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Kent Dean

CITY ATTORNEY'S OFFICE

INTRODUCED BY COUNCILMEMBER _____

AS REVISED IN COMMITTEE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13695 C.M.S.

ORDINANCE AMENDING THE RENT ADJUSTMENT ORDINANCE (O.M.C. 8.22.010 ET SEQ) AND THE JUST CAUSE FOR EVICTION ORDINANCE (O.M.C. 8.22.300 ET SEQ) TO (1) CREATE AN ANNUAL REQUIREMENT FOR RESIDENTIAL RENTAL UNITS IN WHICH RENTAL PROPERTY OWNERS OF UNITS SUBJECT TO THE RENT PROGRAM SERVICE FEE SHALL BE REQUIRED TO REPORT RENT AND OTHER TENANCY INFORMATION, AS SET FORTH IN SECTION 8.22.520, (2) REQUIRE OWNERS TO PROVIDE EVIDENCE OF COMPLYING WITH RESIDENTIAL RENTAL REGISTRATION REQUIREMENT WHEN FILING RENT INCREASE PETITIONS OR RESPONSES TO TENANT PETITIONS AND (3) TO PROVIDE AS A TENANT'S AFFIRMATIVE DEFENSE IN AN EVICTION ACTION THE PROPERTY OWNER'S FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS OUTLINED IN O.M.C. 8.22.510

WHEREAS, the City of Oakland contains thousands of residential rental units covered by the Oakland's Rent Ordinance and Just Cause for Eviction Ordinance; and

WHEREAS, rising rents and a housing shortage have increased both the vulnerability and instability of Oakland's tenant population; and

WHEREAS, owners of units subject to the Rent Adjustment Ordinance are not currently required to report their residential rental units' rents to the City; and

WHEREAS, other cities with rent stabilization ordinances employ an active approach to enforcing their rent laws by using registries to register individual tenancies, information about the rental unit, owners, tenants, and rental amounts, and monitor and disseminate information about allowable increases in rent per rental unit to owners and tenants; and

WHEREAS, cities with rent registries include Berkeley, Beverly Hills, East Palo Alto, Los Angeles, Richmond, San Francisco, San Jose, Santa Monica, and West Hollywood; and

WHEREAS, rent registration policies in cities such as Berkeley, Richmond, and East Palo Alto have demonstrated that requirements to report rent data significantly decreases the likelihood of rent overcharge; and

WHEREAS, one study of tenants in Los Angeles, for instance, found that over thirty percent of renters were “incorrect about, or unaware of” the rent stabilization status of their unit, and twenty-seven percent of tenants living in rent-controlled units in Los Angeles were charged rents above allowable amounts under local laws; and

WHEREAS, the Bay Area’s housing shortage necessitates housing policies that will provide more active monitoring of lawful rents and lawful rent increases; and

WHEREAS, rental registries can add much-needed transparency and accountability to the landlord-tenant relationship; and

WHEREAS, a rental registry will also assist the Rent Adjustment Program to calculate what the allowable increases will be for the unit and monitor rental rates to ensure compliance with local laws; and

WHEREAS, a rental registry can help policy makers to understand issues related to rental housing, such as the number of affordable units, rates of eviction, and how often rent increases occur; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Additions of Sections 8.22.510 and 8.22.520 to Oakland Municipal Code Chapter 8.22, Article IV. Sections 8.22.510 and 8.22.520 of Oakland Municipal Code Chapter 8.22, Article IV is added to Oakland Municipal Code Chapter 8.22, Article IV, as set forth below.

8.22.510 - Annual registration and reporting obligations

- A. Starting on March 1, 2023, Rental Property Owners of units subject to Section 8.22.500.D shall be required to report certain information about their units to the City, as set forth in Section 8.22.530. Rental Property Owners shall report the information using a form prepared by the City. The City Administrator may, in addition or in lieu of a paper form, develop an electronic form or a secure internet website for Rental Property Owners to submit the required information. The City Administrator may also develop procedures for tenants to also report information about their units, but in that event reporting by tenants shall be optional rather than required.
- B. Deadline for Submission of Registration Form. Rental Property Owners shall complete and submit to the City the registration form prior to the delinquency deadline identified in the fee statement.

- C. Failing to Register. A Rental Property Owner of a Covered Unit, as defined in O.M.C. 8.22.020, who fails to substantially comply with the registration requirement, but otherwise qualifies to petition or respond to a petition filed with the Rent Adjustment Program, will forfeit six months of the rent increase sought unless the owner cured the failure to register. A Rental Property Owner may cure the failure to register required by this section and not be subject to a forfeiture of a rent increase if the Rental Property Owner substantially complies with the registration requirement six months prior to serving the rent increase notice on the tenant or, in the case of an owner petition, at least six months prior to filing the petition.

8.22.520 - Content of registration form

The registration form shall include the following information as of the date specified on the form for each unit subject to Section 8.22.500.D:

- A. The address of the rental unit (including rental unit number); and
- B. The name, address, and contact information of each person or entity that is the Rental Property Owner, or if more than one, each Rental Property Owner of the rental unit; and
- C. The name, address, and contact information of each person or entity that is the property manager of the rental unit; and
- D. Current tenancy information, including:
 - a. Tenant name and email address;
 - b. Number of tenants occupying the unit (as listed on original lease or after adding additional occupant(s) as defined in O.M.C. 8.22.020);
 - c. Occupancy status – if occupied, the tenancy start date (tenant move-in date);
 - d. Effective date of last rent increase for each rental unit;
 - e. Amount of initial base rent at inception of tenancy;
 - f. Whether the unit is subsidized or otherwise assisted;
 - g. Amount of security deposit charged at inception of tenancy
- E. Prior tenancy Information, including:
 - a. Ending date of tenancy;
 - b. Reason for end of tenancy –Voluntary, No Fault Eviction, Eviction, or Owner Move-in.
- F. Rental Property Information for the rental unit, including:
 - a. Number of bedrooms and bathrooms;
 - b. Housing services included (water/sewer, refuse/recycle, natural gas, electricity, parking, etc.), along with any additional fees; and
 - c. Whether each unit is sub-metered, master-metered, or unmetered;
- G. The signature of the Rental Property Owner of the rental unit affirming under penalty of perjury that the information provided in the annual registration is true and correct; and
- H. Such other information reasonably requested by the City.

SECTION 2. Amendment of Section 8.22.500 of the Oakland Municipal Code. Sections 8.22.500 of the Oakland Municipal Code is amended as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

8.22.500 Rent program service fee.

- A. Establishment of the Fee. The rent program service fee (the "fee") is hereby established. The fee and any penalties or costs for late or non payment of the fee are dedicated solely to the payment or services and costs of the rent adjustment program and may be used only for the administration, outreach, legal needs, enforcement of Chapter 8.22 (including the rent adjustment program and the Just Cause for Eviction Ordinance), collection of this fee, and other costs of the rent adjustment program and cannot be used for any other purpose. The City Manager shall develop procedures for collection of the fee and ensuring that all funds generated by the fee will be used only for the rent adjustment program. The fee is to be charged against any residential rental unit that is subject to either the Rent Adjustment Ordinance, the Just Cause for Eviction Ordinance, or both.
- B. Definitions.
1. "Rental property owner" includes an owner as defined in the Rent Adjustment Ordinance (O.M.C. 8.22.020) or a landlord as defined in the Just Cause for Eviction Ordinance (Measure EE, Section 4A).
 2. "Tenant" has the same meaning as that term is defined in the Rent Adjustment Ordinance (O.M.C. 8.22.020).
- C. Amount of Fee. The amount of the fee shall be set by the City Council in the master fee schedule. For the city's fiscal years of 2001—2002, and 2002—2003 the fee is set at twenty-four dollars (\$24.00) per covered unit. Each fiscal year the City Manager shall report to the City Council on the costs of the rent adjustment program for the preceding fiscal year and the anticipated costs of the rent adjustment program for the coming year.
- D. Residential Rental Units Subject to the Fee. The fee is to be charged on a per unit basis against all residential rental units that are either covered units or are covered by the Just Cause for Eviction Ordinance, except such residential rental units that are owned or operated by a public entity, including, but not limited to, the City of Oakland, the Redevelopment Agency of the City of Oakland, and the Oakland Housing Authority. A rental property owner who does not timely pay the fee because the rental property owner claims the dwelling unit is not subject to the fee must pay all fees, delinquent charges, interest, and collection costs for any dwelling unit that is found by the city to be subject to the fee. Neither the fact that a rental property owner paid the fee nor that a rental property owner claimed dwelling units are not subject to the fee can be used as evidence in any determination of a petition with the rent adjustment program or in a court proceeding regarding whether the subject dwelling unit is covered by the Rent Adjustment Ordinance or the Just Cause for Eviction Ordinance.

- E. Fee Based on Business Operation. The fee is a fee associated with the operation of a residential rental property business and not a fee based on ownership of real property.
- F. Due Date for Fee. For the first fiscal year of 2001—2002, the fee will be due on March 1, 2002 and will be deemed delinquent if not paid by May 1, 2002. For all subsequent fiscal years, the fee will be due on January 1, and will be deemed delinquent if not paid by March 1.
- G. Passthrough of One-Half of Fee. For rental properties that are covered by the rent adjustment program, a rental property owner may pass through one-half of the fee to a tenant in the year in which it is due, unless the owner does not pay the fee before the date it is deemed ~~late~~delinquent. A rental property owner may not pass through any penalties, delinquent charges, or interest to a tenant. Rental properties that subject to the fee, but are not covered by the rent adjustment program are not subject to the limitation in this Subsection 8.22.500(G).
- H. Delinquent Owner. A rental property owner who has not paid the fee and any charges related to a delinquency in payment of the fee cannot:
 - 1. Respond to a petition brought by a tenant; or
 - 2. Petition for a rent increase.
- I. Delinquent Charges, Interest, and Collection Costs.
 - 1. An owner who does not pay the fee on or before the date it is considered late must pay a delinquency charge according to the following schedule:
 - a. Ten (10) percent of the fee due if paid in full within thirty (30) days of the date it is considered late;
 - b. Twenty-five (25) percent of the fee due if paid in full within sixty (60) days of the date it is considered late;
 - c. Fifty (50) percent if paid after sixty (60) days of the date it is considered late.
 - 2. In addition to the delinquent charges, a rental property owner who fails to remit the fee due by the date it is late shall pay simple interest at the rate of one percent per month or fraction thereof on the amount of the fee inclusive of delinquent charges from the date the fee is late.
 - 3. A rental property owner who has not paid the fee by the end of the fiscal year in which it is due may also be assessed the city's costs of collecting the fee, including the city's administrative costs of collection and any attorney's fees whether incurred by the City Attorney's Office or by outside counsel.
 - 4. The amount of any fee, delinquent charges, interest, and collection costs imposed by Chapter 8.22 shall be deemed a debt to the city and any rental property owner carrying on a residential rental business without paying the fee and/or any delinquent charges, interest or collection costs shall be liable in an action in the name of the city in any court of competent jurisdiction, for the amount of the fee and any tax and delinquent charges, interest or collection costs imposed. An action to collect the fee must be commenced

within three years of the date the fee became due. An action to collect delinquent charges, interest or collection costs for nonpayment of the fee must be commenced within three years of the date such accrues.

- J. Severability. This O.M.C. Article 8.22.500 shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this Chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application; and to this end the provisions of this Chapter are declared to be severable and are intended to have independent validity.
- K. Nonwaiverability. Any provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of this O.M.C. Chapter 8.22, Article IV (8.22.500) is waived or modified, is against public policy and void.
- L. Effective Date.
 - 1. The ordinance codified in this O.M.C. Chapter 8.22, Article IV (8.22.500) takes effect this section chapter take effect pursuant to Section 216 of the Oakland City Charter.
 - 2. For rental units covered only by the Just Cause for Eviction Ordinance (O.M.C. Chapter 8.22 Article II (8.22.300)) and not by the Rent Adjustment Ordinance (O.M.C. Chapter 8.22 Article I (8.22.100)), the fee shall be charged to such rental units in the fiscal year beginning July 1, 2003.

SECTION 3. Amendment of Section 8.22.090 of the Oakland Municipal

Code. Sections 8.22.090 of the Oakland Municipal Code is amended as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

8.22.090 - Petition and response to filing procedures.

A. Tenant Petitions.

- 1. Tenant may file a petition regarding any of the following:
 - a. A rent increase was given that is not based on the CPI rent adjustment, banking; and/or a final decision in an owner petition;
 - b. The owner set an initial rent in excess of the amount permitted pursuant to Section 8.22.080 (Rent increases following vacancies);
 - c. A rent increase notice failed to comply with the requirements of Subsection 8.22.070H;
 - d. The owner failed to give the tenant a notice in compliance with Section 8.22.060 and State law;
 - e. The owner decreased housing services to the tenant;
 - f. The tenant alleges the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Subsection 8.22.070 D.6;

- g. The owner fails to reduce rent on the month following the expiration of the amortization period for capital improvements, or to pay any interest due on any rent overcharges from the failure to reduce rent for a capital improvement.
 - h. The owner noticed a rent increase of more than the ten (10) percent annual limit or that exceeds the rent increase limit of thirty (30) percent in five years.
 - i. The petition is permitted by the Just Cause for Eviction Ordinance (Measure EE) O.M.C. 8.22.300 or its regulations.
 - j. The petition is permitted by the Ellis Act Ordinance, O.M.C. 8.22.400, or its regulations.
 - k. The tenant contests an exemption from this O.M.C. 8.22, Article I or Article II.
 - l. The tenant claims the owner has received reimbursements for any portion of cost or financing of capital improvements after a capital improvement rent increase has been approved, and has not prorated and refunded such reimbursement.
 - m. After a rent increase imposed for an additional occupant as defined by Section 8.22.020, the owner fails to reduce the rent following a decrease in occupancy.
2. For a petition contesting a rent increase, the petition must be filed as follows:
- a. If the owner provided written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy:
 - i. The petition must be filed within ninety (90) days of the date the owner serves the rent increase notice if the owner provided the RAP notice with the rent increase; or
 - ii. The petition must be filed within one hundred twenty (120) days of the date the owner serves the rent increase if the owner did not provide the RAP notice with the rent increase.
 - b. If the owner did not provide written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy, within ninety (90) days of the date the tenant first receives written notice of the existence and scope of this Chapter as required by Section 8.22.060.
3. For a petition claiming decreased housing services
- a. If the decreased housing is the result of a noticed or discrete change in services provided to the tenant (e.g., removal of parking place, requirement that tenant pay utilities previously paid by owner) the petition must be filed at any time but is limited in restitution for three years before the petition is filed. within ninety (90) days of whichever of the following is later:
 - i. The date the tenant is noticed or first becomes aware of the decreased housing service; or

- ii. The date the tenant first receives written notice of the existence and scope of this Chapter as required by Section 8.22.060.
 - b. If the decreased housing is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for ninety (90) days before the petition is filed and to the period of time when the owner knew or should have known about the decreased housing service.
4. In order to file a petition or respond to an owner petition, a tenant must provide the following at the time of filing the petition or response:
 - a. A completed tenant petition or response on a form prescribed by the rent adjustment program;
 - b. Evidence that the tenant's rent is current or that the tenant is lawfully withholding rent; and
 - c. A statement of the services that have been reduced or eliminated, if the tenant claims a decrease in housing services;
 - d. A copy of the applicable citation, if the tenant claims the rent increase need not be paid because the covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations pursuant to Section 8.22.070D.6.
 5. A tenant must file a response to an owner's petition within thirty (30) days of service of the notice by the rent adjustment program that an owner petition was filed.
- B. Owner Petitions and Owner Responses to Tenant Petitions.
1. In order for an owner to file a response to a tenant petition or to file a petition seeking a rent increase, the owner must provide the following:
 - a. Evidence of possession of a current City business license;
 - b. Evidence of payment of the rent adjustment program service fee;
 - c.
 - i. Evidence of service of written notice of the existence and scope of the rent adjustment program on the tenant in each affected covered unit in the building prior to the petition being filed;
 - ii. After March 1, 2023, evidence of registration with the Rent Adjustment Program as provided in O.M.C. 8.22.510 for each affected covered unit in the building prior to the petition or response being filed;
 - d. A completed response or petition on a form prescribed by the rent adjustment program; and
 - e. Documentation supporting the owner's claimed justification(s) for the rent increase or supporting any claim of exemption.
 2. An owner must file a response to a tenant's petition within thirty (30) days of service of the notice by the rent adjustment program that a tenant petition was filed.

SECTION 4. Amendment of Section 8.22.360 of the Oakland Municipal

Code. Sections 8.22.360 of the Oakland Municipal Code is amended as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

8.22.360 - Good cause required for eviction.

A. No landlord shall endeavor to recover possession, issue a notice terminating tenancy, or recover possession of a rental unit in the city of Oakland unless the landlord is able to prove the existence of one of the following grounds:

1. The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under provisions of state or local law, and said failure has continued after service on the tenant of a written notice correctly stating the amount of rent then due and requiring its payment within a period, stated in the notice, of not less than three days. However, this subsection shall not constitute grounds for eviction where tenant has withheld rent pursuant to applicable law.
2. The tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law, provided further that notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet following a written request by the tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). 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.
3. The tenant, who had an oral or written agreement with the landlord which has terminated, 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 and under such terms which are materially the same as in the previous agreement; provided, that such terms do not conflict with any of the provisions of this Chapter. [O.M.C. Chapter 8.22, Article II].
4. The tenant has willfully caused substantial damage to the premises beyond normal wear and tear and, after written notice, has refused to cease damaging the premises, or has refused to either make satisfactory correction or to pay the reasonable costs of repairing such damage over a reasonable period of time.
5. The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants at the property.
6. The tenant has used the rental unit or the common areas of the premises for an illegal purpose including the manufacture, sale, or use of illegal drugs.
7. The tenant has, after written notice to cease, continued to deny landlord access to the unit as required by state law.

8. The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession of the rental unit for his or her occupancy as a principal residence where he or she has previously occupied the rental unit as his or her principal residence and has the right to recover possession for his or her occupancy as a principal residence under a written rental agreement with the current tenants.
9. The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession for his or her own use and occupancy as his or her principal residence, or for the use and occupancy as a principal residence by the owner of record's spouse, domestic partner, child, parent, or grandparent.
 - a. Here the owner of record recovers possession under this Subsection (9) [Paragraph 8.22.360 A.9], and where continuous occupancy for the purpose of recovery is less than thirty-six (36) months, such recovery of the residential unit shall be a presumed violation of this Chapter.
 - b. The owner of record may not recover possession pursuant to this subsection more than once in any thirty-six (36) month period,
 - c. The owner must move in to unit within three (3) months of the tenant's vacation of the premises.
 - d. Reserved.
 - e. A landlord may not recover possession of a unit from a tenant under Subsection 6(A)(9) [8.22.360 A.9], if the landlord has or receives notice, any time before recovery of possession, that any tenant in the rental unit:
 - i. Has been residing in the unit for five (5) years or more; and
 - (a) Is sixty (60) years of age or older; or
 - (b) Is a disabled tenant as defined in the California Fair Employment and Housing Act (California Government Code § 12926); or
 - ii. Has been residing in the unit for five (5) years or more, and is a catastrophically ill tenant, defined as a person who is disabled as defined by Subsection (e)(i)(b) [8.22.360 A.9.e.i.b]]and who suffers from a life threatening illness as certified by his or her primary care physician.
 - f. The provisions of Subsection (e) [8.22.360 A.9.e] above shall not apply where the landlord's qualified relative who will move into the unit is 60 years of age or older, disabled or catastrophically ill as defined by Subsection (e) [8.22.360 A.9.e], and where every rental unit owned by the landlord is occupied by a tenant otherwise protected from eviction by Subsection (e) [8.22.360 A.9.e].
 - g. A tenant who claims to be a member of one of the classes protected by Subsection 6(A)(9)(e) [8.22.360 A.9.e] must submit a statement, with supporting evidence, to the landlord. A landlord may challenge a tenant's claim of protected status by requesting a hearing with the Rent Board. In the Rent Board hearing, the tenant shall have the burden of proof to show protected status. No civil or criminal liability shall be imposed upon a landlord for challenging a tenant's claim of protected status. The Rent Board shall adopt rules and regulations to implement the hearing procedure.

- h. Once a landlord has successfully recovered possession of a rental unit pursuant to Subsection 6(A)(9) [8.22.360 A.9], no other current landlords may recover possession of any other rental unit in the building under Subsection 6(A)(9) [8.22.360 A.9]. Only one specific unit per building may undergo a Subsection 6(A)(9) [8.22.360 A.9] eviction. Any future evictions taking place in the same building under Subsection 6(A)(9) [8.22.360 A.9] must be of that same unit, provided that a landlord may file a petition with the Rent Board or, at the landlord's option, commence eviction proceedings, claiming that disability or other similar hardship prevents him or her from occupying a unit which was previously the subject of a Subsection 6(A)(9) [8.22.360 A.9] eviction. The Rent Board shall adopt rules and regulations to implement the application procedure.
 - i. A notice terminating tenancy under this Subsection must contain, in addition to the provisions required under Subsection 6(B)(5) [8.22.360 B.5]:
 - i. A listing of all property owned by the intended future occupant(s).
 - ii. The address of the real property, if any, on which the intended future occupant(s) claims a homeowner's property tax exemption.
10. The owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied, and that are necessary either to bring the property into compliance with applicable codes and laws affecting health and safety of tenants of the building, or under an outstanding notice of code violations affecting the health and safety of tenants of the building.
- a. Upon recovery of possession of the rental unit, owner of record shall proceed without unreasonable delay to effect the needed repairs. The tenant shall not be required to vacate pursuant to this section, for a period in excess of three months; provided, however, that such time period may be extended by the Rent Board upon application by the landlord. The Rent Board shall adopt rules and regulations to implement the application procedure.
 - b. Upon completion of the needed repairs, owner of record shall offer tenant the first right to return to the premises at the same rent and pursuant to a rental agreement of substantially the same terms, subject to the owner of record's right to obtain rent increase for capital improvements consistent with the terms of the Oakland Residential Rent Arbitration Ordinance or any successor ordinance.
 - c. A notice terminating tenancy under this Subsection 6(A)(10) [8.22.360 A.10] must include the following information:
 - i. A statement informing tenants as to their right to payment under the Oakland Relocation Ordinance.
 - ii. A statement that "When the needed repairs are completed on your unit, the landlord must offer you the opportunity to return to your unit with a rental agreement containing the same terms as your original one and with the same rent (although landlord may be able to obtain a rent increase under the

Oakland Residential Rent Arbitration Ordinance [O.M.C. Chapter 8.22, Article I)."

- iii. Reserved.
 - iv. An estimate of the time required to complete the repairs and the date upon which it is expected that the unit will be ready for habitation.
 11. The owner of record seeks to remove the property from the rental market in accordance with the terms of the Ellis Act (California Government Code Section 7060 et seq.).
- B. The following additional provisions shall apply to a landlord who seeks to recover a rental unit pursuant to Subsection 6(A) [8.22.360 A]:
1. The burden of proof shall be on the landlord in any eviction action to which this order is applicable to prove compliance with Section 6 [8.22.360].
 2. A landlord shall not endeavor to recover possession of a rental unit unless at least one of the grounds enumerated in Subsection 6(A) [8.22.360 A] above is stated in the notice and that ground is the landlord's dominant motive for recovering possession and the landlord acts in good faith in seeking to recover possession.
 3. Where a landlord seeks to evict a tenant under a just cause ground specified in Subsections 6(A)(7, 8, 9, 10, 11) [8.22.360 A.7, 8, 9, 10, 11], she or he must do so according to the process established in CCC § 1946 (or successor provisions providing for 30 day notice period); where a landlord seeks to evict a tenant for the grounds specified in Subsections 6(A)(1, 2, 3, 4, 5, 6) [8.22.360 A.1, 2, 3, 4, 5, 6], she or he must do so according to the process established in CCP § 1161 (or successor provisions providing for 3 day notice period).
 4. Any written notice as described in Subsection 6(A)(2, 3, 4, 5, 7) [8.22.360 A.2, 3, 4, 7] shall be served by the landlord prior to a notice to terminate tenancy and shall include a provision informing tenant that a failure to cure may result in the initiation of eviction proceedings.
 5. Subsection 6(B)(3) [8.22.360 B.3] shall not be construed to obviate the need for a notice terminating tenancy to be stated in the alternative where so required under CCP § 1161.
 6. A notice terminating tenancy must additionally include the following:
 - a. A statement setting forth the basis for eviction, as described in Subsections 6(A)(1) [8.22.360 A.1] through 6(A)(11) [8.22.360 A.11];
 - b. A statement that advice regarding the notice terminating tenancy is available from the Rent Board.
 - c. Where an eviction is based on the ground specified in Subsection 6(A)(9) [8.22.360 A.9], the notice must additionally contain the provisions specified in Subsection 6(A)(9)(i) [8.22.360 A.9.i].
 - d. Where an eviction is based on the ground specified in Subsection 6(A)(10) [8.22.360 A.10], the notice must additionally contain the provisions specified in Subsection 6(A)(10)(c) [8.22.360 A.10].

- e. Failure to include any of the required statements in the notice shall be a defense to any unlawful detainer action.
7. Within ten (10) days of service of a notice terminating tenancy upon a tenant, a copy of the same notice and any accompanying materials must be filed with the Rent Board. Each notice shall be indexed by property address and by the name of the landlord. Such notices shall constitute public records of the City of Oakland, and shall be maintained by the Rent Board and made available for inspection during normal business hours. Failure to file the notice within ten (10) days of service shall be a defense to any unlawful detainer action.
- C. Reserved.
- D. Substantive limitations on landlord's right to evict. This subsection (D) [8.22.360 D] is intended as both a substantive and procedural limitation on a landlord's right to evict.
1. In any action to recover possession of a rental unit pursuant to Section 6 [8.22.360], a landlord must allege and prove the following:
 - a. the basis for eviction, as set forth in Subsection 6(A)(1) through 6(A)(11) [8.22.360 A.1 through 8.22.360 A.11] above, was set forth in the notice of termination of tenancy or notice to quit;
 - b. that the landlord seeks to recover possession of the unit with good faith, honest intent and with no ulterior motive;
 2. If landlord claims the unit is exempt from this ordinance, landlord must allege and prove that the unit is covered by one of the exceptions enumerated in Section 5 [8.22.350] of this Chapter. Such allegations must appear both in the notice of termination of tenancy or notice to quit, and in the complaint to recover possession. Failure to make such allegations in the notice shall be a defense to any unlawful detainer action.
 3. A landlord's failure to comply with the obligations described in Subsections 7(D)(1) or (2) [sic] [8.22.360 D.1 or 8.22.360 D.2] shall be a defense to any action for possession of a rental unit.
 4. In any action to recover possession of a rental unit filed under subsection 8.22.360 A.1, it shall be a defense if the landlord impeded the tenant's effort to pay rent by refusing to accept rent paid on behalf of the tenant from a third party, or refusing to provide a W-9 form or other necessary documentation for the tenant to receive rental assistance from a government agency, non-profit organization, or other third party. Acceptance of rental payments made on behalf of the tenant by a third party shall not create a tenancy between the landlord and the third party as long as either the landlord or the tenant provide written notice that no new tenancy is intended.
 5. A Landlord's failure to fully comply with any applicable law requiring payment of relocation benefits to the tenant, such as those provided by Articles III, VII, and VIII of this Chapter and Chapter 15.60 of the Oakland Municipal Code, including

but not limited to amount and timing, shall be a defense to any action for possession of a rental unit.

6. Notwithstanding any change in the terms of a tenancy pursuant to Civil Code Section 827, a tenant may not be evicted for a violation of a covenant or obligation that was not included in the tenant's written or oral rental agreement at the inception of the tenancy unless: (1) the change in the terms of the tenancy is authorized by the Rent Ordinance or California Civil Code Sections 1947.5 or 1947.12, or required by federal, state, or local law, or regulatory agreement with a government agency; or (2) the change in the terms of the tenancy was accepted in writing by the tenant after receipt of written notice from the landlord that the tenant need not accept such new term as part of the rental agreement and in exchange for valid consideration.
 7. In any action to recover possession of a rental unit filed under subsection 8.22.360 A.1-10, it shall be a defense if the landlord failed to substantially comply with O.M.C. 8.22.510.
- E. In the event that new state or federal legislation confers a right upon landlords to evict tenants for a reason not stated herein, evictions proceeding under such legislation shall conform to the specifications set out in this Chapter [O.M.C. Chapter 8.22, Article II].
- F. The City Council is authorized to modify the Just Cause for Eviction Ordinance (Measure EE, O.M.C., Chapter 8, Article II (8.22.300 et seq.)) for the purpose of adding limitations on a landlord's right to evict, but the City Council may not modify any exemption from the ordinance from which this section is derived contained in Section 8.22.350.

Section 5. Notice to Housing Providers. The City Administer is directed to cause notice of this Ordinance to be mailed to all residential rental property owners, according to the business tax certification records of the Revenue Management Bureau, within 90 days of final adoption of this Ordinance.

Section 6. CEQA. This action is exempt from the California Environmental Quality Act ("CEQA") under the following, each as a separate and independent basis, including but not limited to, the following: CEQA Guideline Section 15378 (regulatory actions), Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning).

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 8. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

SECTION 9. No Effect on Emergency Ordinance. Nothing in this ordinance is intended to affect, supersede, or replace any protections provided by the Eviction Moratorium Emergency Ordinance (CMS 13589) enacted on March 27, 2020, as modified by Ordinance Nos. 13594 C.M.S. and 13606 C.M.S.

SECTION 10. Findings Regarding Just Cause for Eviction Ordinance. Provided Pursuant to Civil Code Section 1946.2. The City Council finds that the Just Cause for Eviction Ordinance is consistent with Civil Code Section 1946.2 (as enacted by the Tenant Protection Act of 2019), and, in comparison to Civil Code Section 1946.2, further limits the reasons for termination of residential tenancy, provides additional tenant protections, and, in conjunction with other City ordinances, provides for higher relocation assistance amounts. The City Council finds that the Just Cause for Eviction Ordinance as amended herein is more protective than the provisions of Civil Code Section 1946.2.

SECTION 11. Directions to the City Administrator. The City Administrator is directed to work with the Rent Board to develop regulations defining substantial compliance and directives on mandatory and optional fields, to return to Council for approval.


IN COUNCIL, OAKLAND, CALIFORNIA,

JUN 21 2022

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS **- 8**

NOES – ~~0~~
ABSENT – ~~0~~
ABSTENTION ~~0~~

ATTEST: 
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Introduction Date

JUN 7 2022

Date of Attestation: June 23, 2022

NOTICE AND DIGEST

ORDINANCE AMENDING THE RENT ADJUSTMENT ORDINANCE (O.M.C. 8.22.010 ET SEQ) AND THE JUST CAUSE FOR EVICTION ORDINANCE (O.M.C. 8.22.300 ET SEQ) TO (1) CREATE AN ANNUAL REQUIREMENT FOR RESIDENTIAL RENTAL UNITS IN WHICH RENTAL PROPERTY OWNERS OF UNITS SUBJECT TO THE RENT PROGRAM SERVICE FEE SHALL BE REQUIRED TO REPORT RENT AND OTHER TENANCY INFORMATION, AS SET FORTH IN SECTION 8.22.520, (2) REQUIRE OWNERS TO PROVIDE EVIDENCE OF COMPLYING WITH RESIDENTIAL RENTAL REGISTRATION REQUIREMENT WHEN FILING RENT INCREASE PETITIONS OR RESPONSES TO TENANT PETITIONS AND (3) TO PROVIDE AS A TENANT'S AFFIRMATIVE DEFENSE IN AN EVICTION ACTION THE PROPERTY OWNER'S FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS OUTLINED IN O.M.C. 8.22.510

An Ordinance Amending The Rent Adjustment Ordinance (O.M.C. 8.22.010 Et Seq) And The Just Cause For Eviction Ordinance (O.M.C. 8.22.300 Et Seq) To (1) Create An Annual Registration Requirement For Residential Rental Units In Which Rental Property Owners Of Units Subject To The Rent Program Service Fee Shall Be Required To Report Rent And Other Tenancy Information, (2) Require Owners To Provide Evidence Of Complying With Registration Requirement When Filing Rent Increase Petitions or Responses To Tenant Petitions, And (3) To Provide As A Tenant's Affirmative Defense In An Eviction Action The Property Owner's Failure To Comply With Registration Requirements Outlined In O.M.C. 8.22.510.