

A watercolor illustration of a modern residential street scene. In the foreground, a white car is driving on the left, and a person is jogging on the sidewalk. A person is also riding a bicycle on the sidewalk. In the background, there are modern houses with large windows and balconies, surrounded by lush green trees and a clear blue sky with a few clouds. The overall style is artistic and vibrant.

# REVISED CHAPTER 2 REGULATIONS

Item H-1

July 15, 2020, Regular Rent Board Meeting

## CHAPTER 2 BACKGROUND

- Chapter 2 was initially adopted in late 2017 to clarify those types of dwelling units fully and partially exempt from the Rent Ordinance.
- Chapter 2 was later expanded in 2018 to define Rooming and Boarding houses and create a process whereby a property owner could request a determination of, and challenge, a unit's exempt status.
- Over 6,000 units in the Rent Program's database of housing units are currently characterized as conditionally fully exempt from the Rent Ordinance (Owner Occupied, Rent-Free, or Not Offered for Rent)
  - Between 2019 and 2020, owners of 1,087 dwelling units sought such a determination on these grounds.

## PURPOSE OF REVISED CHAPTER 2

- As currently written, Chapter 2 does not contemplate a procedure whereby an owner can request a determination of inapplicability because a dwelling unit is owner occupied or does not otherwise meet the requirements of a Rental Unit as defined by the Rent Ordinance because there is no rent exchanged or the unit is not offered for rent.
- Staff members lack Board-approved policy guidance as it relates to enforcing requirements such as property enrollment, tenancy registration, and payment of the Rental Housing Fee.
- The proposed regulations would provide this necessary policy guidance, while also establishing exemption procedures for exempt categories of units, including but not limited to hotels, motels, medical care facilities, dormitories, and governmentally subsidized units.

## SUMMARY OF PROPOSED REGULATIONS

- The proposed revisions to Chapter 2 of the Board's regulations create a process where property owners can receive a determination of full or partial exemption from the Executive Director or Rent Board.
- The proposed process for most fully and partially exempt units is as follows:
  - STEP 1: Fill out an application on official Rent Program form
    - For governmentally subsidized units, the Landlord must serve a copy of the application, along with a response form, to each occupant of a rental unit for which the Landlord seeks an exemption
  - STEP 2: The Executive Director or their designee may conduct an investigation and:
    - a) Issue a recommendation to the Rent Board regarding the application
    - b) Direct a Hearing Examiner to hold a hearing for the purpose of reviewing evidence upon which to make a determination of exemption and issue a recommendation to the Board
    - c) Request the Rent Board hold a hearing on the matter and render a decision

## SUMMARY OF PROPOSED REGULATIONS

- For units claimed to be fully or partially exempt from the Rent Ordinance under the Costa-Hawkins Rental Housing Act, units where the Landlord shares a kitchen and/or bath with the Tenant, units permitted as Accessory Dwelling Units, and Temporary Tenancies, the proposed process mirrors the current Request for Administrative Determination process:
  - STEP 1: Fill out an application on official Rent Program form
  - STEP 2: Within 45 days of the submission, the Executive Director or their designee issues an administrative determination of exempt status
  - STEP 3: The determination may be appealed to the Hearing Examiner through the petition process, and further appealed to the Rent Board

## SUMMARY OF PROPOSED REGULATIONS

- Requests for a determination of whether or not the Rent Ordinance applies to units claimed to be Owner Occupied, offered “Rent-Free” or “Not Offered for Rent,” would be processed as follows:
  - STEP 1: Fill out application on an official Rent Program form
    - Applicants must demonstrate that they have at least a 50% recorded interest in the property
    - For claims of owner occupancy, the applicant must also demonstrate that they have resided on the property for a minimum of 120 consecutive days prior to the date of the application
  - STEP 2: Within 5 business days of a completed application, the Rent Program mails a copy of the application for exemption along with an official notice of filing and Tenant response form

*Process continued on the following slide*

## SUMMARY OF PROPOSED REGULATIONS

- STEP 3: Prior to the Rent Board making a final determination, the Executive Director or their designee may:
  - Where the facts are not in dispute, issue a recommendation to the Board regarding the application
    - The recommendation would be placed on the consent calendar, without a hearing, to be approved by the Rent Board
  - Direct a Hearing Examiner to hold a hearing for the purpose of reviewing evidence upon which to make a determination of inapplicability and issue a recommendation to the Rent Board of affirmation or denial of applicability status within 30 calendar days of the date of the hearing

## SUMMARY OF PROPOSED REGULATIONS

- Rent Board determinations that the Rent Ordinance does not apply to the dwelling unit are proposed to remain in effect so long as the grounds the Rent Board relied on to make that determination hold true.
  - If the unit becomes a Rental Unit, under the proposed regulations, the Landlord is required to submit a Property Enrollment form listing all Rental Units and complete a Tenancy Registration form for all tenancies in Controlled Rental Units within 30 calendar days of the change in circumstances.
- The proposed regulations also reserve the right of Rent Program staff members to perform routine exemption verification activities which may require the property owner to re-submit documentation to substantiate that the determination of inapplicability of RMC 11.100 should be maintained.

## NEXT STEPS

1. Application forms will be developed, translated, and converted to fillable PDFs
2. The Rent Program website will be updated to reflect adopted policies and procedures
3. Rent Program staff members will be trained on adopted policies and procedures

## RECOMMENDED ACTION

ADOPT revised Chapter 2 Regulations, concerning the process whereby property owners may seek an exemption or determination of inapplicability of a dwelling unit from provisions of the Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance – Rent Program (Nicolas Traylor/Paige Roosa 620-6564).