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Date: June 14, 2016

To: City Council

From: Councilmember At-Large Rebecca Kaplan

Re: Adopt a Resolution on the City Council's own motion submitting to the voters at the November 8, 2016 general election proposed Measure to strengthen protections for Oakland renters, and improve the powers and functions of the Rent Board and Program.

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Dear Colleagues on the City Council and Members of the Public,

As you know, Oakland is struggling with a housing crisis, including displacement and rising rents, which are undermining our community. Many have been asking for action to strengthen protection for Oakland renters.

I have worked to help bring forward this proposed Measure for submission to the November ballot to address these issues. This includes specifically:

- Requiring landlords to petition for rent increases in excess of the allowable annual amount based on inflation.
- Adjusting the year from which buildings are exempt from Just Cause for Eviction to increase the number of covered buildings.
- Expanding the duties and powers of the Rent Board and the Rent Adjustment Program to increase accountability and effectiveness.
- Providing for relocation assistance when a tenant is required to relocate through no fault of their own

Please find attached a request to adopt a Resolution on the City Council's own motion submitting to the voters at the November 8, 2016 Statewide General Election the proposed Measure, as revised by the City Attorney's office.

Respectfully submitted,

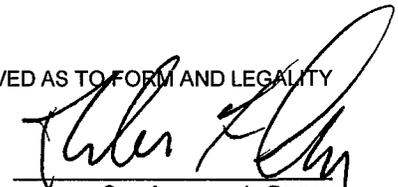
A handwritten signature in cursive script, appearing to read "Rebecca Kaplan".

Councilmember At-Large Rebecca Kaplan

P.S. In addition to the version included in the full Measure revised by the City Attorney's office, I am attaching another more detailed option for the "Rent Adjustment" section.

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INTRODUCED BY COUNCIL MEMBER KAPLAN

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

### RESOLUTION NO. \_\_\_\_\_ C.M.S.

**ADOPT A RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 8, 2016 STATEWIDE GENERAL ELECTION PROPOSED AMENDMENTS TO THE RENT ADJUSTMENT ORDINANCE (O.M.C. CHAPTER 8, ARTICLE I (8.22.100, ET SEQ.) (1) TO REQUIRE OWNERS PETITION FOR RENT INCREASES IN EXCESS OF AN ANNUAL ALLOWANCE; AND PROPOSED AMENDMENTS TO THE JUST CAUSE FOR EVICTION ORDINANCE (MEASURE EE (2002), (O.M.C. CHAPTER 8, ARTICLE II (8.22.300, ET SEQ.) TO (2) MODIFY THE NEW CONSTRUCTION EXEMPTION TO APPLY TO UNITS CONSTRUCTED AFTER JANUARY 1, 2002, (3) TO REQUIRE RELOCATION PAYMENTS FOR OWNER-OCCUPANCY EVICTIONS, (4) TO PERMIT THE CITY COUNCIL LIMITED AUTHORITY TO MODIFY THE ORDINANCES, AND (5) AMENDING O.M.C. CHAPTER 8.22 (RENT AND EVICTIONS) TO INCREASE TRANSPARENCY, INCLUDING REGULAR REPORTS FROM THE RENT PROGRAM TO THE CITY COUNCIL AND (6) REMOVING THE REQUIREMENT FOR COUNCIL APPROVAL OF REGULATIONS, AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 8, 2016 STATEWIDE GENERAL ELECTION**

**WHEREAS**, On November 5, 2002, Oakland voters passed the Just Cause for Eviction Ordinance (Measure EE), codified as Article II of Title 8 of the Oakland Municipal Code; and

**WHEREAS**, the City of Oakland is experiencing a severe housing affordability crisis that requires action by the City government; and

**WHEREAS**, the housing affordability crisis threatens the public health, safety and/or welfare of our citizenry; and

**WHEREAS**, 60 percent of Oakland residents are renters, who would not be able to locate affordable housing within the city if displaced (U.S. Census Bureau, ACS 2014 Table S1101); and

**WHEREAS**, in February 2016 the median rental price for a one-bedroom unit in Oakland was \$2,250 per month (\$27,000 per year), a 13.6 percent increase in

costs over February 2015, and the median rental price for a two-bedroom unit in February 2016 was \$2,700 per month (\$32,400 per year), an 18.9 percent increase over costs in February 2015 (Zumper National Rent Report: March 2016); and

**WHEREAS**, Oakland's rental housing costs are the fourth highest in the nation, behind San Francisco, New York, and Boston (Zumper National Rent Report: March 2016); and

**WHEREAS**, in 2014 the estimated annual median household income for households that rented in Oakland was \$36,657, which would result in a household earning the annual median household income paying 74 percent of household income for a one-bedroom unit or 85 percent of household income for a two-bedroom unit (U.S. Census Bureau, ACS 2014, Table S2503); and

**WHEREAS**, the affordable rent for a family earning \$36,657 is defined as only paying thirty percent of income on housing, which is approximately \$916 per month; and

**WHEREAS**, the median rent for all apartments rented in February of 2016 reached an all-time high of just over \$3,000 per month according to research from Trulia; and

**WHEREAS**, 22.5% of Oakland's households are "housing insecure," defined as facing high housing costs, poor housing quality, unstable neighborhoods, overcrowding, or homelessness; and

**WHEREAS**, over 26,000 Oakland households are severely rent burdened, which is defined as spending 50 percent or more of monthly household income on rent (Oakland Consolidated Housing Needs Assessment 2015 Analysis of HUD Data, as reported in the City's March 2016 Oakland at Home report, pp. 10-11); and

**WHEREAS**, displacement through evictions has a direct impact on the health, safety and/or welfare of Oakland's citizens by uprooting children from their schools, disrupting longstanding community networks that are integral to citizens' welfare, forcing low-income residents to pay unaffordable relocation costs, segregating low-income residents into less healthy, less safe and more overcrowded housing that is often further removed from vital public services and leaving residents with unhealthy levels of stress and anxiety as they attempt to cope with the threat of homelessness; and

**WHEREAS**, the requirement in the current Rent Adjustment Ordinance for tenants to file petitions to challenge rent increases discourages many tenants from contesting what might be invalid rent increase, and requiring landlords to file petitions to justify rent increases in excess of an annual allowance provides tenants

with better protection against unjustified rent increases, particularly in the case of the most vulnerable elements of the renter population; and

**WHEREAS**, the current Just Cause for Eviction Ordinance (“JCO”) leaves a gap in its coverage for units subject to the Oakland’s Rent Adjustment Ordinance leaving some tenants whose rents are regulated without eviction protections and such tenants should be afforded ~~eviction protections~~ tenants to better protection ~~them~~ against arbitrary evictions and evictions intended to increase rent to market, so an extension of just cause coverage to additional newly constructed units is warranted, and

**WHEREAS**, tenants who are evicted so that owners or their relatives can occupy are not evicted due to any fault of the tenant and therefore should be compensated for the disruption of their tenancy, the costs of moving, and potentially having to pay significantly more in rent at a new rental unit; and

**WHEREAS**, in order to correct any provisions invalidated by state law or court decisions, and to make modifications to the JCO to further its intended purposes, the City Council should be able to make changes to it without the need to send the JCO to the ballot; and

**WHEREAS**, this action is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no significant effect on the environment), and 15183 (projects consistent with a community plan, general plan, or zoning), each as a separate and independent basis, and when viewed collectively provide an overall basis for CEQA clearance;

**WHEREAS**, California Elections Code Section 9217 requires that an ordinance adopted by voters may be amended only by a vote of the people, unless provision is otherwise made in the original ordinance, and such provision for amendment by the City Council was not authorized by the voters in the Just Cause for Eviction Ordinance; now, therefore, be it:

**RESOLVED.** That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the next general municipal election date, to file with the Alameda County Board of Supervisors and the Registrar of Voters certified copies of this resolution; and be it

**FURTHER RESOLVED:** That the proposed Amendments to the Rent Adjustment Ordinance (O.M.C. Chapter 8, Article I (8.22.100, et seq.) and the Just Cause for Eviction Ordinance (Measure EE)(O.M.C. Chapter 8, Article II (8.22.300,

et seq.) text is set out below. Added text is shown as double underlined type; deleted text is show as ~~struck-out type~~.

The people of the City of Oakland do ordain as follows:

**Section 1.** Amendments to Rent Adjustment Ordinance (O.M.C. Chapter 8, Article I (8.22.100, et seq.)

**8.22.040 - Composition and functions of the Board.**

**A. Composition**

1. **Members.** The Board shall consist of seven regular members appointed pursuant to Section 601 of the City Charter. The Board shall be comprised of two residential rental property owners, two tenants, and three persons who are neither tenants nor residential rental property owners. The Board shall also have six alternate members, two residential rental property owners, two tenants and two persons who are neither a tenants nor residential rental property owners appointed pursuant to Section 601 of the Charter. An alternate member may act at Board meetings in the absence of a regular Board member of the same category, and at appeal panels meetings without such an absence.
2. **Appointment.** A Board member is deemed appointed after confirmation by the City Council and upon taking the oath of office.
3. **Board members serve without compensation.**

**B. Vacancies and Removal**

1. A vacancy on the Board exists whenever a Board member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the City Council within two City Council meetings of nomination by the Mayor.
2. **Removal for Cause.** A Board member may be removed pursuant to Section 601 of the City Charter. Among other things, conviction of a felony, misconduct, incompetency, inattention to or inability to perform duties, or absence from three consecutive regular meetings except on account of illness or when absent from the city by permission of the Board, constitute cause for removal.
3. **Report of Attendance.** To assure participation of Board members, attendance by the members of the Board at all regularly scheduled and special meetings of the Board shall be recorded, and such record shall be provided semiannually to the Office of the Mayor and to the City Council.

**C. Terms and Holdover.**

1. **Terms.** Board members' terms shall be for a period of three years beginning on February 12 of each year and ending on February 11 three years later. Board members shall be appointed to staggered terms so that only one-third of the Board will have terms expiring each year, with no more than one Board

member who is neither a residential rental property owner nor a tenant, and no more than one rental property owner and no more than one tenant expiring each year. Terms will commence upon the date of appointment, except that an appointment to fill a vacancy shall be for the unexpired portion of the term only. No person may serve more than two consecutive terms as a board member, nor more than two consecutive terms as an alternate. Time served as a board member shall be considered separately from time served as an alternate.

2. Holdover. A Board member whose term has expired may remain as a Board member for up to one year following the expiration of his or her term or until a replacement is appointed whichever is earlier. The City Clerk shall notify the Mayor, the Rent Program, the Board, and affected Board member when a Board member's holdover status expires. Prior to notification by the City Clerk of the end of holdover status, a Board member may fully participate in all decisions in which such Board member participates while on holdover status and such decisions are not invalid because of the Board member's holdover status.

D. Duties and Functions.

1. Appeals. The Board hears appeals from decisions of hearing officers.
2. Regulations. The Board may develop or amend the regulations, ~~subject to City Council approval.~~
3. Reports. The Board shall make such reports to the City Council or committees of the City Council as may be required by this chapter, by the City Council or City Council Committee.
4. Recommendations. The Board may make recommendations to the City Council or appropriate City Council committee pertaining to this chapter or City housing policy when requested to do so by the City Council or when the Board otherwise acts to do so.
5. Enforcement.
  - a. The Board may ask the City Administrator to investigate alleged violations of this Chapter.
  - b. The Board may request the City Council to have the City Attorney's Office to investigate and take appropriate action against violations of the Chapter.
6. Budget. The Board may make recommendations to the City Council regarding the Rent Program budget, including priorities for funding Rent Program services to the public and funding for contract services for assistance to Tenants and Owners.
7. Studies. The Board may request the City Council ask the City Administrator to undertake such studies, surveys, and investigations that may assist the Board and the City in administering and enforcing this Chapter.

8. Hearings.

a. The Board may administer such oaths or affirmations as may be necessary to conduct hearings, appeals, or investigations.

b. The Board may issue subpoenas for documents or witnesses as may necessary to conduct hearings, appeals, or investigations.

9. Other Duties. The Board may carry out any other duties the Board reasonably believes are necessary for its responsibilities pursuant to this Chapter and that do not conflict with the City Charter or other laws.

**8.22.065 - Rent Adjustments In General.**

A. Owners may increase rents only in the amount permitted by the CPI Rent Adjustment or by filing a petition to increase rent in excess of the CPI Rent Adjustment. Any rent increase in excess of the CPI Rent Adjustment that is not first approved by the Rent Adjustment Program is void and unenforceable.

B. Rent increases are subject to the requirements of this Chapter and Regulations.

**8.22.250 – Administration and Reports**

A. The City Administrator shall report quarterly on the status of the Rent Adjustment Program to the City Council or to such City Council Committee as the City Council may designate. Such reports shall include, but shall not be limited to the following:

1. Rent Board vacancies.

2. Rent Board meeting cancellations.

3. Statistics on the number and type of petitions filed and outcomes, including rent increases granted.

4. The timeliness of petition hearings and appeals.

5. Statistics on numbers and types of eviction notices filed pursuant to the Just Cause for Eviction Ordinance (Chapter 8, Article II, O.M.C. 822.300, et seq.)

6. Number and types of rental units covered by this Chapter.

7. Any other information the City Council or Committee may request.

B. The City Administrator shall develop searchable data bases for ready public access to information on hearing decisions, appeals, and notices filed. To the extent consistent with state and City public records and sunshine laws, names and personal information shall not be included in the database or otherwise shall be redacted from release of filed notices.

C. The City shall make available translation services in languages other than English, where requested in advance, to interpret and translate documents and procedures as needed related to Board Hearings and Appeals.

**Section 2.** Amendments to the Just Cause for Eviction Ordinance (Measure EE)(O.M.C. Chapter 8, Article II (8.22.300, et seq.)

**8.22.350 – Applicability and Exemptions.**

The provisions of this chapter shall apply to all rental units in whole or in part, including where a notice to vacate/quit any such rental unit has been served as of the effective date of this chapter but where any such rental unit has not yet been vacated or an unlawful detainer judgment has not been issued as of the effective date of this chapter. However, Section 6 [8.22.360] and Section 7(A)-(E) [8.22.370(A) through 8.22.370(E)] of the chapter [O.M.C. Chapter 8.22, Article II] shall not apply to the following types of rental units:

- A. Rental units exempted from Part 4, Title 4, Chapter 2 of the California Civil Code (CCC) by CCC § 1940(b).
- B. Rental units in any hospital, skilled nursing facility, or health facility.
- C. Rental units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- D. Rental units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than twenty-four (24) months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- E. Rental units in a residential property where the owner of record occupies a unit in the same property as his or her principal residence and regularly shares in the use of kitchen or bath facilities with the tenants of such rental units. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.
- F. A rental unit in a residential property that is divided into a maximum of three units, one of which is occupied by the owner of record as his or her principal residence. For purposes of this section, the term owner of record

relocation payments pursuant to the amounts and procedures set out in that Article of this Chapter (O.M.C. Chapter 8.22, Article III).

**Section 3.** Rent Adjustment Ordinance (O.M.C. Chapter 8, Article I (8.22.100, et seq.) miscellaneous.

A. The City Council may not modify the specific text inserted or modified by this Section 1 of this measure; however, the City Council may modify any other provisions in the Rent Adjustment Ordinance (O.M.C. Chapter 8, Article I (8.22.100, et seq.). The City Council may modify the text inserted or modified by this Measure only if required by a court decision or state law that invalidate or require modification. The Rent Board may make a recommendation for revisions to be forwarded to the City Council for consideration.

B. The amendments set out in Section 1 (Rent Adjustment Ordinance) of this Measure do not apply to any valid rent increase notice given prior to the effective date of this Measure.

**Section 4.** Just Cause for Eviction Ordinance (Measure EE)(O.M.C. Chapter 8, Article II (8.22.300, et seq.) miscellaneous.

A. Should any provision of the Just Cause for Eviction Ordinance (Measure EE)(O.M.C. Chapter 8, Article II (8.22.300, et seq.) (Section 2) or any provision of this Measure, be invalidated or required to be modified by a court decision or change in State or Federal law, the Rent Board may make a recommendation for revisions to be forwarded to the City Council for consideration. The City Council is authorized to make to such modifications to conform to the court decision or change in state law provided that such modifications effectuate the purpose of the Just Cause for Eviction Ordinance and the original text.

B. The amendments set out in Section 2 (Just Cause Ordinance) of this measure do not apply to any valid notice terminating tenancy given prior to the effective date of this measure.

**Section 5. Severability.** If any section, subsection, sentence, clause or phrase of this Measure 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 Measure. The voters hereby declare that it would have passed this Measure 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 lieu of severance, any section declared invalid or unconstitutional may be modified pursuant to Sections 3 or 4 above, as appropriate.

**Section 6.** Effective Date. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk will fix and determine a date for submission of arguments for or against said proposed amendment of the Just Cause for Eviction Ordinance, and said date will be posted by the Office of the City Clerk; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk will provide for notice and publication of said proposed amendment of the Just Cause for Eviction Ordinance in the manner provided for by law; and be it

**FURTHER RESOLVED:** That each ballot used at said municipal election will have printed therein, in addition to any other matter required by law, the following:

**PROPOSED MUNICIPAL CODE AMENDMENT**

**MEASURE \_\_\_\_**

Measure \_\_\_\_ Shall the City of Oakland strengthen protection for renters by; Expanding the protections of Just Cause for Eviction to units first offered for rent on or before January 1, 2002; and Amending the Rent Adjustment Program to prohibit landlords from rent increases in excess of a cost-of-living adjustment unless they first petition for and receive approval; and Increasing the transparency and responsibilities of Oakland's Rent Board?

<p>Measure ____ Shall the City of Oakland strengthen protection for renters by; Expanding the protections of Just Cause for Eviction to units first offered for rent on or before January 1, 2002; and Amending the Rent Adjustment Program to prohibit landlords from rent increases in excess of a cost-of-living adjustment unless they first petition for and receive approval; and increasing the transparency and responsibilities of Oakland's Rent Board?</p>	<p>Yes</p>	
	<p>No</p>	

and be it

**FURTHER RESOLVED:** That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the next municipal election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the next municipal election consistent with law; and be it

**FURTHER RESOLVED:** That the City Council has reviewed the proposed amendments to the Oakland Municipal Code to be considered by the voters and independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no significant effect on the environment), and 15183 (projects consistent with a community plan, general plan, or zoning), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance. The Environmental Review Officer or designee shall file a Notice of Exemption with the appropriate agencies.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLÉN, 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

Date of Attestation: \_\_\_\_\_