

**INTERIM EMERGENCY ORDINANCE TO TEMPORARILY: 1) PLACE A MORATORIUM ON EVICTIONS OF RESIDENTS OF COMMERCIAL ZONED PROPERTIES, 2) PLACE A MORATORIUM ON RED-TAGGING FOR NON-LIFE-THREATENING VIOLATIONS, 3) REINFORCE EXISTING TENANT PROTECTIONS TO ELIMINATE LOOPHOLES, 4) PROVIDE REASONABLE NOTICE TO TENANTS OF UPCOMING INSPECTIONS, 5) PROVIDE AMNESTY FOR LANDLORDS LEASING COMMERCIAL ZONED PROPERTIES AS RESIDENTIAL, AND 6) OPEN AVENUES TO LONG-TERM SOLUTIONS FOR OAKLAND'S HOUSING CRISIS.**

**WHEREAS**, in the midst of a housing crisis in the City of Oakland, it is of the utmost importance to prevent predatory real estate practices; and

**WHEREAS**, there is an influx of new residents in Oakland, the divide between low-, very low-, or extremely low-income residents and those with more capital continues to grow, exacerbating socio-political issues, including access to safe and affordable housing; and

**WHEREAS**, the City of Oakland's most at-risk and marginalized residential tenants are low-, very low-, or extremely low-income people of color, immigrants, working class folks, queer people, transgender people, artists, and musicians; and

**WHEREAS**, the City of Oakland's most at-risk residential tenants are crucial to maintaining our civic, cultural, and racial balance; and

**WHEREAS**, the most important step that the City of Oakland can take to retain its diverse population is to guarantee housing for low-, very low-, or extremely low-income residents; and

**WHEREAS**, there is a dearth of rent-controlled low-income mixed-use property in the City of Oakland, and affordable mixed-use housing is key to maintaining the City's diversity; and

**WHEREAS**, the City of Oakland's most at-risk residential tenants have been steadily forced since the subprime-mortgage-driven market crash of 2007 into increasingly precarious residential conditions; and

**WHEREAS**, low- to median-income Oakland residents who are key to our City's baseline functionality, such as City Hall administrative employees, PG&E and EBMUD workers, OUSD teachers, OFD firefighters, union members, and other core infrastructural employees, are unable to find affordable housing in the City and have been displaced in great numbers; and

**WHEREAS**, core infrastructural employees who have not been displaced have had their rents raised by landlords or by multiple residential moves, so that significantly more than 30% of their incomes are dedicated to paying rent; and

**WHEREAS**, the City of Oakland, property owners, and tenants have shared a tacit agreement of residential use of commercially zoned property for decades; and

**WHEREAS**, this agreement has been mutually beneficial to all involved until recently; providing low-income residents of Oakland housing, property owners residential rental rates, and the city fewer abandoned buildings; and

**WHEREAS**, this agreement is no longer working, and long-term, low-, very low-, or extremely low-income residents of the city find themselves displaced, it is crucial that the city, property owners, and tenants work together to maintain the diversity of Oakland; and

**WHEREAS**, property owners have been allowed plausible deniability of residential use, tenants now find themselves in a precarious situation as market rates for property continue to skyrocket and the incentive for owners to sell or convert their property increases; and

**WHEREAS**, the perceived market value of property continues to increase due to the efforts of real estate agents and speculators; and

**WHEREAS**, real estate investors have access to resources that are unattainable to most residents of the city, such as cash purchases of property; and

**WHEREAS**, these purchases and conversions happen so quickly as to not allow residents the ability to find adequate replacement housing or to pursue legal redress; and

**WHEREAS**, the Building Department's Notice to Vacate, commonly known as a "red tag," has become an open invitation for both live-work and residential developers to gain access to occupied properties; and

**WHEREAS**, flash inspections and subsequent red-tags are being used at the request of owners and potential buyers rather than accountability-oriented eviction processes to clear properties for development; and

**WHEREAS**, once a building has been cleared of its tenants by order of the Building Department, the owner is freed of obligation to rebuild in a timely manner, with the building department's only recourse a series of minor fees and fines for delay and blight; and

**WHEREAS**, there is currently no City- or privately-sponsored mechanism in place to allow tenants to make a claim to their former residence and move to purchase a cleared property for purposes of rehabilitation and reoccupation; and

**WHEREAS**, the threat of eviction from unpermitted residences discourages tenants from working with property owners or city officials to improve the safety of their residence; and

**WHEREAS**, residents allow safety issues to go unresolved because alternative housing is unaffordable or unsuitable for their household size or at-home business; and

**WHEREAS**, defense against eviction currently requires extensive knowledge of disparate city codes and ordinances and is extremely difficult to navigate without the assistance of an attorney; and

**WHEREAS**, tenants' rights attorneys in the City of Oakland are burdened with heavy caseloads due to widespread unlawful eviction practices, forcing them to choose their cases based on increasingly narrow criteria; and

**WHEREAS**, loopholes in the Just Cause ordinance, such as lack of coverage of commercially-zoned properties and capital improvement waivers, make it possible to sidestep what is intended as tenant protection; and

**WHEREAS**, in cases of eviction, the burden of proof falls upon the tenant rather than the landowner, and there is significant imbalance in access to legal support between a given landowner and a given low-, very low-, or extremely low-income tenant; and

**WHEREAS**, it is in the city's best interest to strengthen existing tenants' rights and to extend Just Cause protections to tenants living in buildings and units not zoned for residential use; and

**WHEREAS**, the City of Oakland has the unique opportunity, while the eyes of the world are upon us, to become a model city for tenant protections; and

**WHEREAS**, this is an historic opportunity to reinforce the city's commitment to its marginalized residents; and

**WHEREAS**, the City Administration and Council have expressed interest in working to increase safety and to prevent another tragedy like that which occurred at Ghost Ship on December 2nd, 2016; and

**WHEREAS**, the City Administration, Code Enforcement, Oakland Fire Department, landlords, and tenants alike require a cooling-off period within which they may calmly negotiate better long-term tenant protections and inspection practices; and

**WHEREAS**, this ordinance provides precise short-term restrictions so that the City of Oakland, owners, and tenants can have uninterrupted time to work together to make properties safer and to prevent displacement; and

**WHEREAS**, despite the emergency short-term nature of this ordinance, it can and will provide a model for our legislation moving forward; and

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

**SECTION 1. Emergency Finding.** The City Council finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance. The City Council further finds that there is a necessity to pass an emergency ordinance by the powers given to the City Council under Section 213 of the City Charter due to the fire at the warehouse known as the Ghost Ship on December 2, 2016.

**SECTION 2. Duration of Interim Ordinance.** This emergency ordinance shall remain in effect as follows: Sections 3, 4, 5, 6, 7, 8, 9, and 10 for one hundred eighty (180) days from the date of its adoption. Section 11, 12, and 13 for one (1) year from the date of its adoption.

**SECTION 3. Habitation is Not a Violation of a Material Term.** Good cause for violations of a material term of the tenancy as described in the Just Cause Ordinance (Oakland Municipal Code section 8.22.360A.2) shall not include individuals residing on a property in violation of a lease agreement

**SECTION 4. Discontinuance of Displacement of Residential Tenants due to Code Violation.** The city's Building Official or other authorized official may not issue any notice to vacate unless the notice is to abate a life-threatening condition and a declaration of substandard to a property owner covering a rental unit or room used for residential purposes; notwithstanding the zoning, lease terms, or lack of Certificate of Occupancy of said unit; shall inform the property owner that any tenant household who vacates said rental unit or room may be eligible for relocation payments from the property owner, that failure to make required payments to eligible tenant households before vacation shall result in the city making payments on behalf of the owner, and that failure to reimburse the city for all payments made and other costs incurred shall result in a lien being placed on the property. Following issuance of any such notice or declaration and expiration of the period to abate the noncomplying condition (if an abatement period is specified in any such notice or declaration), the city shall also use reasonable efforts to deliver information to each affected tenant household in the building regarding the relocation benefits and assistance to which the tenant household is entitled. If a tenant must leave a rental unit due to a life-threatening condition, notwithstanding any lease agreement to the contrary, said tenant shall be entitled to relocation benefits as defined by Oakland's Code Enforcement Relocation Program, and shall have the right to return to said unit in accordance with the regulations of O.M.C. 08.22.360(A)10, except that no improvements made to abate a life-threatening condition shall interfere with the tenants right to return, and the owner shall not make any improvements that will significantly alter the unit in a manner that will alter or interfere with the tenant's continued use of the unit based upon the tenants use prior to December 2, 2016.

**SECTION 5. Discontinuance of Displacement of Residential Tenants due to Zoning Violation or Lack of a Certificate of Occupancy.** The city's Building Official or other authorized official may not issue any notice to vacate based on residential use of a property that is not zoned for such purpose or lacks a Certificate of Occupancy.

**SECTION 6. Just Cause Protections for Residential Tenants of Properties Regardless of Zoning Status.** The City of Oakland shall affirm that anyone paying rent for a property used for residential purposes prior to December 2, 2016 is a tenant as defined by OMC 8.22.300 regardless of the zoning status of that property or lack of a Certificate of Occupancy. OMC 08.22.360(A)2 shall be amended as follows:

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. [AMENDMENT:] *Furthermore, notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a commercial or industrial rental unit as a result of violating a prohibition on living in said unit, so long as the residential usage commenced prior to December 2, 2016.*

**SECTION 7. Prohibition of Eviction of Residents of Commercial Properties Without Just Cause.** No landlord shall be entitled to recover possession of a rental unit in the City of Oakland on the following grounds: (1) that an individual is residing in the rental unit in violation of a lease agreement which prohibits residential use of the rental unit, notwithstanding the zoning, lease terms, or lack of Certificate of Occupancy of said unit or (2) the lease term of an individual residing in the rental unit in violation of a lease agreement which prohibits residential use of the rental unit, notwithstanding the zoning, lease terms, or lack of Certificate of Occupancy of said unit has expired, or (3) to make improvements or rehabilitate the unit except to abate a life-threatening condition. If a landlord seeks to recover a rental unit to abate a life-threatening condition then the landlord shall be required to fulfill all relocation requirements set forth in Section 4 of this ordinance. For all rental units used for residential purposes; notwithstanding the zoning, lease terms, or lack of Certificate of Occupancy of said unit; not otherwise regulated by the City of Oakland Rent Control Ordinance section 8.22.010 et seq.; a landlord may not increase the rent more than 2% upon the expiration of a lease term and all terms of such lease except prohibitions of residential use shall continue on a month-to-month basis. A landlord seeking to recover possession of a rental unit that is not used for residential purposes must state in the notice of termination or the notice to quit as follows:

“The owner of this property claims that this property is not used for residential purposes. However, an emergency ordinance protecting residents from eviction in commercial and industrial properties is currently in effect. A landlord must have just cause for eviction of any residential tenant regardless of any agreement made prohibiting residential use. If you reside on this property and there is no cause for eviction, such as failure to pay rent, then the owner of this property is required by law to stop all eviction proceedings once notified. If you reside on this property and your lease term has expired then you are entitled to remain on this property on a month-to-month basis, and your rent payments may not be increased by more than 2%. If you reside on this property and there is no just cause for eviction then the owner of this property must stop eviction proceedings. If the owner of this property proceeds with an eviction in violation of this law then contact the Rent Adjustment Program; 250 Frank H Ogawa Plaza, 5th floor; Oakland, CA 94612; Phone: 510-238-6181”

A landlord seeking to recover possession of a rental unit that is not used for residential use without Good Cause as defined by Oakland Municipal Code section 8.22.360 must state in the complaint for possession that the rental unit is not used for residential use. In any proceeding seeking an order for possession of a rental unit that is not used for residential use without Good Cause as defined by Oakland Municipal Code section 8.22.360 the landlord seeking to recover possession must declare under penalty of perjury and prove by a preponderance of the evidence that the unit is not used for residential purposes. Any landlord that violates this Section is guilty of a misdemeanor and may be punished as set forth in Chapter 1.28 of the Oakland Municipal Code.

**SECTION 8. Discontinuance of Flash Inspections on All Properties in the City of Oakland.** The city's Building Official or other authorized official shall be required to provide fourteen (14) days' notice to both tenant and landlord of any building slated for inspection unless there is probable cause to believe there is a life-threatening condition on the property. In such case that there is probable cause to believe there is a life-threatening condition on the property and no such condition is found then the city's Building Official or other authorized official may take no action other than to provide fourteen (14) days' notice to both tenant and landlord that another inspection will occur to inspect the non-life-threatening conditions and provide the opportunity to abate said conditions. Ambush-style inspections shall be explicitly prohibited.

**SECTION 9. Amnesty for Zoning and Permitting Violations.** The city's Building Official or other authorized official may not impose a penalty or fine for violations of Title 8, Title 15, or Title 17 of the Oakland Municipal Code including zoning violations, permitting violations, or lack of Certificate of Occupancy; notwithstanding the zoning designation or existence of a Certificate of Occupancy of said properties; for violations existing prior to December 2, 2016 providing that the property owner complies with Section 3 and Section 6 of this ordinance as well as all provisions of OMC 8.22.300 et seq.

**SECTION 10. Prohibition of Abuse of Code Violation Complaint Process.**

The city's Building Official or other authorized official will require that anyone notifying the city's Building Official or other authorized official of a violation of codes on a property must provide their name and contact information. The city's Building Official or other authorized official will inform the complaining party that their name will remain confidential and will accordingly not disclose the name of the complaining party to the public. If the complaining party refuses to provide their name then the city's Building Official or other authorized official will not act on the complaint unless the complaint is of a life-threatening situation and, in such circumstances, only if the life-threatening situation can be viewed without an inspection. If a complaining party is found to make a false complaint or if it is determined that the complaints are made for the purposes of harassment or for financial gain then the city's Building Official or other authorized official will no longer act on complaints from that individual or anyone acting on their behalf. In all public disclosures of documents related to a complaint as described in this Section; including, but not limited to, Government Code section 6250 et seq.; the identifying information of the complaining party will be redacted or otherwise removed from documents available to the public or third-parties.

**SECTION 11. Rezoning and Eminent Domain of Properties to Create Low-Income Live-Work Cooperatives.** The City of Oakland will initiate an Eminent Domain proceeding to acquire a real property at the request of a residential tenant of a Live-Work space or former residential tenant of a vacant Live-Work space, notwithstanding the zoning designation or existence of a Certificate of Occupancy of said property, if the tenant can meet the following requirements: (1) prove that they were residing on the property prior to December 2, 2016, (2) prove that (a) either the tenant or one or more of the cotenants have a household income of 45% or less of the Area Median Income, (b) neither the tenant or any cotenants have a household income above 90% of the Area Median Income, or (c) that the average household income of the tenant and all cotenants is 60% of the Area Median Income, and (3) that a tenant, tenants, or a non-profit corporation designated by at least 60% of group comprised of the tenant and their cotenants provides funds equivalent to the purchase price paid by the City of Oakland. The City of Oakland will transfer title of such a property to a non-profit corporation designated by at least 60% of the tenants, and the title will be conveyed with an affordability covenant on the property as follows: (1) no future resident shall earn an income above 60% of the Area Median Income and (2) if the average median income of the tenants is above 45% of the Area Median Income then there will be no new tenants earning over 30% of the Area Median until such time as the average median income of the tenants is at or below 45% of the Area Median Income, and (3) affordability covenants shall be recorded as a prior lien on the property with a duration of not less than 99 years. Upon transfer of the title from the City of Oakland the City of Oakland Planning and Zoning Division will designate the property as mixed use live-work. If more than one former tenant of a vacant Live-Work space makes a request under this Section then the City of Oakland will grant the most recent tenant's request providing that payment of the purchase price is tendered to the City of Oakland, but if payment is not tendered then the request made by the next most recent tenant will be granted providing they meet all the requirements in this Section. All requests under this section

shall be made to and implemented by the Project Implementation Division of the City of Oakland. This Section shall not apply to real properties that are owner occupied as follows; (1) properties where an owner resided on the property prior to December 2, 2016 and after December 2, 2011, (2) properties where an owner worked on the property prior to December 2, 2016 and after December 2, 2011, or (3) properties where an owner operated a business, other than providing rental units, that required more than one employee to be on the property for a period exceeding one-year prior to December 2, 2016 and after December 2, 2011.

**SECTION 12. Rezoning of Properties to Create Low-Income Live-Work Spaces.** The city's Building Official or other authorized official shall rezone a real property designation to become Live-Work at the request of the owner(s) if the owner(s) can meet the following terms: (1) prove that they or their tenants were using the property as their primary residence prior to December 2, 2016, (2) prove that (a) one or more of the tenants have a household income of 45% or less of the Area Median Income, (b) no resident has a household income above 90% of the Area Median Income, or (c) that the average household income is 60% of the Area Median Income, and (3) the owner agrees to an affordability covenant as follows: (a) no future resident shall earn an income above 60% of the Area Median Income, (b) if the average median income of the tenants is above 45% of the Area Median Income then there will be no new tenants earning over 30% of the Area Median until such time as the average median income of the tenants is at or below 45% of the Area Median Income, and (c) affordability covenants shall be recorded as a prior lien on the property with a duration of not less than 99 years. All requests under this section shall be made to and implemented by the Project Implementation Division of the City of Oakland.

**SECTION 13. Issuance of Cabaret Permits to Underground Venues.** Past violations of Oakland Municipal Code sections 5.02.010 et seq., sections 5.12.010 et seq., sections 5.22.010 et. seq., sections 17.103.030 et. seq., sections 17.134.010 et. seq. or a disqualifying offense as defined by section 5.12.010(B) shall not be grounds for denial of Cabaret permits, Extended Hours permits, or Condition Use permits for property owners or tenants who have hosted events open to the public prior to December 2, 2016 on the real property for which the permit is applied for. Any of the aforementioned applicants for a Cabaret permit, Extended Hours permit, or Conditional Use permit currently in violation of any Oakland Municipal Code sections shall be allowed a reasonable time to bring the property into compliance. A Cabaret permit, Extended Hours permit, or Conditional Use permit shall not be denied based on an investigation pursuant to Oakland Municipal Code section 5.12.050(B).



*[This ordinance was written by Steven DeCaprio of Land Action with input from social justice organizers, artists, allies, and some of the community members affected by the Ghost Ship fire. Whereas was written by Oakland Warehouse Coalition.]*

Signed: December 30, 2016



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*Facilitating access to land for environmental and social justice organizing*

## **Common-Language Summary**

Prepared by Oakland Warehouse Coalition

### **Section 1 - Emergency Finding**

1. The council finds need to pass an emergency ordinance due to the Ghost Ship fire of 12/2/16

### **Section 2 - Duration of Interim Ordinance**

1. Sections 3-10 remain in effect for 180 days from date of adoption
2. Sections 11-13 remain in effect for one year from date of adoption

### **Section 3 - Habitation is Not a Violation of a Material Term**

1. Residential use of a property shall not constitute a breach of lease

### **Section 4 - Discontinuance of Displacement of Residential Tenants due to Code Violation**

- 1) Building department may not red tag or otherwise clear a building of residential tenants as a result of a code violation, except in case of a life-threatening condition – regardless of zoning, lease terms, or lack of Certificate of Occupancy
- 2) Displaced tenants are eligible for relocation payments and right-of-return from property owner, in accordance with the Just Cause Ordinance, except the following:
  - a) No improvements made to abate a life-threatening condition shall interfere with the tenant's right to return
  - b) The Owner shall not make any improvements to the unit that will change the tenant's continued use of the unit in the same manner
- 3) The City may make relocation payments on behalf of the owner and recoup after the fact. Failure to repay the City will result in a lien being placed on the property. The City is required to inform tenants of this.

### **Section 5 - Discontinuance of Displacement of Residential Tenants due to Zoning Violation or Lack of a Certificate of Occupancy**

1. Building department may not red tag or otherwise clear a building of residential tenants as a result of a zoning violation (i.e., residential use of a commercial space) or lack of a Certificate of Occupancy

## **Section 6 - Just Cause Protections for Residential Tenants of Properties Regardless of Zoning Status**

1. Residential Just Cause protections to apply to anyone paying rent on any property for residential purposes
2. Just Cause amendment: Owner may not evict a tenant for living in a commercial or industrial rental unit

## **Section 7 - Prohibition of Eviction of Residents of Commercial Properties Without Just Cause**

- 1) Eviction is prohibited for residential use of a commercial property:
  - a) Including use that is in violation of a lease agreement
  - b) Including said use after expiration of the lease
  - c) In order to make improvements, except to abate a life-threatening condition
  - d) If the Owner seeks to evict and make improvements to abate a life-threatening condition, the Owner must fulfill all right-to-return and relocation requirements as specified in Section 4
- 2) Owner may not raise rent on any property used as residential more than 2% at end of lease. Rent-controlled properties are exempt.
- 3) All lease terms (except for prohibitions on residential use) will continue on a month-to-month basis at end of lease
- 4) In order to prevent an owner from bypassing this ordinance by claiming that a property is non-residential, the owner attempting eviction is required to post a notice to residents that informs them of their protections under this ordinance. Notice included in full text.
- 5) Burden of proof is on the owner seeking eviction to demonstrate that a property is not being used for residential purpose. Any owner found to have falsified evidence to this end will be charged with a misdemeanor.

## **Section 8 - Discontinuance of Flash Inspections on All Properties in the City of Oakland**

1. City building inspectors are required to provide 14 days' notice to both tenant and owner in advance of any inspection, unless there is probable cause to believe that there is a life-threatening condition on the property.
2. If no life-threatening condition is found, no action may be taken other than providing 14 days' notice of second inspection. This provides owner and tenant alike opportunity to abate any non-life-threatening condition.

## **Section 9 - Amnesty for Zoning and Permitting Violations for Live-Work Properties**

1. Penalties may not be imposed by the City upon an owner for zoning or permitting violations, provided that they do not violate Just Cause, or evict for residential use (Sections 3 and 6 of this ordinance)

## **Section 10 - Prohibition of Abuse of Code Violation Complaint Process**

1. Building department may not act on any complaint unaccompanied by name and contact information, unless complaint is of a life-threatening situation, and if that situation may be viewed without an inspection.
2. Name and contact information of complainant will remain confidential in all publicly available documents
3. If a false complaint is filed for the purposes of harassment or financial gain, the building department will no longer act on complaints from the complainant or their agents

## **Section 11 - Rezoning and Eminent Domain of Properties to Create Low-Income Live-Work Cooperatives**

- 1) Requirements for the City to begin Eminent Domain proceedings on a property at the request of a current residential tenant or a former residential tenant of a now-vacant property, regardless of zoning designation or status of Certificate of Occupancy:
  - a) Proof of residence on the property prior to 12/2/16
  - b) Proof that any of the following income requirements are met:
    - i) One or more tenants have an income of less than 45% of Area Median Income (AMI)
    - ii) No tenant has an income of more than 90% of AMI
    - iii) The average income of all tenants is 60% or less of AMI
  - c) The tenants or a non-profit corporation designated by at least 60% of the tenants buy(s) the property at the same price paid by the City
- 2) Property title will be transferred upon payment with an affordability covenant:
  - a) No future resident may earn more than 60% of AMI
  - b) The average AMI of all tenants must remain at or below 45%
  - c) Affordability covenant shall be regarded as a 99-year property lien
- 3) On transfer of title, the property will be designated as mixed-use live-work
- 4) If more than one former tenant of the property makes a request, priority will go to the most recent tenant
- 5) City of Oakland Project Implementation Division will handle all requests

- 6) This section does not apply to owner-occupied properties under the following conditions:
  - a) The owner lived or worked on the property between 12/2/11 and 12/2/16
  - b) The owner ran a business other than rental on the property between 12/2/11 and 12/2/16, which required more than one employee to be on the property for at least one year

## **Section 12 - Rezoning of Properties to Create Low-Income Live-Work Spaces**

- 1) Requirements for an owner to request conversion of their property to live-work zoning:
  - a) Proof of owner or tenant use of the property as primary residence prior to 12/2/16
  - b) Proof that any of the following income requirements are met:
    - i) One or more tenants have an income of less than 45% of AMI
    - ii) No tenant has an income of more than 90% of AMI
    - iii) The average income of all tenants is 60% or less of AMI
  - c) Owner agrees to an affordability covenant:
    - i) No future resident may earn more than 60% of AMI
    - ii) The average AMI of all tenants must remain at or below 45%
    - iii) Affordability covenant shall be regarded as a 99-year property lien
- 2) City of Oakland Project Implementation Division will handle all requests

## **Section 13 - Issuance of Cabaret Permits to Event Spaces**

- 1) Violations of the codes listed in full prior to 12/2/16 are not grounds for future denial of Cabaret, Extended Hours, or Conditional Use permits. This applies to both owner and tenant.
- 2) Any of the aforementioned applicants who are currently in violation shall be allowed a reasonable time to bring the property into compliance.
- 3) Any aforementioned permit may not be denied based on a criminal background investigation

## **References From the Full Text of the Ordinance**

- Rent Adjustment Program - [OMC Chapter 8.22.360\(A\)2, 08.22.360\(A\)10](#) (Sec.3,4)
- Code Enforcement Relocation Program - [OMC Chapter 15.60](#) (Sec.4)
- Just Cause Ordinance - [OMC Chapter 8.22.300](#) (Sec.6)
- Certificate of Occupancy - [OMC 15.08.150](#)
- Misdemeanor Punishment - [OMC Chapter 1.28](#) (Sec. 7)

- OMC [Title 8](#), [Title 15](#), [Title 17](#) (Sec.9)
- State of California [Gov't code section 6250](#) (Sec.10)
- Area Median Income (AMI) for 2016 [according to City of Oakland](#) is \$65,500 (Sec. 11/12)
  - 90% of AMI = \$58,950 (Median Income)
  - 60% of AMI = \$39,300 (Low Income)
  - 45% of AMI = \$29,475 (Very Low Income)
  - 30% of AMI = \$19,650 (Extremely Low Income)
- Sample Eminent Domain case, [Kelo v. City of New London](#)
- OMC 5.02.010, 5.12.010, 5.22.010, 17.103.030, 17.134.010, 5.12.010(B), 5.12.050(B) (Sec. 13)