

## Rent Adjustment and Just Cause Ordinance Amendments

December 17, 2024

### FAQ

1. Can a new owner, who acquired the property with no intent to become a landlord and wants to move in, serve the tenant with a tenancy termination notice without first: (a) obtaining a Business Tax Certificate and (b) paying the RAP fee?

(a) Business Tax. No, the new business tax requirement applies to all property owners. Purchasing an occupied rental property without the intent to rent does not exempt that property owner from the ordinance.

(b) RAP Fee. Yes. The law does not prevent a property owner who is delinquent on the RAP Fee from issuing a tenancy termination notice and pursuing an eviction lawsuit.

2. Is a current Business Tax Certificate required for no fault evictions (owner move in or substantial repairs evictions)?

Yes. As of 12/24/24, no fault evictions are prohibited for owners who are delinquent on their business taxes. Property owners are required, along with any no fault eviction notice, to provide a copy of the current Business Tax Certificate and a statement informing tenants of the limitations on evictions for property owners delinquent on business taxes.

3. How do owners calculate the business taxes they need to pay? Is the timeline for RAP fees the same or different (i.e., do rental property owners pay RAP fees for year 1 in year 1, year 2 in year 2, year 2 in year 3 and year 3 in year 4 as with business taxes)?

(a) Business taxes. After 2023, all businesses must provide an estimate on gross receipts they expect the first year they are in business. For the following renewal, they provide what actual gross receipts were for the first year in business, and another estimate for the second-year taxes. On the third year, they provide actuals for the second year and true up the account. In other words, for business taxes, the business owners estimate the gross receipts for the first and second years and pay taxes on those anticipated gross receipts for year 1 and year 2. Starting year 3, they pay on the actual receipts of the past year. So for year 3, business taxes are “trued up” for year 2. In year 4, business taxes are paid on gross receipts for year 3.

(b) RAP fees. Timeline for the RAP fees are different since the TP knows how many units are being rented at the time they register or pay the annual renewal. These are fixed units (county data or, if they say there are more, we take the higher number) and very rarely change. Owners pay RAP fees for year 1 in year 1, year 2 in year 2, year 3 in year 3, etc.

4. Does a new owner need to register with RAP?

If the former owner **was in compliance** with the Rent Registry Ordinance, the new owner does not need to register. It is, however, strongly advisable for the new owner to inform RAP of the new ownership and provide contact information, so the new property owner can timely receive RAP notices.

If the former owner **was not in compliance** with the Rent Registry Ordinance, the new owner must register before the new owner can: (a) legally increase rents, (b) evict any tenants from the units subject to registration, or (c) file or respond to a rent adjustment petition.

5. Does a new owner need to pay the RAP Fee?

Finance generally requires new owners pay the RAP fee due from the date of their purchase going forward. Finance, however, also checks their database to confirm whether the prior owner paid the RAP Fee. If so, Finance would not collect from the new owner for fees already paid. Finance does not give any kind of statement to the property owner about the former property owner being in compliance with the RAP Fee.

6. If the prior owner paid the business tax and RAP fee, will proof of such payments be provided to the new Owner?

No. Finance will not give a new owner a copy of the prior owner's Business Tax Certificate. Finance would be able to provide a License Verification for the prior owner, but it would show the account as being closed (if the old owner closes their account). This verification would not reflect any paid taxes or RAP fees. Thus, the new property owner needs to get a new license, pay estimated business taxes, and get a Business Tax Certificate.

7. The 5-year banking rule will be effective as of January 1, 2026; will the property owner lose any banked CPIs beyond 5 years if not used by then?

Yes, the owner would lose any banked CPI if older than 6 years (current year CPI is not considered banked). For example, an owner who has not collected banked CPI after January 1, 2020 (as of the effective date of this provision) would begin to lose those banked CPIs.

8. As of December 24, 2024, the filing deadline for tenant petitions challenging unlawful rent increases is extended from 90 days to 180 days from the date the property owner serves the rent increase notice. Would this apply to any petitions filed before December 24 but not yet served, POS not yet provided, or in any other way deficient?

Because petitions are not considered filed until complete, the new deadline applies to any petitions filed and completed as of December 24, 2024.

9. Are owners required to inform tenants of the new process regarding limitations on rent increases for property owners who are delinquent on business taxes?

Yes. They can meet this requirement by serving the updated RAP Notice which was posted on our website on January 3, 2025. As previously stated, any eviction notices served under OMC 8.22.360.A.8-10 (owner move-in or repairs) must also inform tenants of the eviction defense available to tenants if the owner is delinquent on business taxes.

10. Will RAP provide Owners the statement that Owners are required to give to tenants on eviction limitations for property owners delinquent on business taxes? If so, what is that statement?

No, RAP will not provide a template to be included in tenancy termination notices. RAP has updated the RAP Notice including new requirements as required by the Kalb legislation.

11. As of April 15, 2025, owners are prohibited from issuing a rent increase if the owner is delinquent on business taxes. The Rent Adjustment ordinance now requires property owners to attach a current business tax certificate to all rent increases notices as of April 15, 2025.

(a) Would the Business Tax Office disclose to a tenant whether a property owner is in compliance with the business tax? How could a tenant independently verify owner's compliance?

The Business Tax Office would tell or provide the tenant with a License/Certificate verification form that would tell them the expiration date of the property owner's last certificate. Thus, if the document shows an expiration date of 12/31/2022, it's inferred that the property owner is currently delinquent.

- (b) Is the delinquency limited to the current year? Does the Business Tax Office only issue a Certificate when the property owner is current including taxes for prior years?

Technically, property owners can request and receive a certificate for each of the tax years paid. For example, if they paid 2022 and nothing else and requested a certificate, the Business Tax Office would issue a certificate with 12/31/2022 as expiration date. The Business Tax Office would only issue a current certificate once all taxes have been paid.

12. Can property owners issue CPI rent increases or banked increases if there are delinquent taxes/fees?

- (a) Business Tax. No. As of April 15, 2025, owners will be prohibited from issuing a rent increase if they are delinquent on business taxes. If the rent increase notice includes banking, property owners will be required to provide a copy of a current Business Tax Certificate. If the rent increase is based on Consumer Price Index (CPI) only, property owners will be required to provide a copy of a current Business Tax Certificate or a copy of a payment plan with the City for delinquent business taxes.
- (b) RAP fee. Yes. CM Kalb's legislation did not modify the RAP fee requirements or the non-compliance legal implications. Thus, if a property owner is delinquent on the RAP Fee, they can still issue CPI and/or banked increases. They cannot, however, petition for other increases.