



TO: Honorable City Council

FROM: Mayor Libby Schaaf;
Councilmember Dan Kalb;
and President Pro Tempore
Sheng Thao

SUBJECT: Amendment to Rent Adjustment
Ordinance to Include Vehicular
Residential Facilities

DATE: October 15, 2021

RECOMMENDATION

We respectfully request that the City Council adopt of the following:

An Ordinance To Amend The Rent Adjustment Ordinance (Oakland Municipal Code Chapter 8.22) To Add Vehicular Residential Facilities As Covered Units

EXECUTIVE SUMMARY

We are proposing to amend the City’s Rent Adjustment Ordinance so that it applies to Vehicular Residential Facilities. Separately and concurrently with this proposed amendment, we are proposing the Construction Innovation and Expanded Housing Options Ordinance, which would amend the Oakland Planning Code to allow residential occupancy of recreational vehicles (RVs) by creating a new land use classification called Vehicular Residential Facilities. The proposed amendment to the Rent Adjustment Ordinance would add Vehicular Residential Facilities to the list of “covered units” under the Ordinance.

BACKGROUND / LEGISLATIVE HISTORY

Oakland currently faces a housing affordability crisis. Since 2011, apartment rents in the city have increased 72 percent while median incomes have remained relatively unchanged.¹ This affordability crisis contributes to residential displacement, which is one of the most significant issues facing the city.

In 1980, the Oakland City Council enacted its first residential rent control ordinance, which has been amended many times. The current Rent Adjustment Ordinance (codified in Oakland Municipal Code Chapter 8.22) regulates most residential rent increases for existing tenants, providing relief to tenants and reducing displacement.

PROPOSAL

Separately and concurrently with the proposed ordinance, we are proposing a separate ordinance – the Construction Innovation and Expanded Housing Options Ordinance – to promote construction innovation in Oakland and expand the types of housing options available to residents with the goal of reducing the

¹ Bay Area Equity Atlas. <https://bayareaequityatlas.org/>

cost of housing in the city. Among other things, the Construction Innovation and Expanded Housing Options Ordinance would amend the Planning Code to allow residential occupancy of RVs on private property as dwelling units by creating a new land use category called Vehicular Residential Facilities. Vehicular Residential Facilities would be defined in the Planning Code as RVs under State law. RVs, motorhomes, trailers, tiny homes on wheels, and other similar facilities constructed on a vehicle chassis would be considered Vehicular Residential Facilities if they meet the definition of an RV under State law. For more information on the Construction Innovation and Expanded Housing Options Ordinance, please see the proposed ordinance and accompanying agenda report (published separately).

The proposed amendment to the Rent Adjustment Ordinance would add Vehicular Residential Facilities to the list of “covered units” under the Ordinance so that these facility types are subject to all the provisions of the Ordinance like other dwelling units. Both the rental of an RV to a tenant and the rental of the land upon which an RV is located would be covered.

The Rent Adjustment Ordinance exempts dwelling units constructed on or after January 1, 1983. The proposed amendment clarifies that Vehicular Residential Facilities are an exception to the new construction exemption, meaning that new Vehicular Residential Facilities constructed, established, or installed after January 1, 1983, would also be covered by the ordinance.

KEY ISSUES / ANALYSIS

Rationale for Regulating Rents of Vehicular Residential Facilities

Like tenants in other types of dwelling units, tenants living in Vehicular Residential Facilities could be subjected to large rent increases due to market fluctuations. Tenants who can't afford these large increases would be displaced. These tenants deserve the same protection from large rent increases that tenants in other types of dwelling units covered by the Rent Adjustment Ordinance enjoy. Since Vehicular Residential Facilities are small in size, rents are expected to be lower and tenants are likely to have lower incomes compared to other units. This makes Vehicular Residential Facility tenants especially vulnerable to rising rents and a higher risk of displacement. Regulating rents would reduce potential rent increases and residential displacement.

Authority to Regulate Rents of New Vehicular Residential Facilities

The State Costa-Hawkins Rental Housing Act prohibits local jurisdictions from regulating rents on newly constructed dwelling units that were either exempt from existing rent control under a local exemption for newly constructed units or has a certificate of occupancy after January 1, 1995. The Oakland Rent Adjustment Ordinance exempts newly constructed units with a certificate of occupancy after January 1, 1983. The proposed Ordinance clarifies that new Vehicular Residential Facilities are not covered by the new construction exemption because they do not have a certificate of occupancy and would be covered by the Rent Adjustment Ordinance. In addition, the Costa-Hawkins Rental Housing Act does not cover similar structures such as mobile homes.

Other Tenant Protections – Just Cause for Eviction Ordinance & Tenant Protection Ordinance

The City has multiple ordinances designed to protect residential tenants, including the Just Cause for Eviction Ordinance (Oakland Municipal Code Section 8.22.300 et seq.), which regulates when and how tenants may be evicted, and the Tenant Protection Ordinance (Oakland Municipal Code Section 8.22.600), which prohibits landlord harassment. The Just Cause Ordinance was initially enacted by the

voters in 2002 and the Tenant Protection Ordinance was adopted by the City Council in 2014. Both laws have been subsequently amended over the years.

The Just Cause Ordinance applies to rental units so Vehicular Residential Facilities that are rented would be covered by the Ordinance, both the rental of an RV to a tenant and the rental of the land upon which an RV is located. The Just Cause Ordinance does not apply to buildings constructed on or after December 31, 1995. This new construction exemption would not apply to Vehicular Residential Facilities because they are considered vehicles, not buildings, and are not issued certificates of occupancy. New Vehicular Residential Facilities would also be covered by the Ordinance.

The Tenant Protection Ordinance applies to rental units so Vehicular Residential Facilities that are rented would be covered by the Ordinance, both the rental of an RV to a tenant and the rental of the land upon which an RV is located. Unlike the Rent Adjustment Ordinance and Just Cause Ordinance, the Tenant Protection Ordinance does not contain a new construction exemption; it is applicable to new rental units including new Vehicular Residential Facilities.

PUBLIC OUTREACH

A broad range of community stakeholders was engaged during the development of the proposed Construction Innovation and Expanded Housing Options Ordinance. We received community feedback that included a recommendation to apply the City's tenant protection laws to Vehicular Residential Facilities.

COORDINATION

The proposed Construction Innovation and Expanded Housing Options Ordinance was developed by the offices of Mayor Schaaf and Councilmembers Kalb and Thao in consultation with the City Administrator's Office, the Office of the City Attorney, the Planning and Building Department, the Fire Department, the Housing and Community Development Department, the Human Services Department, and Oakland Public Works. The proposed amendment to the Rent Adjustment Ordinance was discussed with the staff from the Rent Adjustment Program that administers the Rent Adjustment Ordinance.

FISCAL IMPACT

The Rent Adjustment Program in the Housing and Community Development Department administers the Rent Adjustment Ordinance. These activities include conducting community outreach and education, providing housing counseling, processing rent adjustment petitions, holding petition hearings, and staffing the Residential Rent Adjustment Board. The Program is funded by the Rent Adjustment Program Fee which is an annual per-unit fee paid by property owners. Property owners can collect half of the fee from tenants. The fee is intended to cover the cost of administering the Rent Adjustment Program.

Adding Vehicular Residential Facilities to the Rent Adjustment Ordinance would increase the number of units subject to the Rent Adjustment Program. This could lead to additional work required of Program staff related to community outreach and education, counseling, petitions, hearings, and the Board. The impact of these additional units will depend upon the number of Vehicular Residential Units. The Vehicular Residential Units would be required to pay the annual Program Fee, which would be used to cover the cost of administering the additional workload.

The adopted City's FY 2021-23 Policy Budget includes a policy directive to conduct a fiscal analysis and update the Program Fee by January 2023. According to Program staff, the fiscal analysis may occur sooner. The analysis will look at Program costs and whether the Program Fee should be adjusted. The fiscal impact of covering Vehicular Residential Facilities can be considered during the comprehensive fiscal analysis and factored into any recommendations to adjust the fee. It's possible that the number of Vehicular Residential Facilities covered under the Program will be limited initially, resulting in minimal impact to Program activities and giving Program staff time to adjust to the new regulations and conduct the fiscal analysis.

ACTION REQUESTED OF THE CITY COUNCIL

We respectfully request that the City Council adopt the proposed ordinance to amend the City's Rent Adjustment Ordinance so that it applies to Vehicular Residential Facilities, if the City Council adopts the Construction Innovation and Expanded Housing Options Ordinance to authorize Vehicular Residential Facilities.

For questions regarding this report, please contact Darin Ranelletti, Policy Director for Housing Security, Office of the Mayor, at (510) 238-3460 or dranelletti@oaklandca.gov.

Respectfully submitted,



LIBBY SCHAAF
Mayor



DAN KALB
District 1



SHENG THAO
District 4