rate of return on their investments.

(m) Tenants who are displaced by landlord actions are subject to serious adverse impacts. Such actions can include evictions, which impose unfair burdens on tenants when they are evicted through no fault of their own. Landlord actions that cause displacement also include rent increases to unaffordable levels, which lead to economic displacement by pricing residents out of their homes. Given the dramatic increases in rents and the growing number of cost-burdened renters in the City, rent increases of over ten percent (10%) often result in such economic displacement. The financial impacts of displacement, whether caused by evictions or large rent increases, include but are not limited to: packing, moving, and storage costs, lost wages due to taking time off work to search for alternative housing, the cost of applying to alternative housing, change of address expenses, and temporary housing expenses required until suitable long-term alternative housing is obtained. Additionally, landlords often require that prospective tenants pay the equivalent of three months' rent up front in order to secure a lease – generally representing the first month's rent, last month's rent, and security deposit. The Housing Authority for the County of Santa Cruz reports that it routinely permits Section 8 voucher holders an initial term of six (6) months to seek and secure new housing, evidencing that displaced tenants must often pay for extended stays in temporary housing such as hotels. The total accumulated cost imposed on a displaced household generally exceeds \$10,000 and frequently can reach \$20,000 or greater. Tenants who are seniors, disabled, or have children incur even higher costs due to their particular circumstances. Low- and moderate-income tenants cannot afford such sudden and costly expenses, and they often experience homelessness as a direct consequence of eviction, which itself imposes further financial, social, health, and emotional costs. The severe financial impacts of displacement on renters pose a threat to the public health, safety, and welfare of the residents of Santa Cruz.

(n) In response to the escalating housing crisis, the Santa Cruz City Council hosted a "Housing Study Session" during its regularly scheduled meeting on September 12, 2017. During the study session, the City Council discussed the possibility of implementing rent stabilization. On October 19, 2017, the City sponsored the "No Place Like Home" affordable housing forum at the Civic Auditorium. Approximately 600 residents attended the widely-publicized event, during which there was additional public discussion about pursuing rent stabilization and other tenant protections within the City. By October 19, 2017, it was foreseeable that rent stabilization and just cause eviction protections were being considered in Santa Cruz, thus making it reasonable to conclude that landlords, in anticipation of imminent regulation, might increase rents to levels they otherwise would not have.

(o) In light of the numerous concerns noted herein related to the adverse impacts that result from a lack of affordable housing within the City, the People of the City of Santa Cruz determine that it is in the interest of immediately preserving the public health, safety and general welfare to adopt this Article in order to put into place, among other things, just cause for

eviction, rent stabilization, and a process to resolve disputes between landlords and tenants and ensure that landlords continue to receive a fair rate of return.

SECTION 3: DEFINITIONS

Unless further defined elsewhere in this Article, the following words or phrases as used in this Article shall have the following meanings:

(a) **Annual General Adjustment** is the percentage by which the Rent for existing tenancies in Covered Rental Units may be increased each year, subject to the limitations of this Article.

(b) **Base Rent** is the reference point from which the lawful Rent shall be determined and adjusted in accordance with this Article.

(1) For tenancies that commenced on or before October 19, 2017, the Base Rent shall be the Rent in effect on October 19, 2017.

(2) For tenancies that commenced after October 19, 2017, the Base Rent shall be the amount of Rent actually paid by the Tenant for the initial term of the tenancy, provided that amount is not a violation of this Article or any provision of state law.

(c) **Board**. The City of Santa Cruz Rent Board established by this Article.

(d) **City**. The City of Santa Cruz.

(e) **City Council**. The City Council of the City of Santa Cruz.

(f) **Covered Rental Unit**. Any Rental Unit not specifically exempted under Section 4.

(g) **Disabled**. A person with a disability as defined in California Government Code Section 12955.3.

(h) **Fair Return** on a landlord's investment in housing shall be determined by using the maintenance of net operating income (MNOI) methodology as outlined in Section 11 herein.

(i) **Hearing Officer**. An official appointed by the Board to conduct an investigation or administrative hearing pursuant to this Article.

(j) **Housing Services** include, but are not limited to, repairs, maintenance, painting, providing light, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, Utility Charges that are paid by the Landlord, refuse removal, furnishings, telephone, parking, the right to have a specified number of occupants, and any other benefit, privilege, arrangement or facility provided or

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contracted for in connection with the use or occupancy of any Rental Unit. Housing Services to a Rental Unit shall include a proportionate part of services provided to common facilities of the Property in which the Rental Unit is contained.

(k) **Individual Rent Adjustment.** An adjustment to the otherwise lawful Rent that is authorized by a Hearing Officer or the Board pursuant to this Article.

(l) **Landlord.** An owner, lessor, sublessor or any other person entitled to receive Rent for the use and occupancy of any Rental Unit, or an agent, representative, predecessor, or successor of any of the foregoing.

(m) **Petition.** A petition for an Individual Rent Adjustment pursuant to this Article.

(n) **Primary Residence.** The occupant's usual place of return. To classify a unit as an occupant's Primary Residence does not require that the occupant be physically present in the unit at all times or continuously, but does require that the unit be the occupant's usual place of return, exclusive of military service, hospitalization, vacation, family emergency, travel necessitated by employment or education, or other reasonable temporary periods of absence. Factors that are indicative of Primary Residence include but are not limited to:

- (1) The occupant carries on basic living activities at the unit for extended periods;
- (2) The unit is listed with public agencies, including but not limited to federal, state and local taxing authorities, as the occupant's primary residence;
- (3) Utility Charges and other charges and fees associated with usage of the structure are billed to and paid by the occupant at the unit;
- (4) The occupant does not file for a homeowner's tax exemption for any different property;
- (5) The occupant is not registered to vote at any other location;
- (6) Ownership is held in the name of the occupant claiming Primary Residence and not held by a Limited Liability Corporation or other corporate or business entity structure; and
- (7) The unit is listed on the driver's license or state identification of the occupant.

(o) **Property.** All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.

(p) **Qualified Tenant.** A Tenant who satisfies any of the following criteria: has attained age 62; is handicapped as defined in Section 50072 of the California Health and Safe

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Code; is Disabled; or is a person residing with and on whom is legally dependent (as determined for federal income tax purposes) one or more minor children.

(q) **Relocation Assistance**. Financial payment due to a Tenant as a lump sum in certain cases of no-fault displacement, as set forth in Sections 5(c)-(d) herein.

(r) **Rent**. All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord concerning the use or occupancy of a Rental Unit and premises and attendant Housing Services, including but not limited to all payment and consideration demanded or paid for parking, Utility Charges, pets, furniture, and/or subletting.

(s) **Rental Agreement**. An agreement, oral, written, or implied, between a Landlord and Tenant for use or occupancy of a Rental Unit and for Housing Services. For the purpose of this Article, the terms "Rental Agreement" and "Lease" are interchangeable.

(t) **Rental Housing Fee**. The annual fee charged for each Rental Unit as described in Section 10(p)(1) herein.

(u) **Rental Unit**. Any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, whether or not such units possess a valid Certificate of Occupancy for use as rental housing, together with all Housing Services connected with use or occupancy of such Property, such as common areas and recreational facilities held out for use by the Tenant.

(v) **Security Deposit**. Any payment, fee, deposit, or charge as defined in Section 1950.5 of the California Civil Code or Section 21.02.010 of the Municipal Code.

(w) **Tenant**. A tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a Rental Agreement or this Article to the use or occupancy of any Rental Unit.

(x) **Utility Charges**. Any charges for gas, electricity, water, garbage, sewer, telephone, cable, internet, or other service relating to the use and occupancy of a Rental Unit.

(y) **Written Notice to Cure**. A written notice provided by a Landlord that gives a Tenant an opportunity to correct an alleged violation or problem prior to initiating legal proceedings to terminate tenancy. Any Written Notice to Cure must:

- (1) Provide the Tenant a reasonable period to cure the alleged violation or problem;
- (2) Inform the Tenant that failure to cure may result in the initiation of eviction proceedings;
- (3) Inform the Tenant of the right to request a reasonable accommodation;

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- (4) Inform the Tenant of the contact number for the Board; and
- (5) Include a specific statement of the reasons for the Written Notice to Cure with specific facts to permit a determination of the date, place, witnesses and circumstances concerning the reason for the eviction.

SECTION 4: EXEMPTIONS

(a) **Fully Exempt (Exempt from Both Rent Stabilization and Just Cause for Eviction)**. The following Rental Units are exempt from all provisions of this Article:

- (1) Units in hotels, motels, inns, tourist homes, rooming and boarding houses, and short-term vacation rentals which are rented primarily to transient guests for a period of fewer than thirty (30) days, including all units subject to the transient occupancy tax ordinance codified at City Code Chapter 3.28 (as modified);
- (2) Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education;
- (3) Rental Units which a government unit, agency or authority owns, operates, or manages, or in which government-subsidized Tenants reside, if applicable federal or state law or administrative regulation specifically exempt such units from municipal rent stabilization;
- (4) Renting of a Room Unregulated. Rental Units wherein the Tenant shares a bathroom or kitchen with the Landlord shall be exempt from this Article if the housing unit is the Primary Residence of the Landlord.

(b) **Partially Exempt (Exempt from Rent stabilization; Just Cause for Eviction Applies)**. The following Rental Units are exempt from Sections 6, 7, and 8 of this Article (regarding Stabilization of Rents) and from Sections 11 and 12 (regarding Petitions for Individual Rent Adjustment), but are not otherwise exempt from this Article:

- (1) Any Rental Unit exempt from regulation of rental rates pursuant to state law, including the Costa-Hawkins Rental Housing Act (California Civil Code § 1954.52) so long as it is effective and applicable, or any other applicable housing law currently in effect.

SECTION 5: JUST CAUSE FOR EVICTION PROTECTIONS; FAMILY PROTECTIONS

(a) No Landlord shall take action to terminate any tenancy, or endeavor to recover possession of a Rental Unit, including but not limited to making a demand for possession of a Rental Unit, threatening to terminate a tenancy orally or in writing, serving any Written Notice to

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Cure or other eviction notice, or bringing any action to recover possession, or be granted recovery of possession of a Rental Unit, unless at least one of the following conditions exists:

- (1) **Failure to Pay Rent.** The Tenant, after receiving a Written Notice to Cure, has failed to pay the Rent to which the Landlord is legally entitled under the Rental Agreement, this Article, and any other law.
- (2) **Breach of Lease.** The Tenant, after receiving a Written Notice to Cure, has continued to substantially violate any of the material terms of the Rental Agreement, except the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the Tenant; and provided further that, where such terms have been accepted in writing by the Tenant subsequent to the initial creation of the tenancy, the Landlord shall have first notified the Tenant in writing that he or she need not accept such terms.
 - (A) Notwithstanding any contrary provision in this Section, a Landlord shall not take any action to terminate a tenancy based on a Tenant's sublease of the Rental Unit if all of the following requirements are met:
 - i. The Tenant continues to reside in the Rental Unit as his or her Primary Residence; and
 - ii. The sublease replaces one or more departed Tenants under the Rental Agreement on a one-for-one basis; and
 - iii. The Landlord has unreasonably withheld the right to sublease following written request by the Tenant. If the Landlord fails to respond to the Tenant in writing within fourteen (14) days of receipt of the Tenant's written request, the Tenant's request shall be deemed approved by the Landlord. A Landlord's reasonable refusal of the Tenant's written request may not be based on the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the Rent to the Landlord. A Landlord's reasonable refusal of the Tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a Rental Unit exceeds the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health & Safety Code Section 17922.
 - (B) **Protections for Families.** Notwithstanding any contrary provision in this Section, a Landlord shall not take any action to terminate a

tenancy as a result of the addition to the Rental Unit of a Tenant's child, foster child, parent, grandchild, grandparent, sibling, or the spouse or partner of such relatives, or as a result of the addition of the spouse or partner of a Tenant, so long as the number of occupants does not exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health & Safety Code 17922. The Board may promulgate regulations that will further protect families and promote stability for school-aged children.

- (3) **Nuisance.** The Tenant, after receiving a Written Notice to Cure, has continued to commit or expressly permit a nuisance in, or cause substantial damage to the Rental Unit or to the unit's appurtenances, or to the common areas of the Property containing the Rental Unit, or is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the Property. The term "nuisance" as used herein may be further defined through regulation by the Board.
- (4) **Illegal Purpose.** The Tenant is using, or permitting a Rental Unit or the common areas of the Property containing the Rental Unit to be used for any illegal purpose. The term "illegal purpose" as used in this subsection does not include the use of housing accommodations lacking a legal approved use or which have been cited for occupancy or other housing code violations.
- (5) **Failure to Give Access.** The Tenant, after receiving proper notice and without good cause, has refused the Landlord reasonable access to the Rental Unit for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by law, or for the purpose of showing the Rental Unit to any prospective purchaser or mortgagee.
 - (A) The Board shall promulgate regulations for the repair and improvement of Rental Units to ensure the least amount of disruption for the Tenant. Unless due to a documented emergency affecting a Tenant's health and/or safety, all repair or improvement work will be scheduled in compliance with applicable Board regulations. To terminate a tenancy under this subsection (a)(5), a Landlord must show that written notice was provided to the Tenant and all necessary repair or improvement work was scheduled in compliance with this Section and all applicable Board regulations. Landlords may not use lock boxes on occupied Rental Units.
 - (B) The notice requesting access shall inform the Tenant that if he or she is unable to comply because of a disability, he or she may

request a change in the Landlord's policies or practices or other reasonable accommodation to the Tenant's disability.

- (6) **Refusal to Execute New Lease.** The Tenant, who had a Rental Agreement that terminated on or after the effective date of this Article, has refused, after written request or demand by the Landlord, to execute a written extension or renewal thereof for a further term of like duration with terms which are materially the same as in the previous Rental Agreement and provided that such terms do not conflict with any provision of this Article or any other provision of law.
- (7) **Subtenant in Sole Possession.** The person in possession of the Rental Unit at the end of a Lease term, after the Landlord provides written notice to said person, is a subtenant not approved by the Landlord.
- (8) **Vacating an Unpermitted Rental Unit.** The Landlord seeks in good faith to recover possession of an unpermitted Rental Unit in order to end the unpermitted use.
- (9) **Owner Move-in.** The Landlord seeks, after providing written notice to the Tenant, to recover possession of the Rental Unit in good faith for use and occupancy as a Primary Residence by the Landlord or the Landlord's spouse, partner, children, grandchildren, parents or grandparents.
 - (A) As used in this subsection (a)(9), Landlord shall mean a Landlord that is a natural person and has at least a fifty percent (50%) recorded ownership interest in the Property.
 - (B) Any notice terminating tenancy pursuant to this subsection shall contain the name, address and relationship to the Landlord of the person intended to occupy the Rental Unit, as well as providing notice of Tenants' rights pursuant to subparagraphs (F)-(G) herein.
 - (C) No eviction may take place under this subsection (a)(9) if the same Landlord or properly designated qualifying relative already occupies a unit on the Property, unless: (i) the Property contains no more than three (3) dwelling units, and (ii) the Landlord or properly designated qualifying relative has occupied a unit on the Property as his or her Primary Residence for at least thirty-six (36) months.
 - (D) No eviction may take place under this subsection (a)(9) if a vacancy already exists on the Property. If a comparable unit becomes vacant and available before the recovery of possession, the Landlord shall rescind the notice to vacate and dismiss any action filed to recover possession of the Rental Unit.

- (E) The Landlord or properly designated qualifying relative must intend in good faith to move into the Rental Unit within ninety (90) days after the Tenant vacates and to occupy the Rental Unit as a Primary Residence for at least thirty-six (36) consecutive months. The Board may adopt regulations governing the determination of good faith.
- (F) If the Landlord or properly designated qualifying relative fails to occupy the Rental Unit within ninety (90) days after the Tenant vacates, or the Landlord subsequently returns the Rental Unit to the market, the Landlord shall:
 - (i) Notify the Board of such failure to occupy or return to the market;
 - (ii) Offer the Rental Unit to the Tenant who vacated it at the same Rent in effect when the Tenant vacated; and
 - (iii) Pay to said Tenant all reasonable expenses incurred in vacating and then reoccupying the Rental Unit.
- (G) **Eviction Protection for Elderly, Disabled, or Terminally Ill Tenant.** A Landlord may not evict a Tenant pursuant to this subsection (a)(9) if the Tenant (1) has resided in the Rental Unit for at least five (5) years and is either at least sixty-two (62) years old or Disabled; or (2) is certified as being terminally ill by the Tenant's treating physician. Notwithstanding the above, a Landlord may evict a Tenant who qualifies for the exemption herein if the Landlord or properly designated qualifying relative who will occupy the Rental Unit also meets the age, disability or health criteria for this exemption and no other units are available. The Board may promulgate regulations that will further protect families and promote stability for school-aged children.
- (H) Notwithstanding Section 5(a)(9)(F), at all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is Disabled and the Rental Unit is necessary to accommodate the person's disability.
- (10) **Necessary and Substantial Repairs Requiring Temporary Vacancy.** The Landlord, after having obtained all necessary permits from the City, and having provided written notice to the Tenant, seeks in good faith to undertake substantial repairs that are necessary to bring the Rental Unit into compliance with applicable codes and laws affecting the health and safety of Tenants of the building, provided that:

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- (A) The repairs necessitate that the Tenant vacate the Rental Unit because the work will render the Rental Unit uninhabitable for a period of not less than thirty (30) days;
 - (B) The Landlord gives advance notice to the Tenant of the right to elect between:
 - (i) The first right of return to reoccupy the Rental Unit upon completion of the repairs at the same Rent charged to the Tenant before the Tenant temporarily vacated the Rental Unit; or
 - (ii) The right of first refusal to any comparable vacant Rental Unit owned by the Landlord at the same Rent, if such comparable vacant unit exists. In the event that the Tenant elects this option, the Tenant is eligible for reimbursement of reasonable moving expenses but is not eligible for any Relocation Assistance pursuant to Section 5(c) herein. In such cases, the length of tenancy shall continue to be calculated from the date the Tenant first entered into a Rental Agreement at the prior Rental Unit.
 - (C) In the event the Landlord files a Petition for Individual Rent Adjustment within six (6) months following the completion of the work, the Tenant shall be party to such proceeding as if he or she were still in possession, unless the Landlord submits with such application a written waiver by the Tenant of his or her right to reoccupy the premises pursuant to this subsection.
- (11) **Withdrawal of the Unit Permanently from Rental Market.** To the extent required by California Government Code Section 7060 *et seq.*, the Landlord may seek in good faith to recover possession to withdraw all Rental Units of an entire Property from the rental market. The Landlord first must have filed the requisite documents with the Board initiating the procedure for withdrawing Rental Units from rent or lease under California Government Code Section 7060 *et seq.* and all regulations passed by the Board, with the intention of completing the withdrawal process and going out of the rental business or demolition of the Property. If demolition is the purpose of the withdrawal, then the Landlord must have received all needed permits from the City before serving any notices terminating a tenancy based on this subsection (a)(11). Tenants shall be entitled to a minimum of 120-day notice or one (1) year in the case where the Tenant is at least 62 years of age or Disabled, and has resided in the Rental Unit for at least one (1) year. Notice times may be increased by regulations if state law allows for additional time.

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- (A) If the Landlord or a subsequent Landlord offers the withdrawn or replacement Rental Units for rent or lease within ten years of withdrawal, the displaced Tenants shall be given the first right of refusal to reoccupy the units, and, if the withdrawn or replacement units are offered for lease within the first five years of withdrawal, they shall be offered to the displaced Tenants at their former rental rate, pursuant to California Government Code Section 7060.2.
- (B) Notice to Tenants under this subsection shall specify their rights and entitlements under California Government Code Section 7060.4(c).

- (12) **Temporary Tenancy.** A Landlord seeks in good faith to recover possession of the Rental Unit for his or her occupancy as a Primary Residence, where (1) the Landlord occupied the Rental Unit as his or her Primary Residence for a period of at least six (6) months immediately prior to the tenancy, and (2) the Landlord has the right to recover possession of the Rental Unit for his or her occupancy as a Primary Residence under an existing written Rental Agreement with the current Tenants for a term of no more than twelve (12) consecutive months.

(b) **Eviction Protections for Victims of Domestic Violence or Sexual Assault or Stalking.** It shall be a defense to an action to recover possession of a Rental Unit under Sections 5(a)(3)-(4) if the trier of fact determines that:

- (1) The Tenant or the Tenant's household member is a victim of an act or acts that constitute domestic violence or sexual assault or stalking; and
- (2) The notice terminating the tenancy is substantially based upon the act or acts constituting domestic violence or sexual assault or stalking against the Tenant or a Tenant's household member, including but not limited to complaints of noise, disturbances, or repeated presence of police.

(c) **Relocation Assistance.**

- (1) A Landlord seeking to recover possession under subsections 5(a)(8)-(11) above shall provide Relocation Assistance to affected Tenant households in an amount equal to six (6) times the current Fair Market Rent for a similar Rental Unit in Santa Cruz County as determined by the U.S. Department of Housing and Urban Development. Tenant households with at least one Qualified Tenant shall be entitled to an additional payment equal to one (1) times the current Fair Market Rent for a similar Rental Unit as determined by HUD as part of their Relocation Assistance. To the extent permitted by law, the Relocation Assistance required herein shall be a minimum amount. The Board may increase the amounts of Relocation

Assistance pursuant to its powers under law.

- (2) The Landlord shall notify the affected Tenants of their rights under this subsection, if any, at the time of the service of any notice terminating the tenancy. The Relocation Assistance shall be paid to Tenant households who vacate a Rental Unit no later than the time that they vacate the Rental Unit.
- (3) The Board shall issue rules and regulations to effectuate this subsection including but not limited to the procedures for establishing and facilitating payment of the Relocation Assistance, including rules for determining whether a Tenant meets the criteria for a Qualified Tenant, and rules to ensure the reasonably timely payment of any applicable Relocation Assistance.

(d) **Relocation Assistance Required for Economic Displacement.** A Landlord shall provide Relocation Assistance to any Tenant households who are displaced from a Rental Unit due to inability to pay Rent increases in excess of ten percent (10%) in any twelve-month period. A Tenant household that seeks to receive Relocation Assistance pursuant to this subsection must provide written notice to the Landlord within fifteen (15) days of receipt of the notice imposing a Rent increase of more than ten percent (10%) within any twelve-month period. The Landlord must provide the Relocation Assistance to such Tenant households no later than the date that they vacate the Rental Unit. The Board shall issue rules and regulations to further effectuate this subdivision, including but not limited to the procedures and forms for establishing and facilitating payment of the Relocation Assistance, an appeal process, if any, and rules to ensure the reasonably timely payment of any applicable Relocation Assistance. The Board may reduce the threshold triggering Relocation Assistance to Rent increases lower than ten percent (10%) if it determines that the lower threshold is necessary to further the purposes of this Article. Notwithstanding any other provision of this subsection, no Relocation Assistance shall be due under this subsection for Covered Rental Units if the Rent increase of more than ten percent (10%) is made pursuant to the decision of a Hearing Officer or the Board on a Petition for an upward adjustment of Rent based on a Landlord's claim of Fair Return.

(e) **Right of Return and First Right of Refusal.** All Tenants whose tenancy is terminated on a basis enumerated in subsections 5(a)(8)-(11) herein shall have the first right of refusal to return to the Rental Unit if that Rental Unit is returned to the market by the Landlord or successor Landlord to the maximum extent permitted by state law. A Landlord must notify the Board promptly of the return of any such Rental Unit to the market. Rent for the Rental Unit shall be the Rent lawfully paid by the Tenant at the time the Landlord gave notice of termination based upon subsections 5(a)(8)-(11) herein to the maximum extent permitted by state law.

(f) **Required Notice for Withdrawal of Rental Units from Rental Housing and Regulation of Property on Re-Offer of Rent or Lease After Withdrawal.** Within 180 days of the first meeting of the Board, the Board shall adopt regulations, in the manner specified by California Government Code Section 7060.5, that implement all of the provisions set forth in California Government Code Section 7060 *et seq.* Such regulations shall be updated from time to

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time to ensure consistency with California Government Code Section 7060 *et seq.* and to ensure that the maximum protections authorized by law are afforded to Tenants of Rental Units.

(g) **Notice to Specify Basis for Termination.** Any notice purporting to terminate tenancy on any of the bases specified in this Section must state with specificity the basis on which the Landlord seeks to terminate the tenancy.

(h) **Landlord Compliance with this Article.** In any action brought to recover possession of a Rental Unit subject to this Article, the Landlord shall allege compliance with this Article.

(i) **Filing Eviction Paperwork with Board.** The Landlord shall file with the Board a copy of any notice terminating tenancy, including a Written Notice to Cure, and any complaint in any subsequent action to recover possession of a Rental Unit (e.g., unlawful detainer), within three (3) business days after serving the notice on the Tenant.

SECTION 6: STABILIZATION OF RENTS

(a) **Rents Stabilized.** Upon the effective date of this Article, no Landlord shall charge Rent for a Covered Rental Unit in an amount that exceeds the sum of the Base Rent plus any lawful Rent increases actually implemented pursuant to this Article.

(b) **Rent Increases Regulated.** No Landlord shall increase Rent for a Covered Rental Unit except as authorized by this Article. Rent increases shall be limited to those permitted by Section 7 (Rent Increases Pursuant to Annual General Adjustment) and Section 11 (Petition for Individual Rent Adjustment - Bases). A Landlord may set the initial Rent for a new tenancy pursuant to Section 8 (Initial Rents for New Tenancies).

(c) **Security Deposit at Commencement of Tenancy Only.** No Landlord shall demand that a Tenant pay an increase in a Security Deposit, nor shall a Landlord require payment of a Security Deposit other than at the commencement of a tenancy.

SECTION 7: RENT INCREASES PURSUANT TO ANNUAL GENERAL ADJUSTMENT

(a) **Annual General Adjustment.** No later than June 30th each year, beginning with 2019, the Board shall announce the amount of the Annual General Adjustment, which shall be effective for a period of twelve (12) months beginning on September 1st of that year.

(1) **Calculation.** The Annual General Adjustment shall be equal to one hundred percent (100%) of the percentage increase in the Consumer Price Index (CPI) (All Items, All Urban Consumers, San Francisco-Oakland-San Jose region, or any successor designation of that index that may later be adopted) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending as of March of the current year. The Annual General Adjustment shall be

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rounded to the nearest one-tenth of a percent.

- (2) **Floor and Ceiling.** Subparagraph 1 of this subsection notwithstanding, in no event shall the Annual General Adjustment be less than zero percent (0%) or more than five percent (5%).
- (3) **No Banking.** A Landlord who seeks to raise Rent by the Annual General Adjustment must do so within the twelve (12)-month period that the Annual General Adjustment is valid. A Landlord who fails to implement a Rent increase pursuant to the Annual General Adjustment during such period shall not be eligible to defer implementation of the Annual General Adjustment in a later year.

(b) **One Rent Increase Per Year.** No more than one Rent increase per twelve-month period may be imposed on a Tenant.

(c) **Notice of Rent Increase Required.** Allowable Rent increases pursuant to the Annual General Adjustment shall become effective only after the Landlord provides written notice to the Tenant in the manner prescribed by law.

(d) **Conditions Under Which Rent Increase Not Effective.** No Rent increase shall be effective if the Landlord:

- (1) Has failed to substantially comply with all provisions of this Article and all rules and regulations promulgated by the Board, including but not limited to the failure to provide notices as required by Section 9; or
- (2) Has failed to maintain the Rental Unit in compliance with California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10; or
- (3) Has failed to make repairs ordered by a Hearing Officer, the Board, or the City.

SECTION 8: INITIAL RENTS FOR NEW TENANCIES

(a) **Setting of Initial Rents Without Restriction.** To the extent required by state law, Landlords may set the initial Rent for new Tenants without regulation by this Article.

(b) **Restrictions on Initial Rent for New Tenancies.** To the maximum extent permitted by state law, the initial Rent for new tenancies shall be subject to the restrictions of this Article. The Board shall issue rules and regulations to govern the restrictions on the initial Rent for new tenancies where such restrictions are permitted by state law.

(c) **Rent Increases After Setting an Initial Rent.** After the Landlord sets an initial Rent pursuant to this Section, the Landlord may only increase the Rent in accordance with this

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Article. Once the initial Rent is set, the Landlord may not increase Rent based on cost increases, capital improvements, or other circumstances that arose before the new tenancy began.

SECTION 9: NOTICE OF RIGHTS UNDER THIS ARTICLE

In addition to all other notice requirements specified elsewhere in this Article, the Landlord of any Rental Unit is required to provide written notice to Tenants of their rights under this Article as follows:

(a) **Contents of Notice.** The notice required by this Section must be on a form prescribed by the Board and include at least the following information:

- (1) The existence and scope of this Article;
- (2) Tenants' rights to Petition, including a description of the bases on which a Tenant may file a Petition; and
- (3) Tenants' rights to Relocation Assistance, including the right to Relocation Assistance when a Tenant is faced with economic displacement pursuant to Section 5(d).

(b) **Notice Required for Change in Terms of Tenancy.** The Landlord must provide Tenants with the notice upon serving any notice of Rent increase or any other notice of change in terms of tenancy.

(c) **Notice Required at Commencement of New Tenancy.** The Landlord must provide the notice on or before the commencement of all tenancies initiated after the effective date of this Article.

(d) **Language of Notice.** The Landlord must give the notice to the Tenant in the language that was used to negotiate the terms of the tenancy.

SECTION 10: SANTA CRUZ RENT BOARD

(a) **Composition.** There shall be in the City a Rent Board comprised of City residents. The initial Board shall consist of seven (7) appointed members. The ongoing Board shall consist of five (5) elected members. The Board shall elect annually one of its members to serve in the capacity of chairperson.

(b) **Eligibility to Serve.** Residents who have lived in the City for at least thirty (30) days and who are at least eighteen (18) years of age are eligible to serve as members of the Board. Nominees and candidates for the Board must swear to uphold the intent of this Article and act in compliance with this Article and all other local, state and federal laws regulating the provision of housing. A member who has served on the initial appointed Board is eligible to seek election as a member of the ongoing elected Board.

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(c) **Full Disclosure of Holdings.** Nominees and candidates for the position of Board member shall submit a verified statement listing all of their interests and dealings in real property during the previous three (3) years, including but not limited to the ownership, sale, or management of real property, whether such interest or dealing is done with partnerships, corporations, joint ventures, syndicates or the like. The Board may promulgate additional regulations concerning disclosure.

(d) **Initial Board Appointed.** Upon adoption of this Article, the City Council shall empanel a seven (7) member Board, with each Councilmember appointing one Board member.

(e) **Election of Board Members.** Following appointment of the initial Board, five (5) Board members shall be elected at the next general municipal election in accordance with the City Charter Article VII.

(f) **Term of Office.** Initially appointed Board members shall serve until certification of the first Board members elected at the next general municipal election. In the first election of Board members, the three (3) candidates who receive the most votes shall serve terms of four (4) years, and the two (2) candidates who receive fewer votes shall serve terms of two (2) years. In subsequent elections, all elected Board members shall serve terms of four (4) years. A Board Member may serve a maximum of twelve (12) years.

(g) **Powers and Duties.** The Board shall have the following powers and duties:

- (1) Determine and publicize the Annual General Adjustment pursuant to this Article.
- (2) Appoint Hearing Officers to conduct hearings on Petitions for Individual Rent Adjustment pursuant to this Article.
- (3) Adjudicate Petitions and issue decisions with orders for appropriate relief pursuant to this Article.
- (4) Establish procedures and timelines for hearings on Petitions, including determining the timelines and procedures for appeals to the Board.
- (5) Administer oaths and affirmations and subpoena witnesses and relevant documents.
- (6) Administer the withdrawal process for the removal of Rental Units from the rental housing market.
- (7) Hold public hearings.
- (8) Conduct studies, surveys, investigations, and hearings, and obtain information to further the purposes of this Article.

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- (9) Report annually to the City Council on the status of Rental Units subject to this Article. Reports shall be made available to the public and include, but not be limited to: (a) a summary of the numbers of termination notices and other eviction-related notices served pursuant to this Article, including the bases upon which they were served, and (b) a summary of any and all Petitions submitted to and/or decided by a Hearing Officer and/or the Board pursuant to this Article, including the bases on which the Petitions were submitted and the determinations on the Petitions.
- (10) Establish a schedule of penalties that may be imposed for noncompliance with this Article or with rules and regulations promulgated under this Article.
- (11) Pursue civil remedies as provided by this Article in courts of appropriate jurisdiction.
- (12) Intervene as an interested party in any litigation brought before a court of appropriate jurisdiction concerning Rental Units subject to this Article.
- (13) Refer violations of this Article to appropriate authorities for prosecution.
- (14) Set Rents at fair and equitable levels to achieve the purposes of this Article, to the extent permissible under the law. Notwithstanding any other provision of this Article, the Board shall have the authority to adopt regulations authorizing Rent increases and/or adjustments required by state or federal law.
- (15) Any other duties necessary to administer and enforce this Article.

(h) **Rules and Regulations.** The Board shall issue and follow such rules and regulations as will further the purposes of the Article. The Board shall publicize its rules and regulations prior to promulgation on its website and through any other appropriate medium.

(i) **Community Education.** The Board shall publicize this Article so that all residents of the City will have the opportunity to become informed about the legal rights and duties of Landlords and Tenants under this Article.

(j) **Meetings.** The Board shall hold regularly scheduled meetings as necessary to ensure the performance of its duties under this Article. All regular and special meetings shall be called and conducted in accordance with state law.

(k) **Quorum.** Three (3) members shall constitute a quorum for the five-member elected Board, except that four (4) members shall constitute a quorum for the initial seven-member appointed Board.

(l) **Voting.** The affirmative vote of three (3) members of the Board is required for a

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decision, including on all motions, regulations, and orders of the Board, except that the affirmative vote of four (4) members is required for a decision by the initial appointed Board.

(m) **Compensation.** Board members shall be paid in an amount set by the Board in order to compensate Board members for their time and work performed as required by this Article and the City Charter.

(n) **Vacancies.** If a vacancy occurs on an elected Board, the Board shall, within forty-five (45) days, appoint a qualified person to fill such a vacancy, until the following general municipal election when a qualified person shall be elected to serve for the remainder of the term. If a vacancy occurs on the initial appointed Board, within forty-five days the Councilmember who made the original appointment shall appoint a new member to fill the vacancy.

(o) **Budget.** The Board shall, prior to July 1 of each year, hold a public hearing on a proposed budget and adopt an annual budget for the ensuing fiscal year to ensure the reasonable and necessary implementation of this Article. Copies of the proposed budget shall be available for inspection by the public in the office of the Board at least ten days prior to said hearing. The Board shall have sole authority to oversee, supervise, and approve this budget. Upon final adoption, the budget shall be in effect for the ensuing fiscal year and the amounts stated therein shall be and become appropriated by the Board for the respective objects and purposes therein specified. At any meeting after the adoption of the budget the Board may amend or supplement the budget. Copies of the adopted budget and any amendments or supplements shall be filed with the City Clerk.

(p) **Financing.** The Board shall finance its reasonable and necessary expenses by charging Landlords an annual Rental Housing Fee as set forth herein, in amounts deemed reasonable by the Board in accordance with applicable law. The Board is also empowered to request and receive funding when and if necessary from any available source including the City for its reasonable and necessary expenses.

- (1) **Rental Housing Fee.** All Landlords shall pay a Rental Housing Fee for each Rental Unit on an annual basis. The Board may, from time to time, set the amount of the Rental Housing Fee at its discretion to ensure full funding of its reasonable and necessary expenses, in accordance with all applicable law. The amount of the Rental Housing Fee may differ between Rental Units in consideration of the entirety of this Article. The Rental Housing Fee is separate from and in addition to any business license fee or residential rental dwelling unit inspection fee that may be required under Municipal Code Chapters 5.04 and 21.06. The Rental Housing Fee shall become due within thirty (30) days of the inception of a new tenancy if no fee was paid the prior year. Ongoing tenancies shall have fees collected at the same time as the City business license fee each year. Landlords may not pass any portion of the Rental Housing Fee on to their Tenants as a separate charge.

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- (2) **City to Advance Initial Funds.** During the initial implementation of this Article, the City shall advance all necessary funds to ensure the effective implementation of this Article, until the Board has collected Rental Housing Fees sufficient to support the implementation of this Article. The City may seek a reimbursement of any advanced funds from the Board after the Rental Housing Fee has been collected.
- (3) **Discount Program.** The Board may establish a Rental Housing Fee Discount Program to reduce the fee on Rental Units for which the Landlord charges Rent at least ten percent (10%) below the market rate for a comparable unit.

(q) **Integrity and Autonomy of Board.** The Board shall be an integral part of the government of the City, but shall exercise its powers and duties under this Article independent from the City Council, City Manager, and City Attorney, except by request of the Board. The City shall provide infrastructure support on an ongoing basis as it would with any other department. During the transition period before the initial Board members are appointed and an Executive Director is hired, the City shall take whatever steps necessary to perform the duties of the Board and implement the purpose of this Article.

(r) **Personnel.** The Board shall review and assess yearly that a sufficient number of staff are employed, including an Executive Director, Hearing Officers, housing counselors and legal staff, as may be necessary to perform its function efficiently in order to fulfill the purpose of this Article. The Executive Director shall be hired by the Board. All employees of the Board shall be hired, terminated, suspended, and demoted in accordance with the Charter and implementing provisions of the Municipal Code.

(s) **Board Legal Work.** Legal staff hired by the Board shall represent and advise the Board, its members, and its staff in any matters, civil actions, or proceedings in which the Board, its members, or its staff, in or by reason of their official capacity, are concerned or are a party. The Board may, in its sole discretion, and without approval of the City Council, retain private attorneys to furnish legal advice or representation in particular matters, actions, or proceedings.

(t) **Contracts and Purchases.** The Board shall procure goods and services as do other City agencies using existing support services.

(u) **Conforming Regulations.** If any portion of this Article is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation, the Board and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Article to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to the matters addressed in this Article.

(v) **Designation of Replacement Board.** In the event the establishment of the Board

under this Section is adjudged to be invalid for any reason by a court of competent jurisdiction, the Council shall designate one or more City departments, agencies, boards, or commissions to perform the duties of the Board prescribed by this Article.

SECTION 11: PETITIONS FOR INDIVIDUAL RENT ADJUSTMENT – BASES

A Landlord or a Tenant may file a Petition with the Board seeking adjustment, either upward or downward, of the Rent for Covered Rental Units in accordance with the standards set forth in this Section, and using the procedures set forth in Section 12 herein and implementing regulations. A Petition shall be on a form provided by the Board and, if made by the Landlord, shall include a declaration by the Landlord that any and all Covered Rental Units that are the subject of the Petition comply with all requirements of this Article.

(a) **Petition for Upward Adjustment – Fair Return.** To effectuate the purposes of this Article and the requirements of law, a Landlord may file a Petition for an upward adjustment of the Rent to ensure a Fair Return at a particular Property. It is the intent of this Article that individual upward adjustments in Rent be granted only when the Landlord demonstrates that such adjustments are necessary to provide the Landlord with a Fair Return for the Property. The Board may promulgate regulations to further govern Petitions filed pursuant to this subsection in accordance with law and the purposes of this Article.

- (1) **Prerequisites.** No upward adjustment of Rent shall be authorized by a Hearing Officer or the Board under this subsection if the Landlord:
 - (A) Has continued to fail to comply, after order of the Board or other authority, with any provisions of this Article or orders or regulations issued thereunder; or
 - (B) Has failed to maintain the Covered Rental Unit in compliance with California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10.
- (2) **Fair Return Standard.**
 - (A) **Presumption of Fair Base Year Net Operating Income.** It shall be presumed that the net operating income received by the Landlord for the Property in the base year provided a Fair Return.
 - (B) **Fair Return Standard: Maintenance of Net Operating Income.** A Landlord has the right to obtain a net operating income equal to the base year net operating income for the Property adjusted by eighty percent (80%) of the change in the Consumer Price Index (CPI), as defined in Section 7(a)(1) herein, since the base year. It shall be presumed this standard provides a Fair Return. The Base Year CPI shall be the annual CPI for calendar year 2016. The “current year” CPI shall be the annual CPI for the calendar year

preceding the calendar year in which the application is filed.

- (3) **Base Year.**
 - (A) For the purposes of making Fair Return determinations pursuant to this Section, the base year means the 2016 calendar year.
 - (B) In the event that a determination of the allowable Rent is made pursuant to this Section, if a subsequent Petition is filed, the base year shall be the year that was considered as the "current year" in the prior petition.
- (4) **Adjustment of Base Year Net Operating Income.** The Landlord may present evidence to rebut the presumption of Fair Return set forth in Section 11(a)(2)(A) based on at least one of the following findings:
 - (A) **Exceptional Expenses in the Base Year.** The Landlord's operating expenses for the Property in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses so the base year operating expenses reflect average expenses for the Property over a reasonable period of time.
 - (B) **Exceptional Circumstances in the Base Year.** The gross income for the Property during the base year was disproportionately low due to exceptional circumstances. In such instances, adjustments may be made in calculating base year gross rental income to the extent required by law and consistent with the purposes of this Article and any regulations issued by the Board.
- (5) **Calculation of Net Operating Income.** Net operating income shall be calculated by subtracting operating expenses from gross rental income for the Property.
- (6) **Gross Rental Income.**
 - (A) Gross rental income shall include: (i) gross Rents calculated as gross rental income at one hundred percent occupancy, adjusted for uncollected Rents due to vacancy and bad debts to the extent such vacancies or bad debts are beyond the control of the Landlord. Uncollected Rents in excess of three percent (3%) of gross Rent for the Property shall be presumed to be unreasonable unless established otherwise by the Landlord and shall not be included in computing gross income; (ii) all other income or consideration received or receivable in connection with the use or occupancy of the Property, except as provided in subparagraph 11(a)(6)(B)

below.

- (B) Gross rental income shall not include: (i) Utility Charges for sub-metered gas, electricity or water; (ii) charges for refuse disposal, sewer service, and other services which are either provided solely on a cost pass-through basis or are regulated by state or local law; (iii) charges for laundry services; and (iv) storage charges.
- (7) **Operating Expenses.** Operating expenses shall include the following:
- (A) Reasonable costs of operation and maintenance of the Property.
 - (B) Management expenses. It shall be presumed that management expenses have increased by the percentage increase in Rents or the CPI, whichever is greater, between the base year and the current year unless the level of management services has either increased or decreased significantly between the base year and the current year.
 - (C) Utility costs except a utility where the consideration of the income associated with the provision of the utility service is regulated by state law and consideration of the costs associated with the provision of the utility service is preempted by state law or the utility income is not considered because it is collected on a cost pass-through basis.
 - (D) Real property taxes are an allowable expense, subject to the limitation that property taxes attributable to an assessment in a year other than the base year or current year shall not be considered in calculating base year and/or current year operating expenses.
 - (E) License and registration fees required by law to the extent these expenses are not otherwise paid or reimbursed by Tenants.
 - (F) Landlord-performed labor compensated at reasonable hourly rates. However, no Landlord-performed labor shall be included as an operating expense unless the Landlord submits documentation showing the date, time, and nature of the work performed. There shall be a maximum allowed under this provision of five percent (5%) of gross income unless the Landlord shows greater services were performed for the benefit of the residents.
 - (G) Legal expenses. Attorneys' fees and costs incurred in connection with successful good faith attempts to recover Rents owing, successful good faith unlawful detainer actions not in derogation of

applicable law, legal expenses necessarily incurred in dealings with respect to the normal operation of the Property, and reasonable legal expenses incurred in obtaining a Rent increase pursuant to an Individual Rent Adjustment Petition. Said legal expenses shall be amortized over a five-year period, unless the Board concludes that a different period is more reasonable. At the end of the amortization period, the allowable monthly Rent shall be decreased by any amount it was increased because of the application of this provision.

- (H) Interest Allowance for Expenses that Are Amortized. An interest allowance shall be allowed on the cost of amortized expenses; the allowance shall be the interest rate on the cost of the amortized expense equal to the "average rate" for thirty-year fixed rate on home mortgages plus two percent. The "average rate" shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey (PMMS) as of the date of the initial submission of the Petition. In the event that this rate is no longer published, the Board shall designate by regulations an index which is most comparable to the PMMS index.
- (8) **Costs of Capital Replacements.** Operating expenses pursuant to Section 11(a)(7) may include the costs of capital replacements plus an interest allowance to cover the amortization of those costs through a temporary upward adjustment of Rent, where all of the following conditions are met:
 - (A) The costs, less any insurance proceeds or other applicable recovery, are averaged on a per unit basis for each Rental Unit actually benefited by the improvement.
 - (B) The costs are amortized over a period of not less than thirty-six (36) months, and costs may be amortized over a longer period as determined by the Board. The amortization period shall be in conformance with a schedule adopted by the Board unless it is determined that an alternate period is justified based on the evidence presented in the hearing.
 - (C) The costs do not include any additional costs incurred for property damage or deterioration that result from any unreasonable delay in undertaking or completing any repair or improvement.
 - (D) The costs do not include costs incurred to bring the Property into compliance with a provision of the Santa Cruz Municipal Code or state law where the original installation of the improvement was not in compliance with code requirements.

- (E) At the end of the amortization period, the allowable monthly Rent is decreased by any amount it was increased because of the application of this provision.
- (9) **Exclusions from Operating Expenses.** Operating expenses shall not include the following:
- (A) Mortgage principal or interest payments or other debt service costs.
 - (B) Any penalties, fees, or interest assessed or awarded for violation of any provision of this Article or of any other provision of law.
 - (C) Land lease expenses.
 - (D) Political contributions and payments to organizations, including trade groups, that engage in lobbying activities.
 - (E) Depreciation.
 - (F) Any expenses for which the Landlord has been reimbursed by any utility rebate or discount, Security Deposit, insurance claim or settlement, judgment for damages, settlement or any other method or device.
 - (G) Unreasonable increases in expenses since the base year.
 - (H) Expenses associated with the provision of master-metered gas and electricity services.
 - (I) Expenses that are attributable to unreasonable delays in performing necessary maintenance or repair work or the failure to complete necessary replacements.
- (10) **Adjustments to Operating Expenses.** Base year and/or current year operating expenses may 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 which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses.
- (11) **Assurance of a Fair Return.** It shall be presumed that the MNOI methodology of determining appropriate Rent increases provides a Fair Return. Nothing in this Article shall preclude the Board or Hearing Officer from granting an increase that is necessary in order to meet constitutional fair return requirements.

(b) **Petition for Downward Adjustment – Failure to Maintain Habitable Premises.** A Landlord’s failure to maintain a Covered Rental Unit in compliance with governing health and safety and building codes, including but not limited to California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10, constitutes an increase in Rent. A Tenant may file a Petition with the Board to adjust the Rent downward based on a loss in rental value attributable to the Landlord's failure to maintain the Rental Unit in habitable condition. The Petition must specify the conditions alleged to constitute the failure to maintain the Rental Unit in habitable condition and demonstrate that the Landlord was provided with reasonable notice and opportunity to correct the conditions that form the basis for the Petition.

(c) **Petition for Downward Adjustment – Decrease in Housing Services or Maintenance.** A decrease in Housing Services or maintenance, or deterioration of a Covered Rental Unit beyond ordinary wear and tear, without a corresponding reduction in Rent, is considered an increase in Rent. A Tenant may file a Petition with the Board to adjust the Rent downward based on a loss in rental value attributable to a decrease in Housing Services or maintenance or deterioration of the Rental Unit. The Petition must specify the circumstances alleged to constitute a decrease in Housing Services or maintenance, and demonstrate that the Landlord was provided with reasonable notice and an opportunity to correct the conditions that form the basis for the Petition.

(d) **Petition for Downward Adjustment – Unlawful Rent.** If a Landlord demands or retains Rent in excess of the lawful Rent pursuant to this Article, a Tenant may file a Petition to adjust the Rent to its lawful level. If such a Petition is granted, the Landlord shall be ordered to return any excessive Rent charged to the Tenant in violation of this Article.

SECTION 12: PETITIONS FOR INDIVIDUAL RENT ADJUSTMENT – PROCEDURES

The Board shall promulgate regulations regarding procedures for Petitions filed under this Article. Petitions shall be governed by such regulations and by the provisions of this Section.

(a) **Hearing Officer.** A Hearing Officer appointed by the Board shall conduct a hearing to act upon the Petition, and shall have the power to administer oaths and affirmations, and to render a final decision on the merits of the Petition, subject to the provisions of this Article.

(b) **Notice.** The Board shall notify the Landlord, if the Petition was filed by the Tenant, or the Tenant, if the Petition was filed by the Landlord, of the receipt of such a Petition and provide a copy thereof.

(c) **Time of Hearing.** Each party to a Petition shall receive sufficient advance notice of the bases, theories, and relevant documents to be presented by the other party(ies), and of the time, date, and place of any hearing regarding the Petition, which shall be set with reasonable regard to the availability and requirements of the parties.

(d) **Developing the Record**. The Hearing Officer may require either party to a Petition to provide any books, records, and papers deemed pertinent. If the Hearing Officer finds good cause to believe that a building or other inspection would assist in resolving the issues raised by the Petition, the Hearing Officer may conduct an inspection and/or request the City to conduct an inspection. The Tenant may request the Hearing Officer to order such an inspection prior to the date of the hearing. All documents required under this subsection shall be made available to the parties involved prior to the hearing. The parties to the hearing may be present during the inspection.

(e) **Open Hearings**. All hearings conducted pursuant to this Section shall be open to the public unless prohibited by state or federal law.

(f) **Right of Assistance**. All parties to a hearing conducted pursuant to this Section may have assistance in presenting evidence and developing their position from attorneys, legal workers, tenant association representatives, or any other persons designated by said parties.

(g) **Hearing Record**. The Board shall make available for inspection and copying any official record that shall constitute the exclusive record for decision on the issues at the hearing. The record of the hearing, or any part of one, shall be obtainable for the reasonable cost of copying. All hearings shall be audio or video recorded, as ordered by the Hearing Officer. Copies of the recording shall be available upon payment of a reasonable cost.

(h) **Quantum of Proof and Notice of Decision**. No Petition for Individual Rent Adjustment, whether upward or downward, shall be granted unless supported by the preponderance of the evidence submitted prior to and at the hearing. All parties to a hearing shall be sent a notice of the decision and a copy of the findings of fact and law upon which said decision is based. At the same time, parties to the proceeding shall also be notified of their right to appeal to the Board and/or to judicial review.

(i) **Consolidation**. Whether submitted by a Landlord or Tenant(s), all Petitions pertaining to Covered Rental Units at the same Property may be consolidated for hearing upon a showing of good cause.

(j) **Appeal**. Any person aggrieved by the decision of the Hearing Officer may appeal to the full Board for review. On appeal, the Board shall affirm, reverse, or modify the decision of the Hearing Officer. The decision on appeal shall be based on the hearing record, or the Board may elect to hear and/or find facts in addition to those presented to the Hearing Officer.

(k) **Finality of Decision**. The decision of the Hearing Officer shall be the final decision of the Board, unless an aggrieved party has timely sought an appeal to the Board. The decision of the Board on appeal shall be final unless an aggrieved party has timely sought judicial review pursuant to law. The decision of the Hearing Officer shall not be stayed pending appeal; however, in the event that the Board on appeal reverses or modifies the decision of the Hearing Officer, the Landlord, in the case of an upward adjustment in Rent, or the Tenant, in the case of a downward adjustment of Rent, shall be ordered to make retroactive payments to restore

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the parties to the position they would have occupied had the Hearing Officer's decision been the same as that of the Board.

(l) **Time for Decision**. A final decision on any Petition shall be made within a reasonable time. Decisions decreasing Rent shall remain in effect until the Landlord has corrected the defect warranting the decrease. The Board shall, by regulation, establish procedures for making prompt compliance determinations.

(m) **Fair Return Guaranteed**. No provision of this Article shall be applied so as to prohibit the Board from granting an Individual Rent Adjustment that is demonstrated by the Landlord to be necessary to provide the Landlord with a Fair Return.

SECTION 13: JUDICIAL REVIEW

A Landlord or Tenant aggrieved by any action or decision of the Board may seek judicial review pursuant to state law and this Article and its implementing regulations. No action or decision by the Board shall go into effect until any statutory time period for such review has expired.

SECTION 14: NON-WAIVABILITY

Any provision of a Rental Agreement, whether oral or written, which purports to waive any provision of this Article established for the benefit of the Tenant, shall be deemed to be against public policy and shall be void.

SECTION 15: REMEDIES

In addition to any other remedies provided by law, Landlords and Tenants covered by this Article shall have the following remedies for violations of this Article.

(a) **Landlord's Demand for or Retention of Excessive Rent**. When a Landlord demands, accepts, receives, or retains any payment or payments in excess of the lawful Rent pursuant to this Article and the regulations promulgated hereunder, including in violation of the provisions ensuring compliance with habitability standards and maintenance of Housing Services, the Tenant may file a Petition pursuant to Sections 11 and 12 (Petitions for Individual Rent Adjustments) or file a civil suit against the Landlord. A Landlord who demands, accepts, receives, or retains any payment of Rent in excess of the lawful Rent shall be liable to the Tenant in the amount by which the payment or payments have exceeded the lawful Rent. In such a case, the Rent shall be adjusted to reflect the lawful Rent pursuant to this Article and its implementing regulations.

(b) **Civil Remedies**. A Tenant may bring a civil suit in the courts of the state alleging that a Landlord has violated any of the provisions of this Article or the regulations promulgated hereunder, including that the Landlord has demanded, accepted, received, or retained a payment or payments in excess of the lawful Rent. In a civil suit, a Landlord found to violate this Article shall be liable to the Tenant for all actual damages, including but not limited to the damages

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described in subsection (a) herein. A prevailing Tenant in a civil action brought to enforce this Article shall be awarded reasonable attorneys' fees and costs as determined by the court. Additionally, upon a showing that the Landlord has acted willfully or with oppression, fraud, or malice, the Tenant shall be awarded treble damages. No administrative remedy need be exhausted prior to filing suit pursuant to this subsection.

(c) **Defense to Action to Recover Possession.** A Landlord's failure to comply with any of the provisions of this Article or regulations promulgated hereunder may be raised as an affirmative defense in an unlawful detainer or other action brought by the Landlord to recover possession of the Rental Unit. Any and all violations of this Article by the Landlord shall constitute such an affirmative defense, including but not limited to the demand or retention of payment in excess of the lawful Rent, failure to serve any of the notices required pursuant to this Article on the Tenant or the Board, failure to conform such notices to the requirements of this Article, failure to pay the Rental Housing Fee, failure to pay any required Relocation Assistance, and a decrease in Housing Services or maintenance without a corresponding reduction in Rent. It is the intent of this Article to construe this subsection to the broadest extent permissible under the law to ensure maximum compliance with this Article and avoid unlawful evictions.

(d) **Remedies Not Exclusive.** The remedies available in this Article are not exclusive and may be used cumulatively with any other remedies in this Article or otherwise available at law.

(e) **Criminal Penalties.** Any Landlord that violates this Article shall be guilty of a misdemeanor and shall be punished in accordance with Section 4.04.010 of the Municipal Code.

(f) **Jurisdiction.** The appropriate court in the jurisdiction in which the Rental Unit is located shall have jurisdiction over all actions brought under this Article.

SECTION 16: INJUNCTIVE AND OTHER CIVIL RELIEF

The Board, Tenants, and Landlords may seek relief from the appropriate court in the jurisdiction where the affected Rental Unit is located to enforce any provision of this Article or its implementing regulations or to restrain or enjoin any violation of this Article and of the rules, regulations, orders, and decisions of the Board.

SECTION 17: PARTIAL INVALIDITY

If any provision of this Article or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable. This Article shall be liberally construed to achieve the purposes of this Article and to preserve its validity.

SECTION 18: SUPERSEDES

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(a) This Article supersedes any conflicting provisions of a municipal ordinance covering the area of rents, evictions, relocation assistance, or other matters specifically addressed herein. However, nothing in this subsection shall be construed to restrict the authority of the City Council to enact or retain complementary or non-conflicting provisions of municipal ordinances or take other such actions within its powers, where such ordinances or actions are designed to comply with or further the terms and purposes of this Article.

(b) In the event any other ballot initiative addressing in whole or in part the same subject matter as this Article is approved by a majority of the voters voting thereon at the same election, the following provisions shall apply:

- (1) This Charter Amendment shall supersede and prevail over any initiative ordinance which amends the City Code, regardless of the number of affirmative votes received; and
- (2) If this Article receives a greater number of affirmative votes than any other such proposed charter amendment, including one that would provide that property owners have the right to set the price at which they rent residential property, then this Article shall control in its entirety and the other proposed charter amendment shall be rendered void and without any legal effect; and
- (3) If this Article receives fewer affirmative votes than any other such proposed charter amendment, including one that would provide that property owners have the right to set the prices at which they rent residential property, all provisions of this Article which are not directly contradicted by the initiative receiving a greater number of affirmative votes will apply to the extent permitted by law.

SECTION 19: CONFLICTING CHARTER PROVISIONS

To the extent that any of the provisions of this Article conflict with other provisions of the Santa Cruz City Charter, the provisions of this Article shall govern. This Article, however, is not intended to revise, repeal, or supersede any other provisions of the Santa Cruz City Charter with respect to matters not addressed herein. As such, this Article shall have the effect of amending the Santa Cruz City Charter as necessary for the Board to exercise its authority and fulfill its responsibilities as specifically identified herein, but this Article shall not otherwise amend the City Charter with respect to the powers and limitations of other boards and commissions.

SECTION 20: CODIFICATION

The City Clerk and the City Attorney shall take all steps necessary to ensure the proper and efficient codification of this Article into the Santa Cruz City Charter. This authority shall include making any necessary revisions to numbering, revising or substituting any references herein to other provisions of Santa Cruz or state law, and similar non-substantive items. In

exercising this authority, the City Clerk and City Attorney shall not alter the substantive provisions of this Article nor take any action that contradicts the express terms and purpose of this Article.

SECTION 21: DUTY TO DEFEND

The City Attorney shall take all steps necessary to zealously defend against any legal challenges to the validity of this Article. If the City Attorney is unable or unwilling to defend, an interested third party may intervene to defend. Any third party that defends this Article shall be entitled to court awarded attorney's fees and costs.

SECTION 22: MAJORITY APPROVAL, EFFECTIVE DATE, EXECUTION

This Amendment to the Santa Cruz City Charter shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council. The Mayor and City Clerk are hereby authorized to execute this Article to give evidence of its adoption by the voters.”

PASSED AND ADOPTED by a majority vote of the electorate of the City of Santa Cruz on November 6, 2018.

Attest: _____
(Signature)

(Title)