

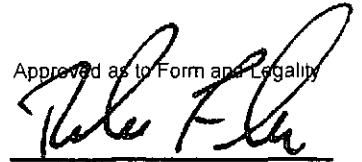
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OAKLAND

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REVISED

OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

ORDINANCE No.

C.M.S.

AN ORDINANCE AMENDING THE RENT ADJUSTMENT ORDINANCE (O.M.C. CHAPTER 8.22) TO LIMIT RENT INCREASES TO TEN PERCENT IN ANY ONE YEAR AND THIRTY PERCENT IN FIVE YEARS AND TO REQUIRE SPECIAL NOTICING FOR CAPITAL IMPROVEMENT RENT INCREASES

WHEREAS, under the current Rent Adjustment Ordinance and Regulations, the cost of capital improvements are amortized over 60 months (five years) and must primarily benefit the tenants; rental property owners (“owners”) are not required to file a petition for capital improvement increases, and there is no cap on the amount of capital improvement rent increase that is passed through to tenants, and

WHEREAS, an analysis of capital improvement cases over a three-year period showed that 56% of capital improvement rent increases were under 10 percent; however, 44% were greater than 10%, and

WHEREAS, in 2011 and 2012, the Housing Residential Rent and Relocation Board held nine regular and eight capital improvement committee meetings, and Rent Adjustment Staff held a public meeting in 2013 to consider possible amendments to capital improvements Regulations that would allow for a fair and balanced application of the Regulations; and

WHEREAS, negotiations were held with Councilmembers and representatives of landlord and tenant organizations to address capital improvements and limitations on rent increases; and

WHEREAS, the City Council finds that annual rent increases in excess of ten percent and increases of more than thirty percent in five years are often onerous to tenants and potentially can lead to tenant displacement; and

WHEREAS, the City Council finds additional noticing requirements for capital improvements rent increases, as an alternative to owners filing petitions, would benefit tenants by providing them with more information on justifications for capital improvements, which may result in fewer tenants filing petitions to contest such rent increases, and

WHEREAS, the City Council finds filing capital improvement rent increase notices with the Rent Program will improve enforcement and provide more information for future rent adjustment policy purposes;

WHEREAS, owners and tenants need information on the Rent Ordinance changes, and Rent Program staff need time to develop informational materials and forms, and perform outreach to owners and tenants on the new changes;

WHEREAS, 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 Guidelines Section 15378 (regulatory actions), Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan and zoning);

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

Section 1: The City Council hereby adopts the amendments to Oakland Municipal Code Chapter 8.22, attached as Exhibit A hereto, to limit annual rent increases to ten percent, to limit rent increases over a five-year period to thirty percent, and provide additional noticing requirements for capital improvement rent increases.

Section 2: This Ordinance takes effect seven (7) days after final adoption, unless it has been passed with at least six (6) votes, in which case it takes effect immediately upon adoption.

Section 3: Delayed implementation. This Ordinance will not be implemented until August 1, 2014 nor apply to any rent increase noticed prior to that date.

Section 4: Grandparented Capital Improvement Rent Increases. This Ordinance shall not apply to capital improvements on which permits have been taken out, unless no permits are required for any of the work, and substantial work is performed and substantial monies paid or liabilities incurred (other than permit fees), before the implementation date of this Ordinance, and the Owner reasonably diligently pursues completion of the work. For any rent increase based on capital improvements commenced prior to the implementation date, if such rent increase is noticed on or after the implementation date of this Ordinance, the new noticing requirements under this Ordinance are required.

Section 5: This action is exempt under the California Environmental Quality Act (“CEQA”) pursuant to, but not limited to the following CEQA Guidelines: Section 15378 (regulatory actions), Section 15061 (b) (3) (no significant environmental impact), and Section 15183 (actions consistent with the general plan).

Section 6: 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.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and
PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION _____

Exhibit A

Amendments to O.M.C. Chapter 8.22, Rent Adjustment Ordinance

[Added text is underlined, deleted text is struck out (Section references underlined in original)]

8.22.070 Rent adjustments for occupied covered units.

This section applies to all rent adjustments for continuously occupied covered units (Rent increases following vacancies of covered units are governed by Section 8 22 080) Any rent increase for a continuously occupied covered unit must comply with this section

A ~~A~~ One Rent Increase Each Twelve Months and Limitations.

- 1 An Owner may increase the Rent on a Covered Unit occupied continuously by the same Tenant only once in a twelve (12) month period. Such rent increase cannot take effect earlier than the tenant's anniversary date.
- 2 No individual Rent increase can exceed the existing Rent by more than ten percent (10%) in any twelve month period for any and all Rent increases based on the CPI Rent Adjustment, as set out in, O.M.C. 8 22.070B (CPI Rent Adjustment), and any justifications pursuant to O.M.C. 8 22 070C 2 (Rent Increases In Excess of CPI Rent Adjustment) except for the following
 - a A Rent increase based on the CPI Rent Adjustment for the current year that exceeds ten percent (10%), provided however that such Rent increase may only include a CPI Rent Adjustment.
 - b The Rent increase is required for the Owner to obtain a fair return pursuant to O M C 8 22 070C 2 f
- 3 No series of Rent increases in any five (5) year period can exceed thirty percent (30%) for any Rent increases based on the CPI Rent Adjustment, as set out in, O M C 8 22 070B (CPI Rent Adjustment) and any justifications pursuant to O M C 8 22 070C 2 (Rent Increases In Excess of CPI Rent Adjustment) except for the following
 - a A series of Rent increases composed solely of CPI Adjustments may exceed the thirty percent (30%) limitation.
 - b Exceeding the thirty percent (30%) limitation is required for the Owner to obtain a fair return pursuant to O M C 8 22 070C 2 f
- 4 If an Owner is entitled to a Rent increase or increases that cannot be taken because of the Rent increase limitations pursuant to 2 or 3, above, the Owner may defer the start date of the increase to a future period, provided that in the Rent increase notice that limits the Owner's ability to take the increases, the Owner must identify the justification and the amount or percentage of the deferred increase that may be applied in the future.

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H Notice Required to Increase Rent or Change Other Terms of Tenancy

1 As part of any notice to increase rent or change any terms of tenancy, an owner must include

- a Notice of the existence of this chapter,
- b The tenant's right to petition against any rent increase in excess of the CPI Rent Adjustment,
- c For all Rent increases other than one solely based on Capital Improvements ~~When~~ an owner notices a rent increase in excess of the CPI Rent Adjustment, the notice must include a statement that the owner must provide the tenant with a summary of the justification for the amount of the rent increase in excess of the CPI Rent Adjustment if the tenant makes a written request for such summary. Requirements for Rent increase notices for Capital Improvements are set out in subparagraph d below
 - i. If a tenant requests a summary of the amount of the rent increase in excess of the CPI Rent Adjustment, the tenant must do so within thirty (30) days of service of the rent increase notice,
 - ii The owner must respond to the request with a written summary within fifteen (15) days after service of the request by the tenant

d Additional Notice Required for Capital Improvement Rent Increase

i In addition to any other information or notices required by this Chapter 8 22 or its Regulations, or by state law a notice for a Rent increase based on a capital improvement(s) (other than after an Owner's petition) must include the following

- (a) The type of Capital Improvement(s),
- (b) The total cost of the Capital Improvement(s),
- (c) The completion date of the Capital Improvement(s),
- (d) The amount of the Rent increase from the Capital Improvement(s),
- (e) The start and end of the amortization period

ii Within ten (10) working days of serving a Rent increase notice on any Tenant based in whole or in part on Capital Improvements, an Owner must file the notice and all documents accompanying the notice with the Rent Adjustment Program. Failure to file the notice with this period invalidates the Rent increase

iii The above noticing requirement for Capital Improvements is an alternative to an Owner filing an Owner's petition for a Capital Improvement Rent increase and this noticing is not required after a Capital Improvement Rent increase has been approved through an Owner's petition

de If the increase exceeds the CPI Rent Adjustment, the notice must state the amount of the increase constituting the CPI Rent Adjustment. If the amount constituting the CPI

Rent Adjustment is not separately stated the tenant is not required to pay the amount of the CPI Rent Adjustment while a petition challenging the rent increase is pending

f. The Rent Adjustment Program may provide optional, "safe harbor" forms for required notices, unless the Ordinance or Regulations require use of a specified form

- 2 A notice to increase rent must include the information required by 8 22 070H 1 using the language and in a form prescribed by the Rent Adjustment Program.
- 3 A rent increase is not permitted unless the notice required by this section is provided to the tenant. An owner's failure to provide the notice required by this section invalidates the rent increase or change of terms of tenancy. This remedy is not the exclusive remedy for a violation of this provision. If the owner fails to timely give the tenant a written summary of the basis for a rent increase in excess of the CPI Rent Adjustment, as required by Section 8 22 070 H.1.c, the amount of the rent increase in excess of the CPI Rent Adjustment is invalid.

8.22.090 Petition and response filing procedures.

A Tenant Petitions

- 1 Tenant may file a petition regarding any of the following:
 - a. A rent increase exceeds the CPI Rent Adjustment, including, without limitation circumstances where:
 - bi. The owner failed to timely give the tenant a written summary of the basis for a rent increase in excess of the CPI rent adjustment as required by Section 8 22 070 H 1 c, and
 - ii. The owner set an initial rent in excess of the amount permitted pursuant to Section 8 22 080 (Rent increases following vacancies),
 - iii. A rent increase notice fails to comply with the requirements of Section 8 22 070H,
 - iv. The owner failed to give the tenant a notice in compliance with Section 8 22 060
 - v. The owner decreased housing services to the tenant,
 - vi. 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 Section 8 22 070 D 7,
 - vii. 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
 - viii. The Owner noticed a Rent increase of more than the ten percent (10%) annual limit or that exceeds the Rent increase limit of thirty percent (30%) in five (5) years
 - hb. The tenant claims relocation restitution pursuant to Section 8 22 140 C 1
 - ci. The petition is permitted by the Just Cause for Eviction Ordinance (Measure EE) O M C 8.22.300
 - jd. The petition is permitted by the Ellis Act Ordinance, O M C 8.22.400
 - e_k. The tenant contests an exemption from this O.M.C. 8 22, Article I

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This ordinance would amend Oakland's Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22) to limit all rent increases (except increases based solely on the annual CPI Rent Adjustment) to ten percent annually and to thirty percent within a five year period (except increases based solely on the annual CPI Rent Adjustment). It would also provide for special enhanced noticing requirements for rent increases that are based on capital improvements. The new provisions in this ordinance would take effect on August 1, 2014 with some in progress capital improvements grandfathered in under the old rules. New regulations on capital improvements will take effect concurrent with this ordinance.