

**CITY OF OAKLAND**

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CITY OF OAKLAND

**COUNCIL AGENDA REPORT** 2005 SEP 22 PH 8: 30

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency, Housing and Community  
Development Division, Rent Adjustment Program  
DATE: October 4, 2005

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**RE: AN EMERGENCY ORDINANCE AMENDING THE RENT ADJUSTMENT ORDINANCE (OAKLAND MUNICIPAL CODE CHAPTER 8.22) TO ALLOW RENTAL PROPERTY OWNERS TO (1) CHARGE TEMPORARY BELOW MARKET RATE RENT TO PERSONS DISPLACED BY DISASTERS AND (2) INCREASE THE RENT TO MARKET RATES AT THE END OF THE TEMPORARY PERIOD, AND INVOKING THIS PROVISION FOR HURRICANE KATRINA AND HURRICANE RITA**

**SUMMARY**

On September 20, 2005, the City Council directed staff to draft an emergency ordinance to provide relief to the persons displaced by Hurricane Katrina and Hurricane Rita ("the Hurricanes") by suspending application of portions of the Rent Adjustment Ordinance (O.M.C. Chapter 8.22.010, et seq.) to allow landlords to offer reduced rents for a fixed period of time and then allow them to be raised to the prevailing market rent.

**FISCAL IMPACT**

The proposed change does not materially impact the Rent Adjustment program budget.

**BACKGROUND**

In September 2005, Hurricane Katrina devastated the New Orleans area, parts of Mississippi and other areas of the Southern United States creating massive and unparalleled displacement of individuals and families from their homes and communities. Many of those families affected will not have homes to return to. Additionally, Hurricane Rita may cause similar damage to Texas and other areas of the Gulf Coast causing displacement of residents of those areas and the further displacement of evacuates from Hurricane Katrina from these areas of Texas.

As a result, many individuals and families displaced by Hurricane Katrina are now temporarily or permanently relocating to Oakland and the Bay Area.

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The County of Alameda estimates that at least one thousand such persons are already in the area and more are expected from Hurricane Katrina and Hurricane Rita displacements.

Many displacees lack jobs, monetary resources, or even access to funds due to the closure of financial institutions in the areas hit by Hurricane Katrina. These individuals and households need temporary housing. Some are reported living with friends and relatives in overcrowded conditions that can create health and safety risks.

Additionally, a state of emergency in the areas hit by Hurricane Katrina was declared by local, state and federal authorities and similar declarations are expected in the wake of Hurricane Rita. In advance of the anticipated Hurricane Rita disaster, the Federal Emergency Management Agency contacted Oakland officials requesting assistance for victims of that hurricane.

To that end, some rental property owners may have rental units available that they would be willing to offer to hurricane displacees at rents substantially below market for temporary periods. Under Oakland's Rent Adjustment Ordinance (O.M.C. Chapter 8.22) an owner's initial rent to new tenant becomes regulated and cannot be increased except by increases permitted by the Rent Adjustment Ordinance and cannot be increased from a rent substantially below market to a market rate rent without the tenant being able to contest the rent increase and force the landlord to justify the increase based on costs and other factors set out in the ordinance. Further, the Just Cause for Eviction Ordinance (O.M.C. 8.22.300, et seq.) would preclude an owner from evicting a tenant at the end of a temporary tenancy without the owner having some other just cause to do so. In order to encourage owners to offer rental units to those displaced by the recent hurricane disasters and future disasters, the City Council believes that owners renting to disaster displacees should have the option of increasing the rent to market after the end of the temporary rental period with subsequent rent increases regulated under the Ordinance.

Hurricane Katrina has caused a sudden influx of a substantial number of hurricane displacees and has created an emergency situation in that the displacees may be forced to live in overcrowded, unhealthy, and unsanitary circumstances. Further, Oakland residents who take in hurricane displacees who are relatives, friends, or strangers, may also thereby create overcrowded, unhealthy, and unsanitary living conditions. This influx of displacees is also expected to strain existing temporary and other housing resources thereby putting at risk other Oakland residents. This ordinance would help by creating temporary housing opportunities for the displacees.

This proposed ordinance is necessary to help address the potential health and safety risks to the incoming hurricane displacees and to the Oakland residents who may take them in. For these reasons, staff believes this ordinance is necessary to preserve the health and safety of Oakland residents and thus is appropriate as an emergency ordinance pursuant to Section 213 of the City Charter.

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## **KEY ISSUES AND IMPACTS**

The City Council, by approving this ordinance, will allow Oakland landlords the ability to offer below market rents to displaced families of Hurricanes Katrina and Rita without penalty to increase future rents to market rate. The Rental Housing Association (RHA) has suggested 6 months. Therefore, this period is recommended as a fixed period at reduced rent.

Similarly, in order to provide certainty for the displaced persons about their future housing situation, it is also recommended that the rent to be charged at the end of the fixed period be disclosed at the beginning of the tenancy. The rent disclosed would become the maximum rent at the end of the period and would be controlled thereafter. In order to provide maximum flexibility for displaced persons to create a new stable living situation, the tenant will be able to terminate the tenancy by giving the usual 30 days written notice to the landlord required by State law.

## **SUSTAINABLE OPPORTUNITIES**

Pursuant to City Council Resolution No. 74678, C.M.S. adopted on December 1, 1998, staff encourages property owners to operate sustainable projects. This Ordinance takes advantage of the following opportunities:

### Economic:

- Facilitates the integration of new members into the Oakland Community.
- Expands the workforce.

### Environmental:

- Mitigates the severe disruption of family infrastructure, and supplements family and agency housing support for displaced persons.

### Social Equity:

- Encourages charitable acts by members of the Oakland community.
- Helps individuals and families in distress due to circumstances beyond their control to re-create a stable living environment.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

The disabled and Senior citizens will have the same access as others to the benefits of the program, consistent with existing City of Oakland policy and procedures.

## **RECOMMENDATIONS AND RATIONALE**

It is recommended that the City Council adopt the Ordinance for the purpose to allow rental property owners to charge temporary below market rate rent to persons displaced by hurricanes and be able to increase the rent to market after a minimum of six months.

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**ALTERNATIVE RECOMMENDATIONS**

Staff has no alternative recommendations.

**ACTION REQUESTED BY CITY COUNCIL**

The City Administrator recommends that the City Council approve the attached Resolution amending the regulations to provide that a simple majority of the members of the Housing Residential Rent and Relocation Board constitutes a quorum to transact business.

Respectfully submitted,



DAN VANDERPRIEM  
Director of Redevelopment, Economic  
Development and Housing

Reviewed by: *SKR*  
Sean Rogan  
Deputy Director  
Housing and Community Development

Prepared by:  
Rick Nemcik Cruz  
Rent Adjustment Program Manager

APPROVED AND FORWARDED TO  
THE CITY COUNCIL

  
CHERYL L. THOMPSON  
OFFICE OF THE CITY ADMINISTRATOR

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APPROVED AS TO FORM AND LEGALITY

BY: *[Signature]*  
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Deputy City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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**AN EMERGENCY ORDINANCE AMENDING THE RENT ADJUSTMENT ORDINANCE (OAKLAND MUNICIPAL CODE CHAPTER 8.22) TO ALLOW RENTAL PROPERTY OWNERS TO (1) CHARGE TEMPORARY BELOW MARKET RATE RENT TO PERSONS DISPLACED BY DISASTERS AND (2) INCREASE THE RENT TO MARKET RATES AT THE END OF THE TEMPORARY PERIOD, AND INVOKING THIS PROVISION FOR HURRICANE KATRINA AND HURRICANE RITA**

**WHEREAS**, in September 2005, Hurricane Katrina devastated the New Orleans area, parts of Mississippi and other areas of the Southern United States requiring massive and unparalleled displacement of individuals and households from their homes and communities and many will not have homes to return to due to the destruction wreaked by Hurricane Katrina and the flooding and contamination of the homes that are still standing; and

**WHEREAS**, experts have predicted that it will take weeks and perhaps months simply to drain the flood waters from New Orleans, not to mention necessary demolition, clean up, restoration of water, power and other utilities and rebuilding; and

**WHEREAS**, also in September 2005 on the heels of Hurricane Katrina, Hurricane Rita may cause similar damage to Texas and other areas of the Gulf Coast displacing residents of those areas and further displacing evacuees from Hurricane Katrina from these areas of Texas as well as potentially causing additional flooding in New Orleans; and

**WHEREAS**, the New Orleans Mayor recently called for residents who had returned to the City to evacuate once again in the wake of Hurricane Rita and in anticipation of additional flooding; and

**WHEREAS**, local, state and federal authorities have declared a state of emergency in the areas hit by Hurricane Katrina and similar declarations are expected in the wake of Hurricane Rita; and

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**WHEREAS**, certain cities in Texas have called upon their residents to evacuate in anticipation of Hurricane Rita and the federal government and a number of states, including California have already dispatched ambulances, planes, buses and other vehicles to Texas; and

**WHEREAS**, in an attempt to prepare for the potential devastation and disaster that Hurricane Rita may cause, the Federal Emergency Management Agency (FEMA) contacted Oakland officials requesting assistance for victims of that Hurricane, including requesting that Oakland advise the agency of the number of displaced individuals that Oakland can accommodate; and

**WHEREAS**, many individuals and households displaced by Hurricane Katrina have or are now temporarily or permanently relocating to Oakland and the Bay Area; and

**WHEREAS**, the County of Alameda estimates that at least one thousand persons displaced by Hurricane Katrina are already in the area and more are expected from the Hurricanes Katrina and Rita displacements and a number of the families have been provided shelter by relatives, friends and others, in some cases in very cramped and overcrowded conditions; and the vast majority of the persons have relocated to Oakland; and

**WHEREAS**, . many of the displaced persons have lost their jobs, monetary resources, and even lack access to their own funds due to the closure of financial institutions in the areas Hurricane Katrina struck; and these individuals and households need temporary and possibly permanent housing and possibly jobs, medical care, food, resources to attend schools; and

**WHEREAS**, the foregoing conditions and circumstances and the migration of displaced persons to Oakland and the Bay Area creates health and safety risks if they are not provided adequate housing and other resources and services; and

**WHEREAS**, some rental property owners may have vacant rental units that they would be willing to offer to Hurricane displacees at rents substantially below market rates for temporary periods; and

**WHEREAS**, Oakland's Rent Adjustment Ordinance (O.M.C. Chapter 8.22) regulates rent increases to tenants after the owner establishes the initial rent to a new tenant and limits rent increases so that a landlord would be prohibited from increasing a rent that was initially substantially below market to a market rate rent without allowing the tenant to contest the rent increase and force the landlord to justify the increase based on costs and other factors set out in the Ordinance; and

**WHEREAS**, the Just Cause for Eviction Ordinance (O.M.C. 8.22.300, *et seq.*) would preclude an owner from evicting a tenant at the end of a temporary tenancy unless the the owner had a "just cause" to do so; and just cause would not include tenant's failure to pay rent that was increased in violation of the Rent Adjustment Ordinance; and

**WHEREAS**, in order to encourage owners to offer rental units to people displaced by the recent Hurricane disasters and future disasters, the City Council believes that owners renting to disaster displacees should have the option of increasing the rent to market at the end of the temporary rental period, provided that any subsequent rent increases would be regulated under the Rent Adjustment Ordinance; and

**WHEREAS**, the sudden influx of substantial numbers of Hurricane displacees has created an emergency in that the displacees may be forced to live in overcrowded, unhealthy, and unsanitary circumstances, and/or become homeless and they lack adequate food, shelter, medical and other services and resources that Oakland and other Bay Area cities will be called upon to provide; and .

**WHEREAS**, Oakland residents who take in Hurricane displacees who are relatives, friends, or strangers, may also thereby create overcrowded, unhealthy, and unsanitary living conditions; this influx of displacees is also expected to strain existing temporary and other housing resources thereby putting at risk other Oakland residents; and

**WHEREAS**, This ordinance would help to address the emergency by creating temporary housing opportunities for displacees who may be in dire living and financial circumstances; and

**WHEREAS**, for all of the reasons discussed above, this ordinance is necessary to help address the potential health and safety risks to the incoming Hurricane displacees and to the Oakland residents who may take them in as well as the larger community; and

**WHEREAS**, . for all of the foregoing reasons the City Council declares that this ordinance is necessary to preserve the public health and safety of Oakland and its residents during this emergency; and

**WHEREAS**, , pursuant to Oakland City Charter section 213 this emergency ordinance, may be introduced and adopted at the same meeting if it receives six affirmative votes of the City Council;

Now, therefore, the Council of the City of Oakland does ordain as follows:

**Section 1.** Chapter 8.22 of the Oakland Municipal Code (Rent Adjustment Ordinance) is hereby amended to add the following a new Section 8.22.200 effective immediately upon passage with six votes of the City Council to read as follows:

**8.22.200 Reduced Rents to Disaster Victims.**

**A. Purpose.** The purpose of this Section 8.22.200 is to permit Owners to offer temporary below market Rent to persons displaced from areas hit by disasters (“Displacees”) and to enable the Owners to increase the Rent to market rate at the end of the temporary period. This Section 8.22.200 is intended to be a permanent part O.M.C. Chapter 8.22, however, it may be invoked when appropriate as the result of a federal, state, or local disaster

**B. Invocation of Section and Period of Invocation.** Whenever a federal, state, or local disaster has been declared by the appropriate governmental authorities and persons displaced by the disaster seek relocation into or within Oakland, the provisions in this Section 8.22.200 may be invoked by Mayoral proclamation, or by motion, resolution, or ordinance of the City Council. The provisions of this section will remain in effect for six months after the date of action invoking this Section unless rescinded earlier by the Mayor if invoked by Mayoral proclamation or the City Council, whether invoked by the Mayor or action of the City Council. The City Council may extend the time during which this section is in effect. After the end of the period during which the invocation of Section 8.22.200 was in effect, Owners and Displacees may not enter into new rental agreements pursuant to this Section, but may renew or extend rental agreements previously entered into under this Section during the invocation on the same terms.

**C. Rent Increases to Displacees** During the period of invocation set out in subsection 8.22.200B, an Owner may enter into a rental agreement with a Displacee for an initial Rent at a below market rate fixed for a period of at least [six months][one year][other] and may increase the Rent at the end of the six month period if the Owner has given the Displacee the notice required by subsection 8.22.200D. The Rent increase at the end of the six month period or other term is not subject to the limitations on Rent increases provided in this Chapter, but any subsequent Rent increases are subject to the limitations on Rent increases provided in this Chapter 8.22. The Rent increase must not exceed the amount stated in the notice the Owner gives to the Displacee prior to the commencement of the tenancy. If an Owner agrees to continue to rent to a Displacee at the reduced Rent for a period longer than one year, the Owner may increase the initial Rent pursuant to O.M.C. 8.22.070 (Rent Adjustments for Occupied Rental Units). The City Administrator or Regulations may provide guidelines or standards as to what an appropriate below market rate is for purposes of this Section.

**D. Notice to Displacee.** An Owner who seeks to Rent to a Displacee, prior to entering into a rental agreement with a Displacee, must give the Displacee a notice provided by the Rent Adjustment Program. This notice must specify the amount of the Rent the Owner will charge after the end of the term of the temporary rental agreement; and at a minimum shall include information about the Rent Adjustment Ordinance and the Just Cause Ordinance.

**E. Determination of Eligibility as Displacee.** The City Administrator will develop a list of public or private agencies that can identify and verify that persons are Displacees and can provide documentation or certification as to whether a person is a Displacee.

**F. Termination of Tenancy by Displacee.** Any rental agreement entered into pursuant to this section must permit the Displacee to terminate the rental agreement pursuant to California Civil Code §1946.

**G. Definitions.** The following definitions are applicable to this Section 8.22.200.

1. For purposes of this Section, "Displacee" means a person or household who has been displaced as a result of a disaster declared by federal, state, or local authorities anywhere in the United States for which this Section has been invoked by the Mayor or City Council, and who has been certified as such by a public or private agency designated by the City Administrator...



**H. Procedures, Standards, and Regulations.** The Rent Adjustment Board is authorized to develop regulations pursuant to O.M.C. 8.22.040D(2). The City Administrator is authorized to develop any procedures and standards to carry out this Section that are not in conflict with this Section 8.22.200 or any Regulations that may later be adopted. These standards or regulations may include Rent guidelines for Rental Units to be eligible under this Section.

**Section 2.** This ordinance shall be effective immediately if passed by the affirmative vote of at least six City Council members.

**Section 3.** Section 8.22.200 of the Oakland Municipal Code is hereby invoked for persons or households who have been displaced as a result of Hurricane Katrina and Hurricane Rita.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

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

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