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OAKLAND

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OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

Introduced by John George Democratic Club; Oakland Tenants Union; the Post Salon; Wellstone Democratic Club; other organizations; and other members of the public

AN URGENCY MEASURE ADOPTING AN INTERIM ORDINANCE PURSUANT TO GOVERNMENT CODE SECTION 65858 IMPOSING A MORATORIUM ON CERTAIN RESIDENTIAL RENT INCREASES AND ON EVICTIONS FROM ALL RESIDENTIAL RENTAL UNITS EXCEPT FOR JUST CAUSE EVICTIONS.

WHEREAS, Government Code Section 36937 allows a city, including a charter city, to adopt an urgency ordinance to take effect immediately upon its adoption for the preservation of the public peace, health or safety upon a finding of acts constituting urgency thereof; and

WHEREAS, a report by the City of Oakland in September 2015 concluded that Oakland's market rate rents are well above what is affordable to the typical Oakland renter
(<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak056016.pdf>); and

WHEREAS, the typical Oakland renter earns less than \$30,000 per year; and

WHEREAS, 60% of Oakland residents are renters; and

WHEREAS, the City of Oakland is experiencing an unprecedented housing crisis, with the median two-bedroom apartment now offered for rent at \$2950 per month, an increase of 40% in the year between Summer of 2014 and Summer of 2015; and

WHEREAS, the typical Oakland renter could afford only \$750 per month in gross rents; and

WHEREAS, in order to prevent the further displacement of Oakland's current residents from their home city, emergency measures are required to protect the access of Oakland residents, particularly low-income and working people, to rentals in the city; and

WHEREAS, the Housing shortage continues to overwhelm Oakland residents and has had a devastating impact upon the public health, and safety of our citizenry; and

WHEREAS, other jurisdictions in the Bay Area, namely, the City of Berkeley, the City and County of San Francisco, and the County of Alameda have recognized the gravity of the housing crisis in the State of California; and

WHEREAS, the City Council of the City of Oakland has declared its support of Oakland residents who can no longer afford to live in our City due to the escalating housing costs and rental rates; and hereby pledges to establish housing policies and programs to assist long term Oakland residents in their efforts to remain residents of our City; and

WHEREAS, emergency measures are required to protect the access of Oakland residents, particularly low-income and working people, to affordable housing in the city;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND does ordain **as follows**:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 2. The City Council finds and determines, for the reasons stated in the recitals, the adoption of this ordinance is exempt from CEQA under (b)(3), and 15307 of the State CEQA Guidelines. Sections 15061

SECTION 3. From the effective date of this urgency Ordinance and continuing for a period of ninety (90) days (unless extended) no housing provider shall (a) serve or give of a rent increase that, on a cumulative basis over the 12 months preceding the effective date of proposed regulation, is greater than that which is allowed by existing local and state rental ordinances or b) take action to terminate any tenancy including, but not limited to, making a demand for possession of a rental unit, threatening to terminate a tenancy, serving any notice to quit or other eviction notice bringing any action to recover possession of a rental unit except for such” just cause” as provided for in the city’s current rental ordinance.

For purposes of this Ordinance rent means the rental amount, including any amount paid directly to the housing provider for parking storage, pets, or any other fee charge associated with the tenancy, other than fees or charges for utilities paid directly to the housing provider that the tenant is required to pay to the housing provider in the month immediately preceding the effective date of the rent increase.

SECTION 4. The city will develop and implement strategies that protect and expand the availability of housing affordable by the typical Oakland renter;

SECTION 5. Exceptions and Exemptions as to all provisions of Section 1 of this ordinance. .The following are exempt from the moratorium established under Section 1 of this urgency Ordinance: 1) government-owned housing units; 2) housing units are controlled regulated (other than by this Ordinance) or subsidized by any government unit, agency or authority; 3) accommodations in motels, hotels, inns, tourist houses, rooming houses, and boarding houses, provided that such accommodations are not occupied by the same tenant for thirty (30) or more days; 4) commercial units; and 5) housing accommodation in any hospital, convent, monastery, extended care facility, convalescent home, nonprofit home for the aged or dormitory operated by an educational institution.

SECTION 6. Exceptions and Exemptions as to certain provisions of Section 1 of this Ordinance. The following are exempt from the moratorium as to serving or giving notices of rent increases or rent increases under Section 1 of this urgency Ordinance but are not exempt from the moratorium as to taking any action to terminate any tenancy except for cause. 1) units constructed after February 1, 1995; 2) units that are separately alienable from the title of any other dwelling (single-family homes, condominiums, etc.) and any other units exempt under the Costa-Hawkins Rental Housing Act (Costa-Hawkins Rental Housing (California Civil Code, Section 1954I50 and following) or any other applicable state or federal law.

SECTION 7. Enforcement. In any action by a housing provider to recover possession of a rental unit, the tenant may raise an affirmative defense any violation or noncompliance with the provisions of this Ordinance.

SECTION 8. Petition for Relief from Moratorium. This moratorium, without extension, shall only be effective for a period of ninety (90) days. If this moratorium as to prohibiting rent increases is extended beyond the ninety (90) day period, the City Council shall consider and adopt a procedure allowing any housing provider who claims that the moratorium's permitted rent is insufficient to provide a just and reasonable return to file a petition requesting relief from the extended moratorium by way of an additional rental increase, as well as procedures for hearings and appeals of such petitions.

SECTION 9. The City Clerk shall certify to the passage and adoption of this Ordinance causing it to be posted, as required by law, and it shall thereafter be in full force and effect. This Ordinance shall become effective immediately as an interim urgency ordinance, in order to protect the public health, safety and welfare.

SECTION 10. For the term of this ordinance, as set forth in Section 5 hereof, the provisions of this Ordinance shall govern, to the extent there is any conflict

between the provisions of this Ordinance and the provisions of any other City code, ordinance, resolution or policy, and all such conflicting provisions shall be suspended.

SECTION 11. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, Article XI of the California Constitution and Government Code section 65858.

SECTION 12. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB,
KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY

NOES-

ABSENT-

ABSTENTION -

ATTEST:

LATONDA SIMMONS City Clerk and
Clerk of the Council of the City of Oakland,
California