

Landlord Petition – Offset Petition for One-Time Increase for Ratio Utility Billing System (RUBS) Eligibility Worksheet

Property Address: _____ San José, CA, _____

Purpose: This form is used to determine eligibility to apply for an increase in base rent for units with qualifying pass through agreements for Ratio Utility Billing System (RUBS). Once eligibility has been determined, you may proceed with the “Offset Petition” process and include this document as an attachment to your application. This is for a one-time increase, with all petitions to be submitted between the period of July 5, 2018 and October 31, 2018. If you have determined you are eligible to apply, please select which scenario best describes how you have been implementing:

WATER, SEWER, AND/OR GARBAGE

SCENARIO A Water, Sewer, and/or Garbage Agreements before January 1, 2018	
Do you have a written pass through agreement for water, sewer and/or trash executed with the existing tenant before January 1, 2018?	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Total # Units Charged: _____	

or

SCENARIO B RUBS Agreements between January 1, 2018 - April 30, 2018 Standing Business Practices of Charging Utilities Before July 1, 2017	
Did you have an existing business practice charging RUBS for all tenants in the building before July 1, 2017?	If yes, do you have a written utility pass through agreement with a new tenant executed between January 1, 2018 and April 30, 2018?
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Total # Units Charged: _____ <small>(Include 2017 tenancies)</small>	Total # Units Charged: _____ <small>(Include 2018 tenancies)</small>

GAS AND/OR ELECTRICITY

SCENARIO A Gas and/or Electricity Agreements before January 1, 2018	
Do you have a written pass through agreement for gas/electricity executed with the existing tenant before January 1, 2018?	If yes, can you show compliance with the requirements of Civil Code Section 1940.9 at the commencement of tenancy and written pass through prior to January 1, 2018 with a signed mutual agreement?
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Total # Units Charged: _____	Total # Units Charged: _____

SCENARIO B Gas and/or Electricity Agreements between January 1, 2018 - April 30, 2018 Standing Business Practices of Charging Utilities Before July 1, 2017	
Do you have a written pass through agreement for gas/electricity executed with the existing tenant after January 1, 2018?	If yes, can you show compliance with the requirements of Civil Code Section 1940.9 at the commencement of tenancy and written pass through after to January 1, 2018 with a signed mutual agreement?
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Total # Units Charged: _____	Total # Units Charged: _____

Landlord Petition – Offset Petition for One-Time Increase for Ratio Utility Billing System (RUBS)

Purpose: This form is used to apply for an increase in base rent for units with qualifying pass through agreements. An amendment to the City’s Apartment Rent Ordinance allows landlords to petition to increase base rents by the lesser of average pass through charges or by a capped amount. This is a one-time increase with all petitions to be submitted between the period of July 5, 2018 and October 31, 2018. The Apartment Rent Ordinance does not prohibit submetered water, gas, or electricity. Please see the instructions attached starting on page 3.

Rental Property Address

Property Address: _____ San José, CA Zip Code: _____

Landlords are encouraged to use one form per building.

Landlord Information

Landlord Name: _____ Phone: _____

Mailing Address: _____ City, State & Zip Code: _____

Landlord Email: _____ Business Personal
_____ Receive notices by email instead of mailing address.

Do you have a property manager who will be your representative? No Yes, please fill out a proxy form.

Important: Copies of the pre-filing form must have been submitted to the Rent Stabilization Program and included with this petition.

I declare under penalty of perjury under the laws of the State of California that this information and every attached document, statement, and form are true and correct to the best of my knowledge and belief. I further declare that I served all tenants listed on the Pre-filing Notice entitled “Notice of Potential Base Rent Increase for One-time Offset for Utility Charges” on the date indicated on such notices.

Signature of Landlord

Date



Offset Petition Addendum

Please provide the following supporting documents in addition to the petition. The documents may be submitted in hard copies to the Rent Stabilization Program or electronically in PDF form to RSP@sanjoseca.gov with the subject line "Offset Petition – Property Address." Please provide all the documents in the petition and addendum, with the corresponding attachment and property address.

Water, Sewer, and/or Garbage Agreements before January 1, 2018	
<input type="checkbox"/> Attachment A	Eligibility Worksheet
<input type="checkbox"/> Attachment B	<p>Pre-filing Notice to Tenant on form "Notice of Potential Base Rent Increase – One-time Offset for Utility Charges"</p> <p>Include copies of notice served to tenant.</p>
<input type="checkbox"/> Attachment C	<p>Offset Petition Electronic Spreadsheet</p> <p>The spreadsheet must also be submitted electronically to RSP@sanjoseca.gov. The Offset Increase amount will be the lesser of: the average of the monthly charges paid by the Tenant in 2017 under the Pass through Agreement for water, sewer and/or trash; OR capped amounts.</p> <ul style="list-style-type: none"> • Do not enter or leave zero (\$00.00) in any cell where the landlord has not charged the tenants for that item during a particular month. If the landlord enters any zero, the spreadsheet will not average the charges correctly. In almost all cases, that will result in a lower average than the actual average charges. • Leave all cells where there is no charge completely blank, and delete any erroneous entries. • Landlords with Ledgers from Third Party Billing Agency - Case by Case Basis Only: If landlords have ledgers from third party billing agencies that break down the costs of water, sewer, trash, the sum of these values (excluding service fees) may be entered instead of the individual amounts. The ledger <u>must</u> be from a third party billing agency that show these costs by including unit number and tenant name, billing period, bill date, utilities breakdown, and total amount.
<input type="checkbox"/> Attachment D	<p>1 Standard Written Rental Agreement</p> <p>Must include the complete, unaltered copy of the standard written rental agreements. This is the Landlords' standard full lease with all of the terms and conditions.</p>
<input type="checkbox"/> Attachment E	<p>Tenants' Executed Written Rental Agreement including RUBS Addendum</p> <p>For each unit, include at minimum: 1) first page of rental agreement with tenants' names, 2) RUBS provision located in lease or attachment/addenda to lease, and 3) tenants' signature page on rental agreement. If you have new tenancies starting between January 1, 2018 and April 30, 2018, please see Attachment G instead.</p>
<input type="checkbox"/> Attachment F	<p>Building Invoices During Applicable Billing Period</p> <ul style="list-style-type: none"> • Utility provider and landlord: Provide the complete, unaltered copies of the property's invoices for utility costs prior to allocation; OR • Landlord/billing agency and tenant: Provide a summary of how the invoices were passed through to tenants (i.e. copy of invoice that billing agency sent pass through directly to tenants). If the landlord used a billing agency, then a ledger of the charges from the billing agency may be accepted.
Standing Business Practice - Agreements before July 1, 2017 AND new tenancies between January 1, 2018 & April 30, 2018	
<input type="checkbox"/> Attachment G	<p>Copies of executed utility pass through agreements with the same terms for <u>all</u> tenancies in the building prior to July 1, 2017. Include two leases per eligible unit:</p> <ul style="list-style-type: none"> • Lease executed before July 1, 2017 for that unit to show landlord has been passing through RUBS; • Lease of the current tenancy between January 1, 2018 and April 30, 2018.
Gas and/or Electricity Agreements before and after January 1, 2018	
<input type="checkbox"/> Attachment H	<p>Proof of Compliance for Unmetered Gas or Electricity</p> <p>If the landlord is making a claim related to pass through of unmetered gas or electricity, the landlord must provide evidence that the landlord has complied with the requirements of Civil Code Section 1940.9 at the commencement of the tenancy. Requires a written mutual agreement regarding payment for the gas and/or electric service for the areas outside of the tenant's unit, dated and executed by the tenant and landlord at the commencement of tenancy.</p>

Offset Petition Instructions

There are 10 steps to submit a complete Offset Petition. The boxes below are action items for the owner. If you have any questions regarding these requirements, please contact us at RSP@sanjoseca.gov or 408-975-4480.

1. Check if you are eligible to file an "Offset Petition."

- Fill out the Eligibility Worksheet. Include this document with the petition.
- Contact staff if you have any questions regarding your eligibility.

2. Serve the pre-filing notice to tenants and attach copies to this petition.

- Mail or personally serve the pre-filing notice on the form "Notice of Potential Base Rent Increase – One-time Offset for Utility Charges" to the tenant(s) on which this petition is based.
- Attach copies of all notices to this petition. The pre-filing notice must be served **before** submitting this petition.

3. Complete the "Offset Petition" with supporting documentation between July 5, 2018 to October 31, 2018. Pre-submission will be accepted before July 5, 2018.

- An Offset Petition must be filed by October 31, 2018 and determined to be complete by November 5, 2018 to be eligible for this process.
- You must also submit the "RUBS Petition Electronic Spreadsheet" (**Attachment C**) electronically. Download the spreadsheet from www.sanjoseca.gov/rent. There will be one for 2017 tenancies and 2018 tenancies.

4. Submit the petition.

- Indicate Attachment and unit number on the top right-hand corner for each corresponding document.
- Submit by U.S. mail or in person to the City.
- Submit the complete spreadsheet to RSP@sanjoseca.gov with the subject line "Offset Petition Spreadsheet – Property Address."

5. Staff will mail notice regarding completeness within 10 business days of filing.

Staff will make a determination regarding completeness for each Offset Petition:

- A. **Incomplete Offset Petitions:** Petitions that are determined not to be complete by November 5 are not eligible for an offset. Staff will mail the "Incomplete Petition Notice" to the landlord with a list of deficiencies.
 - o If any required fields are omitted or if the supporting documentation is incomplete, missing, or is not properly marked, the petition will be returned to the landlord to complete.
 - o The landlord may add to, amend, or revise and re-submit the petition to Program Staff prior to the October 31, 2018 deadline.
- B. **Complete Notice:** Staff will mail the "Complete Petition Notice" to the landlord and tenant (with the tenant petition response form) with a due date for the tenant response to the petition.
 - o The tenant may submit the "Offset Petition Tenant Response" to the City.

6. Tenant responds to Offset Petition within 14 calendar days.

The tenant or tenant household has 14 days from the mailing of the City's notice to file with the City the "Offset Petition Tenant Response." Staff will mail a notice to the landlord that a response was received based the following grounds:

- A. Pass through agreement was not signed by tenant
- B. Tenant did not pay the bills under the pass through agreement during period indicated on the petition submitted by the landlord
- C. Hearing Officer Decision or Voluntary Agreement that prohibited the pass through for this property completed before July 4, 2018
- D. Documents or signatures submitted by the landlord are not authentic or valid
- E. Petition or agreement incorrectly lists the number of bedrooms in the unit.

If a response is filed, staff will notify the landlord.

Offset Petition Instructions

7. Receive Tentative Administrative Decision or referral to a hearing.

Staff will review the complete petition and any responses received. Staff will then inform the landlord and tenant of the Tentative Administrative Decision, or will schedule a hearing.

- A. Staff will issue a Tentative Administrative decision.
- B. If staff determines a hearing is needed, they will schedule a hearing consistent with the procedures with Chapter 7 for any petitions and responses. A notice will be sent to the parties. A hearing officer will review any documents submitted, hear testimony, and discuss the case with the tenant and landlord. Many cases are settled by a voluntary agreement between the landlord and tenant. A hearing officer will assist both sides to arrive at an agreement, and if no agreement can be reached, the hearing officer will render a written decision.
- C. If there is a challenge to the documents provided, the tenant's payment of charges for water, sewer, trash (or gas and electric, if applicable) during applicable time period may be requested. The complete and unaltered copies of evidence of payment include canceled checks, money orders, cashier's checks, receipts, or e-transfer documentation of tenant payment.

8. If an Administrative Decision is rendered, the tenant and landlord will have 10 days to respond.

- The parties may respond with comments. After 10 days, the examiner reviews any response and issues the final Administrative Decision.

9. If approved or disapproved, all pass through agreements are void following the issuance of the Final Administrative Decision.

10. Landlord must give proper notice to the tenant prior to any increase.

—A copy of the decision may be used as an attachment to the rent increase.

- The landlord must send the tenant a notice of rent increase as required by State law.
- Landlord must send a copy of the Final Administrative Decision to tenant.

IMPORTANT

If the landlord does not file a petition or if the petition is not completed by October 31, 2018, the existing written utility pass through agreement will be void after such date.



Proxy (Notice of Representation) – Form 6

Date:

Case:

Address:

Purpose: The purpose of this form is to allow a landlord or tenant participating in the Petition Process to submit a written designation of representation by a proxy for the duration of the hearing, as permitted by Regulations Section 5.03.3. A proxy is someone that has the authority to represent you on your behalf. The representative does not need to be an attorney. Written designation of such representatives shall be filed with the City’s Rent Stabilization Program. This representative will be authorized to bind the party to any stipulation, decision or other action taking at the hearing. If you wish to have a proxy, please fill out and return to the Rent Stabilization Program as soon as possible as soon as possible. All revocations of proxy forms must be in writing and submitted to the Rent Stabilization Program.

I am designating a proxy (Complete ONLY IF you are designating a representative to represent you)

You are a: Landlord Tenant

Your Name:

Your Address:

Phone:

E-mail:

I authorize _____ as my representative. He/she is hereby authorized to provide, request, or receive information/evidence/testimony, to negotiate, to sign agreements on my behalf on matters in this dispute, and should be placed on the mailing list.

Correspondence and notices shall be sent to my representative during these proceedings. Please send all correspondence directly to my proxy.

Notices to my representative may be sent via email.

Authorizing Signature: _____ Date: _____

Representative’s Name: _____ Date: _____

Representative’s Phone: _____ Representative’s E-mail: _____

