

INTRODUCED BY COUNCILMEMBER KALB



CITY ATTORNEY'S OFFICE

AS REVISED IN COUNCIL OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE (1) AMENDING THE RENT ADJUSTMENT ORDINANCE TO (A) LIMIT BANKING OF CPI RENT INCREASES TO EXPIRE AFTER FOUR YEARS AND AFTER TRANSFER OF PROPERTY; (B) PROHIBIT RENT INCREASES FOR OWNERS DELINQUENT ON BUSINESS TAXES; (C) EXTEND TENANT PETITION DEADLINES FROM 90 DAYS TO 180 DAYS AND (2) AMENDING THE JUST CAUSE FOR EVICTION ORDINANCE TO PROHIBIT NO FAULT EVICTIONS FOR OWNERS DELINQUENT ON BUSINESS TAXES

WHEREAS, the City of Oakland is currently experiencing serious budget challenges;
and

WHEREAS, it is every business owner's responsibility to remit taxes owed to their federal, state, and local governments and in return receive crucial public services; and

WHEREAS, it is the City of Oakland's responsibility to provide police, fire, planning and building, animal services, public parks, economic and workforce development, housing resources, and street maintenance, and taxes dictate the City's ability to provide these services;
and

WHEREAS, in the City of Oakland, we forego millions of dollars in unpaid business tax; and

WHEREAS, in July of this year, the Finance Department brought a report and notice of liens for delinquent business taxes and 96.7% of delinquent accounts subject to lien were for rental properties and this has been a consistent pattern yearly; and

WHEREAS, the City of Alameda limits rent banking to 8% of the rent and does not allow property owners to impose banked amounts of more than the annual general adjustment plus 3%; and

WHEREAS, San Jose does not allow any rent banking; and

WHEREAS, in Oakland, under current law, property owners could bank 10 years of rent increases, and impose a maximum of 10% in one year, effectively allowing a 30% increase over the course of three or four years, which can represent a sudden hardship to some tenants whose incomes likely do not increase by the same amount in a three or four year period; and

WHEREAS, limiting banking to four years reduces the sudden financial hardship tenants may experience from banked rent increases; and

WHEREAS, it is important for tenants to be able to petition against rent increases; and

WHEREAS, most municipalities that have a rent control stabilization program do not set a limit on when tenants can bring a petition against their landlord for an unlawful rent increase; and

WHEREAS, 180 days provides more time for tenants to learn about their rights and retain expert help if needed; and

WHEREAS, property owners delinquent on business taxes should not be able to evict tenants without cause, possibly causing hardship and displacement; and

WHEREAS, pursuant to Oakland Municipal Code Section 8.22.360F, the City Council may add limitations to a landlord's right to evict under the Just Cause for Eviction Ordinance; and

WHEREAS, the City Council finds that the Just Cause for Eviction Ordinance is consistent with Civil Code Section 1946.2 (as enacted by the Tenant Protection Act of 2019), and, in comparison to Civil Code Section 1946.2, further limits the reasons for termination of residential tenancy, provides additional tenant protections, and, in conjunction with other City ordinances, provides for higher relocation assistance amounts. The City Council finds that the Just Cause for Eviction Ordinance as amended herein is more protective than the provisions of Civil Code Section 1946.2; and

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

SECTION 1. Amendments to Oakland Municipal Code Section 8.22.020. Added text is shown as double underlined type; deleted text is shown as ~~striketrough~~ type.

8.22.020 Definitions.

As used in this Chapter, Article I:

"1946 Notice" means any notice of termination of tenancy served pursuant to California Civil Code Section 1946. This notice is commonly referred to as a thirty (30) or sixty (60) day notice of termination of tenancy, but the notice period may actually be for a longer or shorter period, depending on the circumstances.

"1946 Termination of Tenancy" means any termination of tenancy pursuant to California Civil Code § 1946.

"Additional occupant" means an occupant whose addition to the unit has increased the total number of occupants above the base occupancy level. The owner may petition to increase the rent by an amount up to five (5) percent for each additional occupant above the base occupancy level. A rent increase shall not be based on an additional occupant who is the spouse, registered domestic partner, parent, grandparent, child, adopted child, foster child, or grandchild of an existing tenant, or the legal guardian of an existing tenant's child or grandchild who resides in the unit, or a caretaker/attendant as required for a reasonable accommodation for an occupant with a disability. A rent increase granted under this Section shall be reversed if the number of occupants decreases.

"Anniversary Date" is the date falling one (1) year after the day the tenant was provided with possession of the covered unit or one (1) year after the day the most recent rent adjustment took effect, whichever is later. Following certain vacancies, a subsequent tenant will assume the anniversary date of the previous tenant (Section 8.22.080).

"Appeal Panel" means a three-member panel of Board members authorized to hear appeals of Hearing Officer decisions. Appeal panels must be comprised of one (1) residential rental property owner, one (1) tenant, and one (1) person who is neither a tenant nor a residential rental property owner. Appeal panels may be made up of all regular Board members, all alternates, or a combination of regular Board members and alternates.

"Banking" means any CPI Rent Adjustment (or any rent adjustment formerly known as the Annual Permissible Rent Increase) the owner chooses to delay imposing in part or in full, and which may be imposed at a later date, subject to the restrictions in the ~~regulations~~Ordinance.

"Base occupancy level" means the number of tenants occupying the covered unit as principal residence as of June 16, 2020, with the owner's knowledge, or allowed by the lease or rental agreement effective as of June 16, 2020, whichever is greater, except that, for units that had an initial rent established on or after June 17, 2020, "base occupancy level" means the number of tenants allowed by the lease or rental agreement entered into at the beginning of the current tenancy.

"Board" and "Residential Rent Adjustment Board" means the Housing, Residential Rent and Relocation Board.

"Capital Improvements" means those improvements to a covered unit or common areas that materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Those improvements must primarily benefit the tenant rather than the owner. Capital improvement costs that may be passed through to tenants include seventy (70) percent of actual costs, plus imputed financing. Capital improvement costs shall be amortized over the useful life of the improvement as set forth in an amortization schedule developed by the Rent Board. Capital improvements do not include the following as set forth in current and future regulations: correction of serious code violations not created by the tenant; improvements or repairs required because of deferred maintenance; improvements that are greater in character or quality than existing improvements ("gold-plating," "over-improving"), excluding: improvements approved in writing by the tenant, improvements that bring the unit up to current building or housing codes, or the cost of a substantially equivalent replacement; or costs for

which a landlord is reimbursed (e.g., insurance, court awarded damages, subsidies, tax credits, and grants).

"Costa-Hawkins" means the California state law known as the Costa-Hawkins Rental Hawkins Act codified at California Civil Code § 1954.50, et seq. (Appendix A to this Chapter contains the text of Costa-Hawkins).

"Covered Unit" means any dwelling unit, including joint living and work quarters, and all housing services located in Oakland and used or occupied in consideration of payment of rent with the exception of those units designated in Section 8.22.030 A. as exempt. "Covered Unit" includes a vehicular residential facility, as defined in Oakland Planning Code Section 17.10.700, rented or offered for rent for living or dwelling purposes, whether rent is paid for the recreational vehicle and the lot upon which it is located, or rent is paid for the lot alone.

"CPI—All items" means the Consumer Price Index—All items for all urban consumers for the San Francisco—Oakland Hayward area as published by the U.S. Bureau of Labor Statistics.

"CPI—Less Shelter" means the Consumer Price Index—All items less shelter for all urban consumers for the San Francisco—Oakland Hayward area as published by the U.S. Bureau of Labor Statistics.

"CPI Rent Adjustment" means the maximum rent adjustment (calculated annually according to a formula pursuant to Section 8.22.070 B.3) that an owner may impose within a twelve (12) month period without the tenant being allowed to contest the rent increase, except as provided in Section 8.22.070 B.2. (failure of the owner to give proper notices, decreased housing services, and uncured code violations).

"Current Business Tax Certificate" means a business tax certificate ("Certificate" under OMC Section 5.04.110) that covers the property in which the unit is located:

- i. for the current calendar year if the notice or petition is served on or after April 30 of a calendar year;
- ii. for either the current calendar year or the prior calendar year if the notice or petition is served before April 30 of a calendar year.

"Ellis Act Ordinance" means the ordinance codified at O.M.C. 8.22.400 (Chapter 8.22, Article III) setting out requirements for withdrawal of residential rental units from the market pursuant to California Government Code § 7060, et seq. (the Ellis Act).

"Fee" means the rent program service fee as set out in O.M.C. 8.22.500 (Chapter 8.22, Article IV).

"Housing services" means all services provided by the owner related to the use or occupancy of a covered unit, including, but not limited to, insurance, repairs, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, employee services, and any other benefits or privileges permitted the tenant by agreement, whether express or implied, including the right to have a specific number of occupants and the right to one-for-one replacement of roommates, regardless of any prohibition against subletting and/or assignment.

"Just Cause for Eviction Ordinance" means the ordinance adopted by the voters on November 5, 2002 (also known as Measure EE) and codified at O.M.C. 8.22.300 (O.M.C. Chapter 8.22, Article II).

"Mandatory Seismic Capital Improvement" means capital improvements that consist of mandatory seismic retrofitting as required in O.M.C. Chapter 15.27. Allowable adjustments of rents for work required by O.M.C. Chapter 15.27 shall be governed by Article 1, Chapter 8.22.

"Owner" means any owner, lessor or landlord, as defined by state law, of a covered unit that is leased or rented to another, and the representative, agent, or successor of such owner, lessor or landlord.

"Owner of Record" means a natural person, who is an owner of record holding an interest equal to or greater than thirty-three (33) percent in the property, but not including any lessor, sublessor, or agent of the owner of record.

"Regulations" means the Regulations adopted by the Board and approved by the City Council for implementation of this Chapter, Article I (formerly known as "Rules and Procedures") (after regulations are approved, they will be attached to this Chapter as Appendix B).

"Rent" means the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit including all housing services provided to the tenant.

"Rent Adjustment Program" means the department in the City that administers this Chapter and also includes the Board.

"Security Deposit" means any payment, fee, deposit, or charge, including but not limited to, an advance payment of rent, used or to be used for any purpose, including but not limited to the compensation of an owner for a tenant's default in payment of rent, the repair of damages to the premises caused by the tenant, or the cleaning of the premises upon termination of the tenancy exclusive of normal wear and tear.

"Tenant" means a person entitled, by written or oral agreement to the use or occupancy of any covered unit.

"Uninsured Repairs" means that work done by an owner or tenant to a covered unit or to the common area of the property or structure containing a covered unit which is performed to secure compliance with any state or local law as to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent such repair is not reimbursed by insurance proceeds.

"Voluntary Seismic Capital Improvement" means capital improvements that consist of "seismic strengthening" as defined in O.M.C. Section 15.30.100, but is not required for compliance under Chapter 15.27.

SECTION 2. Amendments to Oakland Municipal Code Section 8.22.070. Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.

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. One Rent Increase Each 12 Months; Exceptions and Limitations.

1. One Rent Increase Each Twelve (12) Months.

- a. Except as provided in Paragraph b below, an Owner may increase the rent on a covered unit occupied continuously by the same tenant only once in a 12-month period. If an Owner filed an Owner's Rent Increase petition, the earliest any increase allowed in the Hearing Officer's decision may be effective is the date that a rent increase notice consistent with this Chapter and state law is served on the Tenant after the service date of the decision. Such rent increase cannot take effect earlier than the tenant's anniversary date if the Owner has already increased that tenant's rent within the preceding 12-month period.
- b. Upon the occurrence of any of the following, an Owner may increase the Rent on a Covered Unit occupied continuously by the same Tenant, even if rent has already been raised during the preceding twelve (12) months:
 - i. If the Owner restores housing services, rent may be restored to the original Rent from the level to which rent had been decreased after a rent decrease awarded in a hearing decision by the RAP for housing services; and/or
 - ii. If, as a result of an appeal to the Rent Board or a writ to the Superior Court, the final decision permits a Rent increase greater than that allowed in the Hearing Officer's decision, the Owner may notice such increase as of the date of the final decision.

- 2. In no event may rent for any covered unit increase in any twelve-month period by more than ten percent (10%), or the amount permitted for Oakland rental units subject to California Civil Code 1947.12 (or successor provisions), whichever is lower, for any and all rent increases based on the CPI Rent Adjustment, as set out in O.M.C. 8.22.070 B. (CPI Rent Adjustment), and any justifications pursuant to O.M.C. 8.22.070 C.2. (Rent Increases In Excess of CPI Rent Adjustment) except if required for the owner to obtain a fair return pursuant to O.M.C. 8.22.070 C.1.d.
- 3. No series of rent increases in any five-year period can exceed 30 percent for any rent increases based on the CPI Rent Adjustment, as set out in, O.M.C. 8.22.070 B. (CPI Rent Adjustment) and any justifications pursuant to O.M.C. 8.22.070 C.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 30 percent limitation;
 - b. Exceeding the 30 percent limitation is required for the owner to obtain a fair return pursuant to O.M.C. 8.22.070C.1.d.
4. If an owner is entitled to a rent increase or increases that cannot be taken because of the Rent increase limitations pursuant to Subsections 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.
- B. CPI and Banking Rent Adjustments.
- 1. Effective Date of this Section. An owner may first impose CPI Rent Adjustments pursuant to this section that take effect on or after July 1, 2002.
 - 2. CPI and Banking Rent Adjustment Not Subject to Petition. A Tenant may not petition to contest a rent increase justified in an amount up to and including the CPI Rent Adjustment and/or any Banking Rent increase unless the tenant alleges one or more of the following:
 - a. The owner failed to provide the notice required at the commencement of tenancy and did not cure such failure (Section 8.22.060);
 - b. The owner failed to provide the notice required with a rent increase (Section 8.22.070 H);
 - c. The owner decreased housing services;
 - d. The covered unit has uncured health, safety, fire, or building code violations pursuant to Section 8.22.070 D.6.;
 - e. Any or all of a banking rent increase is not correctly calculated or the Owner is not eligible for a banking rent increase;
 - f. The Rent increase exceeds the limitations set out in Sections 8.22.070 A.2 or A.3;
 - g. The Owner has increased the rent once during the preceding twelve (12) month period without qualifying for an exception pursuant to Section 8.22.070.A.1.
 - h. The Owner did not have a Current Business Tax Certificate.
 - 3. Calculation of the CPI Rent Adjustment. Beginning in 2002 until July 31, 2022, the CPI Rent Adjustment is the average of the percentage increase in the CPI—All items and the CPI—Less shelter for the twelve-month period starting on March 1 of each calendar year and ending on the last day of February of the following calendar year calculated to the nearest one-tenth of one (0.1) percent. Beginning on August 1, 2022, the CPI Rent Adjustment is (1) sixty (60) percent of the percentage increase in the CPI-All items published for April of that calendar year from April of the immediately preceding calendar year calculated to

the nearest one-tenth of one (0.1) percent, or (2) three (3) percent, whichever is lower.

4. Effective Date of CPI Rent Adjustments. An owner may notice a rent increase for a CPI Rent Adjustment so that the rent increase is effective during the period from August 1 following the Rent Adjustment Program's announcement of the annual CPI Rent Adjustment through July 31 of the next year. The rent increase notice must comply with state law and take effect on or after the tenant's anniversary date.
5. Banking. In accordance with rules set out ~~in the regulations below~~, an owner may bank CPI rent adjustments ~~and annual permissible rent adjustments previously authorized by this Chapter~~ and notice a Banking Rent increase concurrent with a CPI Rent Adjustment.
 - a. If an owner chooses to increase rents less than the annual CPI Adjustment permitted by the Ordinance, any remaining CPI Rent Adjustment may be carried over to succeeding twelve (12) month periods ("Banked"). However, the total of CPI Adjustments imposed in any one Rent increase, including the current CPI Rent Adjustment, may not exceed three times the allowable CPI Rent Adjustment on the effective date of the Rent Increase notice.
 - b. Banked CPI Rent Adjustments may be used together with other Rent justifications, except Increased Housing Service Costs and Fair Return, because these justifications replace the current year's CPI increase.
 - c. In no event may any banked CPI Rent Adjustment be implemented more than five (5) years after it accrues.
 - d. Any banked CPI Rent Adjustment expires upon transfer of ownership of the property in which the Covered Unit is located, unless:
 - (1) the transfer of ownership is through an inheritance between spouses or between parents and siblings, children or stepchildren; and
 - (2) the person(s) inheriting the property owned the property for at least one year.
6. Schedule of Prior Annual Permissible Rent Adjustments. Former annual permissible rent adjustments available under the prior versions of this Chapter:
 - a. May 6, 1980 through October 31, 1983, the annual rate was ten percent.
 - b. November 1, 1983 through September 30, 1986, the annual rate was eight percent.
 - c. October 1, 1986 through February 28, 1995, the annual rate was six percent.
 - d. March 1, 1995 through June 30, 2002, the annual rate was three percent.

C. Rent Increases in Excess of the CPI Rent Adjustment or Banking.

1. For Rent increases based on grounds other than the CPI Rent Adjustment or Banking, an Owner must first petition the Rent Program and receive approval for the Rent increase before the Rent increase can be imposed. A Rent increase in

excess of the CPI Rent Adjustment or a Banking increase must be justified on one or more of the following grounds:

- a. Capital improvement costs, including financing of capital improvement costs;
 - b. Uninsured repair costs;
 - c. Increased housing service costs;
 - d. The rent increase is necessary to meet constitutional or fair return requirements;
 - e. The rent increase is imposed for an additional occupant, as defined by Section 8.22.020.
 - f. The unlimited rent increase is imposed because the tenant is not residing in the unit as their principal residence.
2. The amount of rent increase allowable for the grounds listed in Section 8.22.070 C.2. are subject to the limitations set forth in the regulations.
- D. Rent Increase Notices and Operative Dates for Rent Increases.
1. CPI and Banking Increases not subject to a Petition. Rent increase notices for CPI and Banking Rent increases that are not the subject of a Petition shall be operative in accordance with this Chapter and State law.
 2. Owner Petitions.
 - a. An Owner may notice a Rent increase based on a petition after the service date of the decision subject to the limitation of one Rent Increase each twelve (12) months (the effective date of the Rent increase).
 - b. Except for any portion of the petitioned-for Rent increase that is based on a CPI Rent or Banking Rent Increase, a Tenant is not required to pay the Rent increase until there is a final decision on the petition pursuant to Section 8.22.070 D.5 (the operative date of the Rent increase). However if the Tenant chooses not to pay the Rent increase, the Tenant owes the increased Rent starting from the effective date of the Rent increase if the final decision upholds the Hearing Officer's decision.
 - c. In a decision by the board or an appeals panel, the decision may (or may direct staff to) calculate the amount due and determine a repayment schedule consistent with the rent board regulations for the Tenant to pay any back Rent due or for the Tenant to receive any rent credits if the Tenant paid a Rent increase that is not upheld on appeal. However, a Hearing Officer shall calculate the amount due if there is a factual dispute regarding such amount.
 - d. If a final decision permits a greater Rent increase than the amount permitted in the Hearing Officer's decision, the Owner may issue another Rent increase notice up to the amount allowed in the final decision, and such additional notice is not subject to the limitation of no more than one Rent increase with in twelve (12) month period.

- e. If the final decision permits a smaller Rent increase than the amount permitted in the Hearing Officer's decision, the Tenant need only pay the Rent increase based on the amount of the final decision.
3. Tenant Petitions.
 - a. While a tenant petition is pending, a tenant must pay when due, pursuant to the rent increase notice, the amount of the rent increase that is equal to the CPI Rent Adjustment unless:
 - i. The tenant's petition claims decreased housing services; or
 - ii. The owner failed to separately state in the rent increase the amount that equals the CPI Rent Adjustment pursuant to Section 8.22.070 H.
 - b. The amount of any noticed rent increase above the CPI Rent Adjustment and Banking that is the subject of a petition is not operative until the decision is final.
 4. When a party appeals the decision of a hearing officer, the tenant must continue to pay the amount of the rent adjustment due during the period prior to the issuance of the decision and the remaining amount of the noticed rent increase is not operative until the board has issued its written decision.
 5. Final decision. The decision on a petition is final when any one of the following events have occurred:
 - a. A hearing officer decision has been issued and the time for appeal has passed without an appeal being filed;
 - b. An appeal decision is issued and the time to file a writ of administrative mandamus has passed without a writ being filed; or
 - c. When a court issues a final decision, including any further court appeals, on any writ of administrative mandamus contesting a Rent Board appeal decision.
 6. No part of any noticed rent increase is operative during the period after the tenant has filed a petition and the applicable covered unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations as defined by Section 17920.3 of the California Health and Safety Code, excluding any, violation caused by a disaster or where the owner proves the violation was solely caused by the willful conduct of the tenant. In order for such rent increase to be operative the owner must provide proof that the cited violation has been abated. The owner must then issue a new rent increase notice pursuant to California Civil Code Section 827. The rent increase will be operative in accordance with Section 827. However, if an Owner files a petition for a Rent increase, the Tenant must include the allegation of code violations in the response to the petition for this subsection to be considered.
- E. An owner cannot increase the rent for a covered unit except by following the procedures set out in this Chapter (including the Just Cause for Eviction Ordinance

(O.M.C. Chapter 8.22, Article II) and the Ellis Act Ordinance (O.M.C. Chapter 8.22, Article III)) or where Costa-Hawkins allows an owner to set the initial rent for a new tenant without restriction.

- F. Decreased housing services. A decrease in housing services is considered an increase in rent. A tenant may petition for an adjustment in rent based on a decrease in housing services under standards in the regulations. The tenant's petition must specify the housing services decreased. Where a rent or a rent increase has been reduced for decreased housing services, the rent or rent increase may be restored in accordance with procedures set out in the regulations when the housing services are reinstated.
- G. Pass-through of Fee. An owner may pass-through one half of the fee to a tenant in accordance with Section 8.22.500G. The allowed fee pass-through shall not be added to the rent to calculate the CPI Rent Adjustment or any other rent adjustment and shall not be considered a rent increase.
- H. Notice Required to Increase Rent or Change Other Terms of Tenancy.
 - 1. All Rent Increase Notices. 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; and
 - b. The tenant's right to petition against any rent increase in excess of the CPI Rent Adjustment unless such rent increase is pursuant to an approved Petition.
 - 2. Notices for Rent Increases Based on the CPI Rent Adjustment or Banking. As part of a notice to increase Rent based on the CPI Rent Adjustment or Banking, an Owner must include:
 - a. The amount of the CPI Rent Adjustment; and
 - b. The amount of any Banking increase; and
 - c.
 - i. If the rent increase includes Banking, a copy of a Current Business Tax Certificate;
 - ii. If the rent increase is based solely on the CPI Rent Adjustment, a copy of a Current Business Tax Certificate or a copy of a current signed payment plan with the City for delinquent business taxes.
 - 3. Notices for Rent Increases Based on Owner Petition. As part of a notice to increase rent based on an owner petition, an owner must include a summary of the decision in the form provided by the Rent Adjustment Program pursuant to the following:
 - a. The Rent Adjustment Program will provide a summary of any decision, including an appeal decision or final decision with the decision or final decision, which the Owner shall include in a notice of rent increase.

- b. The Rent Adjustment Program may provide optional, "safe harbor" forms for required notices, unless the ordinance or regulations require use of a specified form.
- 4. A notice to increase rent must include the information required by Subsection 8.22.070H.1. using the language and in a form prescribed by the Rent Adjustment Program.
- 5. A rent increase is not permitted unless the notice meets the requirements of California Civil Code Section 827.
- 6. 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.
- I. An owner may terminate the tenancy for nonpayment of rent (California Code of Civil Procedure § 1161(2) (unlawful detainer)) of a tenant who fails to pay the portion of a rent increase that is equal to the CPI Rent Adjustment when the tenant is required to do so by this subsection. In addition to any other defenses to the termination of tenancy the tenant may have, a tenant may defend such termination of tenancy on the basis that:
 - 1. The owner did not comply with the notice requirements for a rent increase; or
 - 2. The tenant's petition was based on decreased housing services.

SECTION 3. Amendments to Oakland Municipal Code Section 8.22.090. Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.

8.22.090 Petition and response to filing procedures.

- A. Tenant Petitions and Responses.
 - 1. Tenant may file a petition regarding any of the following:
 - a. A rent increase given that is not based on the CPI rent adjustment, banking; and/or a final decision in an owner petition;
 - b. The owner set an initial rent in excess of the amount permitted pursuant to Section 8.22.080 (Rent increases following vacancies);
 - c. A rent increase notice failed to comply with the requirements of Subsection 8.22.070H;
 - d. The owner failed to give the tenant a notice in compliance with Section 8.22.060 and State law;
 - e. The owner decreased housing services to the tenant;
 - f. 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 Subsection 8.22.070 D.6;

- g. 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.
 - h. The owner noticed a rent increase that exceeds the annual limit as provided in Section 8.22.070 A.2. or that exceeds the rent increase limit of thirty percent (30%) in five (5) years.
 - i. The petition is permitted by the Just Cause for Eviction Ordinance (Measure EE) O.M.C. 8.22.300 or its regulations.
 - j. The petition is permitted by the Ellis Act Ordinance, O.M.C. 8.22.400, or its regulations.
 - k. The tenant contests an exemption from this O.M.C. 8.22, Article I or Article II.
 - l. The tenant claims the owner has received reimbursements for any portion of cost or financing of capital improvements after a capital improvement rent increase has been approved, and has not prorated and refunded such reimbursement, or has other undeclared capital improvement benefits.
 - m. After a rent increase imposed for an additional occupant as defined by Section 8.22.020, the owner fails to reduce the rent following a decrease in occupancy.
 - n. A primary tenant overcharges a subtenant in violation of the regulations. Only a subtenant may file a petition for this reason.
 - o. The Owner did not have a Current Business Tax Certificate.
2. For a petition contesting a rent increase, the petition must be filed as follows:
- a. If the owner provided written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy,
 - i. ~~The petition must be filed within ninetyone hundred eighty (90180) days of the date the owner serves the rent increase notice, if the owner provided the RAP notice with the rent increase; or~~
 - ii. ~~The petition must be filed within one hundred twenty (120) days of the date the owner serves the rent increase if the owner did not provide the RAP notice with the rent increase.~~
 - b. If the owner did not provide written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy, within ninetyone hundred eighty (90180) days of the date the tenant first receives written notice of the existence and scope of this Chapter as required by Section 8.22.060.
3. For a petition claiming decreased housing services:
- a. If the decreased housing is the result of a noticed or discrete change in services provided to the tenant (e.g., removal of parking place, requirement that tenant pay utilities previously paid by owner) the petition must be filed within ninety (90) days of whichever of the following is later:
 - i. The date the tenant is noticed or first becomes aware of the decreased housing service; or

- ii. The date the tenant first receives written notice of the existence and scope of this Chapter as required by Section 8.22.060.
 - b. If the decreased housing is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for three (3) years before the petition is filed and to the period of time when the owner knew or should have known about the decreased housing service.
 - 4. In order to file a petition or respond to petition, a tenant, including a subtenant contesting overcharges by a primary tenant, must provide the following at the time of filing the petition or response:
 - a. A completed tenant petition or response on a form prescribed by the Rent Adjustment Program;
 - b. Reserved;
 - c. A statement of the services that have been reduced or eliminated, if the tenant claims a decrease in housing services;
 - d. A copy of the applicable citation, if the tenant claims the rent increase need not be paid because 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 8.22.070D.6; and
 - e. Proof of service by first-class mail or in person of the tenant petition or response and any supporting documents on the opposing party (owner, subtenant, or primary tenant).
 - 5. A tenant must file a response to an owner's or subtenant's petition within thirty (30) days of service of the petition.
- B. Owner Petitions and Owner Responses to Tenant Petitions.
- 1. In order for an owner to file a response to a tenant petition or to file a petition, the owner must provide the following:
 - a. Evidence of possession of a current ~~City-business license~~tax certificate;
 - b. Evidence of payment of the Rent Adjustment Program service fee or evidence of exemption from the fee;
 - c. i. Evidence of service of written notice of the existence and scope of the Rent Adjustment Program as required by Section 8.22.060 on all tenants in covered units affected by the petition or response;
 - ii. After July 1, 2023, evidence of registration with the Rent Adjustment Program as provided in O.M.C. Section 8.22.510 for each affected covered unit in the building prior to the petition or response being filed;
 - d. A completed response or petition on a form prescribed by the Rent Adjustment Program;
 - e. Organized documentation supporting the owner's claimed justification(s) for the rent increase or supporting any claim of exemption; and

- f. Proof of service by first-class mail or in person of the owner petition or response and any supporting documents on the tenants of all units affected by the petition. Supporting documents that exceed twenty-five (25) pages are exempt from the service requirement, provided that: (1) the owner petition form must be served by first-class mail or in person; (2) the petition or attachment to the petition must indicate that additional documents are or will be available at the Rent Adjustment Program; and (3) the owner must provide a paper copy of supporting documents to the tenant or the tenant's representative within ten (10) days if a tenant requests a paper copy in the tenant's response.
2. An owner must file a response to a tenant's petition within thirty (30) days of the service of the tenant petition.
3. Subsection 8.22.090 B. shall not apply to primary tenant responses to subtenant petitions.

SECTION 4. Amendments to Section 6 of the Just Cause for Eviction Ordinance (Measure EE) (O.M.C. Section 8.22.360). Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.

8.22.360 Good cause required for eviction.

- A. No landlord shall endeavor to recover possession, issue a notice terminating tenancy, or recover possession of a rental unit in the city of Oakland unless the landlord is able to prove the existence of one of the following grounds:
 1. The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under provisions of state or local law, and said failure has continued after service on the tenant of a written notice correctly stating the amount of rent then due and requiring its payment within a period, stated in the notice, of not less than three days. However, this subsection shall not constitute grounds for eviction where tenant has withheld rent pursuant to applicable law or where the amount of rent demanded is less than one month of fair market rent for a unit of equivalent size in the Oakland metro area as determined by the U.S. Department of Housing and Urban Development.
 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. To establish a substantial violation of a material term of the tenancy, the landlord must demonstrate all of the following: (1) that the violation caused substantial actual injury to the landlord or to other residents; (2) that the tenant's conduct was unreasonable; and (3) that the term of tenancy is reasonable, legal, and was accepted in writing by the tenant. To establish a substantial violation of a material term of the tenancy, the landlord must demonstrate that the term of tenancy is reasonable, legal, and was accepted in writing by the tenant.
 - a. 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.

- b. Notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit based on the addition of occupants to the rental unit if the landlord has unreasonably refused a written request by the tenant to add such occupant(s) to the unit, so long as the maximum number of occupants does not exceed the lesser of the amounts allowed by Subsection (i) or (ii) of this Section 8.22.360A.2.b. If the landlord fails to respond in writing with a description of the reasons for the denial of the request within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord. However, for units restricted as affordable housing as defined by O.M.C. Section 15.72.030, a written resident request to add an occupant shall be deemed incomplete and inadequate until such resident has provided all documentation required for qualification of such additional occupant and the household after the addition of such occupant under the rules restricting the housing. A landlord's reasonable refusal of the tenant's written request may not be based on either of the following: (1) the proposed additional occupant's lack of creditworthiness, if that person will not be legally obligated to pay some or all of the rent to the landlord, or (2) the number of occupants allowed by the rental agreement or lease. With the exception of the restrictions stated in the preceding sentence, a landlord's reasonable refusal of the tenant's written request may be based on, but is not limited to, the ground that the landlord resides in the same unit as the tenant or the ground that the total number of occupants in a unit exceeds (or with the proposed additional occupant(s) would exceed) The maximum number permitted in the unit under state law and/or other local codes such as the Building, Fire, Housing and Planning Codes.

This Subsection 8.22.360 A.2.b. is not intended by itself to establish a direct landlord-tenant relationship between the additional occupant and the landlord or to limit a landlord's rights under the Costa-Hawkins Rental Housing Act, California Civil Code Section 1954.50 et seq. (as it may be amended from time to time). Nothing in this subsection authorizes an occupancy that would result in either transient habitation commercial activity as defined by O.M.C. Section 17.10.440 or semi-transient commercial activity as defined by O.M.C. Section 17.10.120.

- c. Before endeavoring to recover possession based on the violation of a lawful obligation or covenant of tenancy regarding subletting or limits on the number of occupants in the rental unit, the landlord shall serve the tenant a written notice of the violation that provides the tenant with a minimum of fourteen (14) days opportunity to cure the violation. The tenant may cure the violation by making a written request to add occupants referenced in subsection a. or b. of Section 8.22.360 A.2. or by using other reasonable means to cure the violation, including, without limitation, the removal of any additional or unapproved occupant.

Nothing in this Section 8.22.360 A.2.c. is intended to limit any other rights or remedies that the law otherwise provides to landlords or to tenants.

- d. Actual injury must be a direct result of the tenant's lease. Injury is not limited to personal or physical injury. Substantial actual injury includes, but is not limited to, the harm caused by a tenant's failure to comply with income recertification requirements for deed-restricted affordable housing units.
 - e. A notice to cease must state allegations in sufficient detail so that a reasonable person would understand the alleged violation and resultant injury, including the term of the lease allegedly violated, the date of the violation, and the injury that occurred as a result of the violation.
3. Reserved.
 4. The tenant has willfully caused substantial damage to the premises beyond normal wear and tear and, after written notice, has refused to cease damaging the premises, or has refused to either make satisfactory correction or to pay the reasonable costs of repairing such damage over a reasonable period of time.
 5. The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants at the property.
 6. The tenant has used the rental unit or the common areas of the premises for an illegal purpose including the manufacture, sale, or use of illegal drugs. Residing in a rental unit that lacks a certificate of occupancy, has not been approved by the City for residential use, or that has been cited for housing, building, or planning code violations does not constitute use of the premises for an illegal purpose.
 7. The tenant has, after written notice to cease, continued to deny landlord access to the unit as required by state law.
 8. The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession of the rental unit for their own occupancy as a principal residence where the owner has previously occupied the rental unit as their principal residence and has the right to recover possession for their occupancy as a principal residence under a written rental agreement with the current tenants.
 9. The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession for their own use and occupancy as their principal residence, or for the use and occupancy as a principal residence by the owner of record's spouse, domestic partner, child, parent, or grandparent.
 - a. Where the owner of record recovers possession under this Subsection 9. [Paragraph 8.22.360 A.9.], and where continuous occupancy for the purpose of recovery is less than thirty-six (36) months, such recovery of the residential unit shall be a presumed violation of this Chapter.
 - b. The owner of record may not recover possession pursuant to this subsection more than once in any thirty-six-month period.

- c. The owner must move into unit within three (3) months of the tenant's vacation of the premises. Such time period may be extended for good cause upon application to, and approval by, the Rent Adjustment Program.
- d. Reserved.
- e. A landlord may not recover possession of a unit from a tenant under Subsection 6.A.9. [8.22.360 A.9.], if the landlord has or receives notice, any time before recovery of possession, that any tenant in the rental unit:
 - i. Has been residing in the unit for five (5) years or more; and
 - (a) Is sixty (60) years of age or older; or
 - (b) Is a disabled tenant as defined in the California Fair Employment and Housing Act (California Government Code Section 12926); or
 - ii. Has been residing in the unit for five (5) years or more, and is a catastrophically ill tenant, defined as a person who is disabled as defined by Subsection e.i.b. [8.22.360 A.9.e.i.b.] and who suffers from a life threatening illness as certified by their primary care physician.
- f. The provisions of Subsection e. [8.22.360 A.9.e.] above shall not apply where the landlord's qualified relative who will move into the unit is sixty (60) years of age or older, disabled or catastrophically ill as defined by Subsection e. [8.22.360 A.9.e.], and where every rental unit owned by the landlord is occupied by a tenant otherwise protected from eviction by Subsection e. [8.22.360 A.9.e.].
- g. A tenant who claims to be a member of one (1) of the classes protected by Subsection 6.A.9.e. [8.22.360 A.9.e.] must submit a statement, with supporting evidence, to the landlord. A landlord may challenge a tenant's claim of protected status by requesting a hearing with the Rent Board. In the Rent Board hearing, the tenant shall have the burden of proof to show protected status. No civil or criminal liability shall be imposed upon a landlord for challenging a tenant's claim of protected status. The Rent Board shall adopt rules and regulations to implement the hearing procedure.
- h. Once a landlord has successfully recovered possession of a rental unit pursuant to Subsection 6.A.9. [8.22.360 A.9.], no other current landlords may recover possession of any other rental unit in the building under Subsection 6.A.9. [8.22.360 A.9.]. Only one (1) specific unit per building may undergo a Subsection 6.A.9. [8.22.360 A.9.] eviction. Any future evictions taking place in the same building under Subsection 6.A.9. [8.22.360 A.9.] must be of that same unit, provided that a landlord may file a petition with the Rent Board or, at the landlord's option, commence eviction proceedings, claiming that disability or other similar hardship prevents the landlord from occupying a unit which was previously the subject of a Subsection 6.A.9. [8.22.360 A.9.] eviction. The Rent Board shall adopt rules and regulations to implement the application procedure.
- i. A notice terminating tenancy under this Subsection must contain, in addition to the provisions required under Subsection 6.B.6. [8.22.360 B.6.]:
 - i. A listing of all property owned by the intended future occupant(s).

- ii. The address of the real property, if any, on which the intended future occupant(s) claims a homeowner's property tax exemption.
 - j. If the owner or relative specified on the notice terminating tenancy fails to occupy the rental unit for at least a consecutive thirty-six-month period, or fails to occupy the rental unit within ninety (90) days after the tenant vacates, absent Subsection c., the owner shall do the following:
 - i. Offer the unit to the tenant who vacated it at the same rent in effect at the time the tenant vacated; and
 - ii. Pay to said tenant all reasonable expenses incurred in returning to the unit, including lease termination fees, if any. This subsection does not limit any other remedies a tenant may have under this Chapter or other applicable law.
10. The owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot safely be completed while the unit is occupied, and that are necessary either to bring the property into compliance with applicable codes and laws affecting health and safety of tenants of the building, or under an outstanding notice of code violations affecting the health and safety of tenants of the building.
- a. As soon as the tenant vacates the rental unit, the owner of record shall proceed without unreasonable delay to complete the needed repairs. The tenant shall not be required to vacate pursuant to this Section, for a period in excess of three (3) months; provided, however, that such time period may be extended for good cause upon application to, and approval by, the Rent Adjustment Program. The Rent Board shall adopt rules and regulations to implement the application procedure.
 - b. Upon completion of the needed repairs, the owner of record shall offer the tenant the first right to return to the premises at the same rent and pursuant to the same terms of the rental agreement in effect as of the date of the notice to vacate, subject to the owner of record's right to petition the Rent Adjustment Program for a rent increase as provided by the Residential Rent Adjustment Ordinance.
 - c. A notice to vacate under this Subsection 6.A.10. [8.22.360 A.10.] must include the following information:
 - i. A statement informing tenants as to their right to payment under the Oakland Relocation Ordinance.
 - ii. A statement that "When the needed repairs are completed on your unit, the landlord must offer you the opportunity to return to your unit with a rental agreement containing the same terms as your original one and with the same rent (although landlord may be able to obtain a rent increase under the Oakland Residential Rent Arbitration Ordinance [O.M.C. Chapter 8.22, Article I)."
 - iii. A list of the code violations necessitating substantial repairs, a detailed description of the work to be performed, the permit numbers of any and all

permits obtained to affect the required repairs, and a copy of the City-issued notice of Code violations, if any.

- iv. A good faith estimate of the time required to complete the repairs and the date upon which it is expected that the unit will be ready for habitation.
11. The owner of record seeks to remove the property from the rental market in accordance with the terms of the Ellis Act (California Government Code Section 7060 et seq.).
- B. The following additional provisions shall apply to a landlord who seeks to recover a rental unit pursuant to Subsection 6(A) [8.22.360 A]:
1. The burden of proof shall be on the landlord in any eviction action to which this order is applicable to prove compliance with Section 6 [8.22.360].
 2. A landlord shall not endeavor to recover possession of a rental unit unless at least one of the grounds enumerated in Subsection 6(A) [8.22.360 A] above is stated in the notice and that ground is the landlord's dominant motive for recovering possession and the landlord acts in good faith in seeking to recover possession.
 3. Where a landlord seeks to evict a tenant under a just cause ground specified in Subsections 6.A.7., 8., 9., 10., 11.) [8.22.360 A.7., 8., 9., 10., 11.], the landlord must do so according to the process established in CCC § 1946 (or successor provisions providing for a thirty- or sixty-day notice period); where a landlord seeks to evict a tenant for the grounds specified in Subsections 6.A.1., 2., 3., 4., 5., 6. [8.22.360 A.1., 2., 3., 4., 5., 6.], the landlord must do so according to the process established in CCP § 1161 (or successor provisions providing for three-day notice period).
 4. Any written notice as described in Subsection 6(A)(2, 3, 4, 5, 7) [8.22.360 A.2, 3, 4, 7] shall be served by the landlord prior to a notice to terminate tenancy and shall include a provision informing tenant that a failure to cure may result in the initiation of eviction proceedings.
 5. Subsection 6(B)(3) [8.22.360 B.3] shall not be construed to obviate the need for a notice terminating tenancy to be stated in the alternative where so required under CCP § 1161.
 6. A notice terminating tenancy must additionally include the following:
 - a. A statement setting forth the basis for eviction, as described in Subsections 6(A)(1) [8.22.360 A.1] through 6(A)(11) [8.22.360 A.11];
 - b. A statement that advice regarding the notice terminating tenancy is available from Rent Adjustment Program (RAP), along with information about how the tenant may seek assistance, including the RAP phone number and email address.
 - c. Where an eviction is based on the ground specified in Subsection 6.A.9. [8.22.360 A.9.], the notice must additionally contain the provisions specified in Subsection 6.A.9.i. [8.22.360 A.9.i.] and a statement informing tenants of the limitations on evictions as set forth in Subsection 6.D.8. [8.22.360 D.8.].
 - d. Where an eviction is based on the ground specified in Subsection 6.A.10. [8.22.360 A.10.], the notice must additionally contain the provisions specified in

Subsection 6.A.10.c. [8.22.360 A.10.] and a statement informing tenants of the limitations on evictions as set forth in Subsection 6.D.8. [8.22.3600 D.8.].

e. Where an eviction is based on the grounds specified in Subsections 8.22.360.A.8-10, a copy of the owner's Current Business Tax Certificate and a statement informing tenants of the limitations on evictions as set forth in Subsection 8.22.360 D.10.

ef. Failure to include any of the required statements in the notice shall be a defense to any unlawful detainer action.

7. Within ten (10) days of service of a notice terminating tenancy upon a tenant, a copy of the same notice and any accompanying materials must be filed with the Rent Board. Each notice shall be indexed by property address and by the name of the landlord. Such notices shall constitute public records of the City of Oakland, and shall be maintained by the Rent Board and made available for inspection during normal business hours. Failure to file the notice within ten (10) days of service shall be a defense to any unlawful detainer action.

C. Reserved.

D. Substantive limitations on landlord's right to evict. This Subsection 8.22.360 D. is intended as both a substantive and procedural limitation on a landlord's right to evict.

1. In any action to recover possession of a rental unit pursuant to Section 6 [8.22.360], a landlord must allege and prove the following:
 - a. the basis for eviction, as set forth in Subsection 6(A)(1) through 6(A)(11) [8.22.360 A.1 through 8.22.360 A.11] above, was set forth in the notice of termination of tenancy or notice to quit; and
 - b. that the landlord seeks to recover possession of the unit with good faith, honest intent and with no ulterior motive;
2. If landlord claims the unit is exempt from this Chapter, landlord must allege and prove that the unit is covered by one (1) of the exceptions enumerated in Subsection 5. [8.22.350] of this Chapter. Such allegations must appear both in the notice of termination of tenancy or notice to quit, and in the complaint to recover possession, and must specify on what grounds exemption is claimed. Failure to make such allegations in the notice shall be a defense to any unlawful detainer action.
3. A landlord's failure to comply with the obligations described in Subsections (D)(1) or (2) [*sic*] [8.22.360 D.1. or 8.22.360 D.2.] shall be a defense to any action for possession of a rental unit.
4. In any action to recover possession of a rental unit filed under subsection 8.22.360 A.1. it shall be a defense if the landlord impeded the tenant's effort to pay rent by refusing to accept rent paid on behalf of the tenant from a third party, or refusing to provide a W-9 form or other necessary documentation for the tenant to receive rental assistance from a government agency, non-profit organization, or other third party. Acceptance of rental payments made on behalf of the tenant by a third party shall not create a tenancy between the landlord and the third party as long as either the landlord or the tenant provide written notice that no new tenancy is intended.

5. A landlord's failure to fully comply with any applicable law requiring payment of relocation benefits to the tenant, such as those provided by Articles III, VII, and VIII of this Chapter and Chapter 15.60 of the Oakland Municipal Code, including, but not limited to, required notice, amount, timing, and any other requirement necessary to withdraw or repair a unit shall be a defense to any action for possession of a rental unit.
6. Notwithstanding any change in the terms of a tenancy pursuant to Civil Code Section 827, a tenant may not be evicted for a violation of a covenant or obligation that was not included in the tenant's written or oral rental agreement at the inception of the tenancy unless: (1) the change in the terms of the tenancy is authorized by the Rent Ordinance or California Civil Code Sections 1947.5 or 1947.12, or required by federal, state, or local law, or regulatory agreement with a government agency; or (2) the change in the terms of the tenancy was accepted in writing by the tenant after receipt of written notice from the landlord that the tenant need not accept such new term as part of the rental agreement and in exchange for valid consideration.
7. In any action to recover possession of a rental unit filed under Subsections 8.22.360 A.1.—10., it shall be a defense if the landlord was not in compliance with O.M.C. 8.22.510 at the time the notice terminating tenancy was served.
8. When a landlord seeks to evict a tenant under Subsection 6.A.9. or 10. [8.22,360 A.9., 10.], it shall be an affirmative defense if any child under the age of eighteen (18) enrolled in a school or any educator resides in the unit, the child or educator is a tenant in the unit or has a custodial or family relationship with a tenant in the unit, the tenant has resided in the unit for at least ninety (90) days, and the effective date of the notice of termination of tenancy falls during the regular school year of the Oakland Unified School District.
 - a. For purposes of this Section, the following terms shall have the following meanings:
 - i. "Custodial Relationship" means that the person is a legal guardian of the child, has a court-recognized caregiver authorization affidavit for the child, or has provided full-time custodial care of the child pursuant to an agreement with the child's legal guardian or court-recognized caregiver and has been providing that care for at least one (1) year or half of the child's lifetime, whichever is less.
 - ii. "Educator" means any person who works on-site at a school in Oakland as an employee of the school or of the Oakland Unified School District, including, without limitation, all teachers, classroom and student support providers, school administrators and administrative staff, counselors, social workers, school health services workers, speech pathologists, custodial or maintenance workers, nutrition and/or food services workers, library services workers, child welfare workers, and attendance liaisons.
 - iii. "Family relationship" means that the person is the parent, grandparent, sibling, niece, nephew, aunt, or uncle of the child or educator, or the spouse or domestic partner of such relation.

- iv. "School" for purposes of this Section means any State-licensed child care center, State-licensed family child care home, accredited community or junior college, and/or any public, private, or parochial institution that provides educational instruction for students in any or all of the grades from kindergarten through twelfth grade.
9. Nonpayment of rent during COVID-19 pandemic. In any unlawful detainer action based on nonpayment of rent or late fees that accrued between March 9, 2020, and July 14, 2023, it shall be a defense that the rent was late or unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus pandemic. Any notice demanding rent or late fees that accrued during this time period must:
- a. be served together with a form developed by the Rent Adjustment Program that, among other things, allows the tenant to indicate that the financial hardship defense applies; and
 - b. include the following statement in bold underlined 12-point font: "If you were unable to pay the rent or other fees demanded in this notice due to a substantial reduction in household income or substantial increase in expenses as a result of the COVID-19 pandemic, you may raise this as a defense to any eviction action based on this notice."
10. In any action to recover possession of a rental unit filed under Subsections 8.22.360 A.8-10, it shall be a defense if the landlord did not have a Current Business Tax Certificate at the time the notice terminating tenancy was served.
- E. In the event that new state or federal legislation confers a right upon landlords to evict tenants for a reason not stated herein, evictions proceeding under such legislation shall conform to the specifications set out in this Chapter [O.M.C. Chapter 8.22, Article II].
- F. The City Council is authorized to modify the Just Cause for Eviction Ordinance (Measure EE, O.M.C., Chapter 8, Article II (8.22.300 et seq.)) for the purpose of adding limitations on a landlord's right to evict, but the City Council may not modify any exemption from the ordinance from which this section is derived contained in Section 8.22.350.

SECTION 5. Severability. 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.

SECTION 6. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

SECTION 7. Grandparenting. Amendments to OMC 8.22.070.B.2.h, OMC 8.22.090, and OMC 8.22.360 (rent increase and eviction limitations for owners delinquent on business taxes) will not apply to rent increase notices and notices terminating tenancy served before April 15, 2025. Amendment to OMC 8.22.070.B.5.c (limiting banked CPI rent increases to four years) will not apply to rent increase notices served on or before December 31, 2025.

SECTION 8. CEQA Compliance. This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to sections of the CEQA Guidelines, taken together and each as a separate and independent basis, including but not limited to: Section 15378 (regulatory actions), Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), Section 15061(b)(3) (no significant environmental impact), and Section 15183 (consistent with the general plan or zoning).

SECTION 9. Notice to Property Owners. The City Administrator is directed to cause requirements of this Ordinance to be included with business tax renewal notices to all Residential Rental Property Owners, according to the business tax certification records of the Revenue Management Bureau.

SECTION 10. Notice to Tenants. The City Administrator is directed to update the Notice at Commencement of Tenancy (OMC Section 8.22.060) to include requirements of this Ordinance.

SECTION 11. Payment Plans. The City Administrator is directed to work with staff to create clearly defined protocols for working with rental property owners on payment plans, should they find themselves in financial hardship.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE (1) AMENDING THE RENT ADJUSTMENT ORDINANCE TO (A) LIMIT BANKING OF CPI RENT INCREASES TO EXPIRE AFTER FOUR YEARS AND AFTER TRANSFER OF PROPERTY; (B) PROHIBIT RENT INCREASES FOR OWNERS DELINQUENT ON BUSINESS TAXES; (C) EXTEND TENANT PETITION DEADLINE FROM 90 DAYS TO 180 DAYS AND (2) AMENDING THE JUST CAUSE FOR EVICTION ORDINANCE TO PROHIBIT NO FAULT EVICTIONS FOR OWNERS DELINQUENT ON BUSINESS TAXES

This ordinance (1) amends the Rent Adjustment Ordinance to (A) limit banking of CPI rent increases to expire after four years and after transfer of property; (B) prohibit rent increases for owners delinquent on business taxes; (C) extend tenant petition deadline from 90 days to 180 days and (2) amends the Just Cause for Eviction Ordinance to prohibit no fault evictions for owners delinquent on business taxes