CITY OF CULVER CITY

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RENT CONTROL (ORDINANCE NO. 2020-014) GUIDELINE/RULE NO. 2021-RC02 (Applications for Rent Adjustments)

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Pursuant to the authority granted under Culver City Municipal Code ("CCMC") Section 15.09.265, the Community Development Director ("Director") hereby issues this Guideline/Rule No. 2021-RC02 ("Guideline") to administer certain requirements of CCMC Section 15.09.220, Applications For Rent Adjustments.

Authority: Section 15.09.265 of the Culver City Municipal Code provides:

> *The Director is authorized to administer and enforce this Subchapter, which may include promulgating guidelines and rules consistent with the provisions of this Subchapter. These Housing and Human Services Department Guidelines shall have the force and effect of law and may be relied upon by parties to determine their rights and responsibilities under this Subchapter.*

Background and Summary: CCMC Section 15.09.220 permits a Landlord to file a Rent Adjustment Application with the Housing and Human Services Department to request an increase in Rent in an amount greater than allowed under Section 15.09.215.B., if the Landlord contends that the limitations on Rent increases in Section 15.09.215.B will prevent the Landlord from receiving a fair and reasonable return with respect to the operation of the property containing the Covered Rental Unit.

Rent Adjustment Applications will be considered and determined by the Director in accordance with this Housing and Human Services Department Guideline. The Director's decision may be appealed to a Hearing Officer, in accordance with the procedures set forth in CCMC Section 15.09.240. A Landlord may not, on the basis of a filing of a Rent Adjustment Application, impose the requested rent adjustment on Tenants of Covered Rental Units until the Landlord has received the written approval of the Director. The Landlord also must comply with statutory notice requirements and ensure the Covered Rental Unit is registered with the Housing and Human Services Department before any approved Rent adjustment may be imposed.

Guideline/Rule: Section 15.09.220 will be administered by the City as follows:

Landlord Application

1. If a Landlord desires to increase the Rent for a Covered Rental Unit in an amount greater than allowed by the City's Rent Control Ordinance, and the Landlord contends that the limitations on Rent increases in Culver City Municipal Code (CCMC) Section 15.09.215.B will prevent the Landlord from receiving a fair and reasonable return with

respect to the operation of the property containing the Covered Rental Unit, the Landlord may file a Rent Adjustment Application ("Application") with the Culver City Housing and Human Services Department to request an increase in Rent beyond the amount permitted under Section 15.09.215.B.

2. All Applications will be reviewed by the Housing and Human Services Department for completeness and the applicant will be notified of completeness or incompleteness within ten (10) business days of filing of the Application. If an Application is deemed to be incomplete, the Landlord will be notified in writing as to what additional information is required. The Application will be considered by the Director only after the Application has been deemed complete.

3. An Application will not be deemed complete until the Housing and Human Services Department determines that it contains all of the required information, including the completed *Rent Adjustment Application* form, completed Tables A-J, completed Tables K-M (if applicable), and clearly legible photocopies of the required documentation, and the Landlord has demonstrated compliance with the Rent Registration requirements of 15.09.230. Upon the Housing and Human Services Department's request, a Landlord must produce for inspection the originals of the documentation submitted in support of the Application.

4. Within five (5) calendar days after the date the Landlord receives written notice that the Application is deemed complete by the Housing and Human Services Department, the Landlord shall mail a copy of pages 1-3 of the Rent Adjustment Application and a copy of Tables A – M (any personal financial information may be redacted) by first class mail, postage prepaid, to all Tenants whose Rents are the subject of the Application. The Landlord need only mail the Rent Adjustment Application and tables, not the attached documentation.

5. Within ten (10) calendar days after the date the Landlord receives written notice that the Application is deemed complete by the Housing and Human Services Department, the Landlord shall file with the City a proof of service signed under penalty of perjury stating that a copy of the Application and Tables was mailed to all such tenants.

6. The Rent Adjustment Application requires the Landlord to provide a statement indicating the basis on which the Landlord contends the limitations on Rent increases in the City's Rent Control Ordinance will prevent the Landlord from receiving a fair and reasonable return. The Tables attached to the Application allow the Landlord to provide evidence the Landlord wants the Director to consider.

7. It shall be a rebuttable presumption that the annual net operating income earned by a Landlord on June 11, 2019 and Rent increases allowed under the Interim Rent Control Ordinance and the current Rent Control Ordinance, CCMC Section 15.09.215, provide the Landlord with a fair and reasonable return with respect to the operation of their property. A Landlord shall have the burden to prove that the additional Rent increase is necessary to earn a fair and reasonable return with respect to the operation of their property.

8. Complete Rent Adjustment Applications will be considered by the Director, in accordance with CCMC Section 15.09.220 and this Guideline, and the Director's decision will be issued no later than sixty (60) days after the Housing and Human Services Department has deemed an Application complete, unless the Applicant is notified of an extension. The Director's decision may be appealed to a Hearing Officer, in accordance with the procedures set forth in CCMC Section 15.09.240.

9. In evaluating the Rent Adjustment Application, the Director shall consider all relevant factors that may potentially impact a Landlord's ability to obtain a fair and reasonable return and shall consider the basis for the calculation of any increase in Rent, including all documentation attached to the Application.

10. Rent Adjustment Applications shall be submitted by mail or in person to: City of Culver City, Housing and Human Services Department, 9770 Culver Blvd., Culver City, CA 90232, or by email to Rent.Control@CulverCity.org. All items must be included in the Application package in order for the Application to be considered complete.

Application Evaluation

11. The Application must include a statement indicating the basis on which a Landlord contends the limitations of the Rent Control Ordinance on Rent increases will prevent the Landlord from receiving a fair and reasonable return with respect to the operation of the property containing the Covered Rental Unit(s). The statement must be in sufficient detail to (a) provide notice to the affected Tenants of the basis for Landlord's request, which must be supported by the Tables attached to the Application and by the documentation produced by Landlord; and (b) provide the Director with sufficient information upon which to render a decision. The Tables attached to the Application and the documentation requested allow the Landlord to provide evidence the Landlord wants the Director to consider.

12. The Housing and Human Services Department ("Staff") may, in its discretion, elect to prepare or have prepared an analysis of the Application ("Staff Analysis") for the Director, summarizing the information provided, noting where additional information may be needed, and identifying areas of potential conflict with the Rent Control Ordinance, as described in this Guideline. The Staff Analysis shall not be binding on the Director. A copy of the Staff Analysis will be provided to Landlord as part of the notification of the Director's decision. The Landlord must distribute the Staff Analysis to tenants when distributing the Director's written decision (see Section 32, below).

13. Evidence pertinent to whether a Landlord is deprived of a fair and reasonable return with respect to the operation of the property containing the Covered Rental Units includes the Landlord's net operating income (NOI), which is defined as gross income (including rents from all units in the rental property containing the Covered Rental Units and income from ancillary services offered by the Landlord on the property, e.g., laundry, vending machines, etc.) minus expenses for maintaining and operating the

rental property. Evidence provided by the Landlord could include, but is not limited to, rent receipts, lease agreements, utility bills, receipts for other expenses, and verbal testimony. Upon a request by the Housing and Human Services Department or the Director, Landlord must produce originals of such documentation for inspection.

14. If the Director concludes the application of the Rent Control Ordinance to the Covered Rental Unit deprives the Landlord of a fair and reasonable return with respect to the operation of the property containing the Covered Rental Unit, the Director may approve a rent increase in excess of the maximum allowable increase set forth in CCMC Section 15.09.215.B. The base NOI during the 12 months before rent stabilization (deemed to be the period of June 1, 2018 – May 31, 2019 and referred to hereinafter as "Base Year"), shall be presumed to be fair and reasonable.

15. A fair and reasonable return is defined as a Landlord's ability to maintain the value of the NOI earned from the property during the Base Year ("Base Year NOI"), adjusted for inflation. Maintenance of the value of the NOI adjusted for inflation is achieved when the percent increase to the Base Year NOI is equal to or greater than the percent increase in the consumer price index (CPI) for the Los Angeles area, as reported monthly by the U.S. Department of Labor, Bureau of Labor Statistics (BLS) (Consumer Price Index for All Urban Consumers (CPI-U), All Items in Los Angeles-Long Beach- Anaheim, CA, not seasonally adjusted, 1982-84=100 reference base) during the same period. Where referenced in this Guideline, CPI refers to this statistic. A Landlord has not established that he/she is deprived of a fair and reasonable return if the Director determines that the Landlord has maintained the value of the Base Year NOI adjusted for inflation.

16. In evaluating an Application, the Director shall consider all relevant factors that may potentially impact a Landlord's ability to obtain a fair and reasonable return and shall consider the basis for the calculation of any increase in Rent. Relevant factors may include, but are not limited to, changes in costs to the Landlord attributable to increased utility rates, property taxes, insurance, advertising, governmental assessments and fees, incidental services, employee costs, normal repair and maintenance, upgrading and addition of amenities or services, rent rolls, financial statements, expert analysis, and relevant studies.

17. The Director is authorized to adjust gross income for the Base Year if the Landlord demonstrates that the Base Year rents were unreasonably low due to a peculiar circumstance (e.g. where base year rent for one or more units was not the result of an arms-length transaction), thereby artificially depressing the Base Year income, and, by extension, the Base Year NOI. The Landlord has the burden of demonstrating by a preponderance of the evidence that actual rents received in the Base Year were unreasonably low compared to similarly situated units with respect to condition, quality, size, amenity, and location. There shall be a rebuttable presumption that an adjustment to Base Year gross income is warranted if the actual Base Year gross income for a particular property was less than the assumed Base Year gross income would have

been had the applicable U.S. Department of Housing and Urban Development (HUD) Fair Market Rent been charged for each unit in the affected property.

18. Qualified operating expenses include property taxes, utility charges, professional fees and costs, reasonable repairs, and amortized capital improvements, as described in Section 21, below. Evidence may include, but is not limited to, rent receipts, lease agreements, utility bills, receipts for other expenses in conjunction with providing services, and verbal testimony.

19. The Director has discretion not to include any expense deemed unreasonable in this calculation. Any expense determined to be unusually high for a certain limited duration may be reasonably amortized by the Director for the purpose of this calculation.

20. In an effort to treat tenants fairly irrespective of a Landlord's credit worthiness, mortgage costs are not considered to be an eligible expense for the purpose of determining fair and reasonable return in the implementation of the Ordinance.

21. Landlords may submit as part of their Application capital improvement expenses that have not been or are not eligible to be passed-through to tenants through the City's Capital Improvement Cost Recovery Pass-Through program. The Director may consider the cost of any capital improvement expense submitted as part of the Application to determine whether and to what extent the expense was reasonable. To determine the monthly cost of this expense, the total cost should be amortized over the reasonable life of the improvement, as determined by the schedule published by the Housing and Human Services Department. The amortized annual or monthly cost should be added to maintenance and operational expenses, and analyzed along with all other revenues and expenses through the NOI analysis described below.

Staff Analysis

22. The Landlord must submit evidence of his or her income and expenses for the property on which the Covered Rental Units are located that are the subject of the Application. The Landlord must submit evidence of all income and expenses for the full Base Year (June 2018 – May 2019), and for each of the last 12 full months before the month in which the Application is filed ("Current Year"). For example, if the Application is filed on July 15, 2021, the Landlord must submit Base Year income and expenses for June 2018 – May 2019 and Current Year income and expenses for July 2020 – June 2021.

23. Staff will calculate the property's Base Year NOI by reviewing the evidence provided by the Landlord and including only substantiated income and expenses. Only income and expenses for which there is documented evidence will be considered substantiated.

24. Staff will calculate the Annual CPI Adjustment Multiplier, which is the average of the 12 monthly CPI numbers for the 12 full months immediately preceding the month in

which the Application is filed, divided by the average monthly CPI during the Base Year (June 2018 – May 2019), which is 269.226.

25. Staff will calculate the Adjusted NOI by multiplying the Base Year NOI by the Annual CPI Adjustment Multiplier. Adjusted NOI is the NOI which represents the fair and reasonable return to which the landlord is currently entitled (as defined this Guideline), since it maintains the Base Year NOI, adjusted for inflation.

26. Staff will calculate the Current Year NOI by reviewing the evidence provided by the Landlord and including only substantiated income and expenses (i.e. those that have occurred and where documentation has been provided). Future income or expenses or income and expenses that have not yet been incurred (e.g. planned capital improvement projects) are not considered substantiated.

27. Staff will subtract the Current Year NOI from the Adjusted NOI to determine the funds necessary to maintain NOI (the "Necessary Funds").

28. If the Necessary Funds are zero or a negative number, then the Landlord is presumed to have a Current Year NOI that is already equal to or greater than the amount necessary for a fair and reasonable return. In this case, staff will recommend the Director deny the Application.

29. If the Necessary Funds are a positive number, then the Landlord has demonstrated he or she is not receiving a fair return with current rents. In this instance, staff will divide the Necessary Funds by the number of units at the property, and then divide by 12 to yield a monthly Necessary Funds amount, to determine the monthly rent increase per unit that would allow the Landlord to receive a fair and reasonable return (the "Justified Unit Rent Increase"). Staff will then compare for each unit the Justified Unit Rent Increase versus the current rent. If the Justified Unit Rent Increase is less than or equal to the maximum permissible annual rent increase established in CCMC Section 15.09.215 based on the unit's current rent, then the maximum permissible annual rent increase established in CCMC Section 15.09.215 is sufficient in order to ensure the Landlord will receive a fair and reasonable return. If this is true for all units, Staff will recommend the Director deny the Application, since the Landlord already has the ability to raise rents sufficiently in order to ensure a fair and reasonable return. If the Justified Unit Rent Increase is more than the maximum permissible annual rent increase established in CCMC Section 15.09.215, based on the unit's current rent for one or more units, then staff will recommend the Director approve a rent increase beyond the maximum permissible annual rent increase solely for those specific units, and Staff will recommend that the rent be increased only sufficiently beyond the maximum permissible annual rent increase in order to allow the landlord to collect the Justified Unit Rent Increase for that unit(s).

30. The Director retains discretion to adjust rent as provided in the Ordinance and based on the evidence provided. If the Covered Rental Unit is also subject to a

limitation on the amount of rent that can be charged, imposed by local, state or federal law or by a recorded covenant or other enforceable obligation, then the more restrictive limit on rent shall apply.

Director Decision

31. No later than sixty (60) days after the Housing and Human Services Department has deemed an Application complete, unless the Applicant is notified of an extension, the Director shall issue a written decision denying, affirming or modifying the amount of Rent increase requested in the Application and shall adopt written findings in support of that decision. Such findings shall include, but not be limited to, a determination as to whether the requested increase is necessary for the Landlord to receive a fair and reasonable return with respect to the operation of the property containing the Covered Rental Unit(s).

32. The written decision shall be served by first-class mail, postage prepaid on the Landlord and Landlord shall post such notice in a conspicuous place at the property containing the affected Covered Rental Units. Within five (5) calendar days of receipt of the written decision, the Landlord shall personally deliver a copy of the written decision, including the Staff Analysis (any personal financial information may be redacted), to each Tenant in the affected Covered Rental Unit(s).

33. The Director's decision may be appealed to a Hearing Officer in accordance with the procedures in CCMC Section 15.09.240, which state that the appeal must be submitted in writing on a Request for Appeal form and filed with the Housing and Human Services Department within fifteen (15) calendar days after the decision date identified in the notice of decision. If the filing deadline falls on a weekend, holiday, or other day when City Hall is officially closed, the filing deadline will extend to the following City Hall business day.

34. If the Landlord's Rent Adjustment Application is approved, Landlord shall not impose the approved Rent increase unless: (a) Landlord has provided written notice to the Tenant of the Rent increase for the Covered Rental Unit in accordance with California Civil Code Section 827; and (b) Landlord has registered the Covered Rental Unit as required by CCMC Section 15.09.230.

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