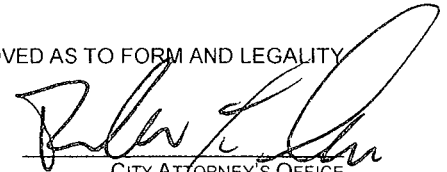


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CITY ATTORNEY'S OFFICE

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.) 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 1) MODIFY THE NEW CONSTRUCTION EXEMPTION TO APPLY TO UNITS CONSTRUCTED AFTER JANUARY 1, 2002, 2) TO REQUIRE RELOCATION PAYMENTS FOR OWNER-OCCUPANCY EVICTIONS, 3) TO PERMIT THE CITY COUNCIL LIMITED AUTHORITY TO MODIFY THE ORDINANCES, AND (4) 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 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

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MEETING OF THE
OAKLAND CITY COUNCIL

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 protect 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 underlined type; deleted text is show as struck out type; text removed by prior court actions is shown as bracketed, with struck out type, and an explanatory footnote.

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.)

8.22.070 - 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 and Limitations.

1. An owner may increase the rent on a covered unit occupied continuously by the same tenant only once in a 12-month period. Such rent increase cannot take effect earlier than the tenant's anniversary date.
2. No individual rent increase can exceed the existing rent by more than ten percent in any 12-month period for any and all rent increases based on the CPI Rent Adjustment, as set out in O.M.C. 8.22.070B (CPI Rent Adjustment), and any justifications pursuant to O.M.C. 8.22.070C.2 (Rent Increases In Excess of CPI Rent Adjustment) except for the following:
 - a. A rent increase based on the CPI Rent Adjustment for the current year that exceeds ten percent, provided however that such Rent increase may only include a CPI Rent Adjustment;
 - b. The rent increase is required for the owner to obtain a fair return pursuant to O.M.C. 8.22.070C.2.f.
3. No series of rent increases in any five-year period can exceed 30 percent for any rent increases based on the CPI Rent Adjustment, as set out in, O.M.C. 8.22.070B (CPI Rent Adjustment) and any justifications pursuant to O.M.C. 8.22.070C.2 (Rent Increases In Excess of CPI Rent Adjustment) except for the following:
 - a. A series of rent increases composed solely of CPI Adjustments may exceed the 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.2.f.
4. If an owner is entitled to a rent increase or increases that cannot be taken because of the Rent increase limitations pursuant to 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 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 Rent Adjustment Not Subject to Petition. The tenant may not petition to contest a rent increase in an amount up to and including the CPI Rent Adjustment 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.7).
3. Calculation of the CPI Rent Adjustment. Beginning in 2002, the CPI Rent Adjustment is the average of the percentage increase in the CPI—All items and the CPI—Less shelter for the twelve (12) 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 percent.
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 July 1 following the Rent Adjustment Program's announcement of the annual CPI Rent Adjustment through June 30 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, an owner may bank CPI rent adjustments and annual permissible rent adjustments previously authorized by this chapter.
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.

- 1. In order to increase Rent in excess of the CPI Rent Adjustment, a landlord must first file a petition with the Rent Adjustment Program. Any rent increase in excess of the CPI Rent Adjustment that is not first approved by the Rent Adjustment Program is void and unenforceable.
- 2. A tenant may file a petition in accordance with the requirements of Section 8.22.110 contesting any rent increase which exceeds the CPI Rent Adjustment.
- 3. If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond by either claiming an exemption and/or justifying the rent increase in excess of the CPI Rent Adjustment on one or more of the following grounds:
 - a. Banking;
 - b. Capital improvement costs, including financing of capital improvement costs;
 - c. Uninsured repair costs;
 - d. Increased housing service costs;
 - e. The rent increase is necessary to meet constitutional or fair return requirements.
- 4. 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.
- 5. An owner must provide a summary of the justification for a rent increase upon written request of the tenant.

D. Operative Date of Rent Adjustment when Petition Filed.

- 1. 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:
 - a. The tenant's petition claims decreased housing services; or
 - b. The owner failed to separately state in the rent increase that equals the CPI Rent Adjustment pursuant to Section 8.22.070 H.
- 2. The amount of any noticed rent adjustment above the CPI Rent Adjustment that is the subject of a petition is not operative until the decision of the hearing officer has been made and the time to appeal has passed.
- 3. 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.

4. Following a final decision, a rent adjustment takes effect on the following dates:
 - a. In the case of a rent increase, the date the increase would have been effective pursuant to a valid rent increase notice given to the tenant, unless a six month forfeiture applies for an uncured failure to give the required notice at the commencement of tenancy;
 - b. In the case of a decrease in housing services, on the effective date for a noticed decrease in housing services or, if no notice was given, the date the decrease in housing services occurred.
 5. A tenant who files a petition following a thirty (30) day rent increase notice and who does not file a petition before the increased rent becomes due, must pay the increased rent when due until the tenant files the petition. Once the tenant files the petition, the portion of rent increase above the CPI Rent Adjustment need not be paid until the decision on the petition is final.
 6. A rent increase following an owner's petition is operative on the date the decision is final and following a valid rent increase notice based on the final decision.
 7. 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.
- 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. As part of any notice to increase rent or change any terms of tenancy, an owner must include:
 - a. Notice of the existence of this chapter;
 - b. The tenant's right to petition against any rent increase in excess of the CPI Rent Adjustment;
 - c. For all rent increases other than one solely based on capital improvements when an owner notices a rent increase in excess of the CPI Rent Adjustment, the notice must include a statement that the owner must provide the tenant with a summary of the justification for the amount of the rent increase in excess of the CPI Rent Adjustment if the tenant makes a written request for such summary. Requirements for rent increase notices for capital improvements are set out in subparagraph d. below.
 - i. If a tenant requests a summary of the amount of the rent increase in excess of the CPI Rent Adjustment, the tenant must do so within 30 days of service of the rent increase notice;
 - ii. The owner must respond to the request with a written summary within 15 days after service of the request by the tenant.
 - d. Additional Notice Required for Capital Improvement Rent Increase.
 - i. In addition to any other information or notices required by this chapter or its regulations, or by state law a notice for a rent increase based on a capital improvement(s) (other than after an owner's petition) must include the following:
 - (a) The type of capital improvement(s);
 - (b) The total cost of the capital improvement(s);
 - (c) The completion date of the capital improvement(s);
 - (d) The amount of the rent increase from the capital improvement(s);
 - (e) The start and end of the amortization period.
 - ii. Within ten working days of serving a rent increase notice on any tenant based in whole or in part on capital improvements, an owner must file the notice and all documents accompanying the notice with the Rent Adjustment Program. Failure to file the notice with this period invalidates the rent increase.

- iii. The above noticing requirement for capital improvements is an alternative to an owner filing an owner's petition for a capital improvement rent increase and this noticing is not required after a capital improvement rent increase has been approved through an owner's petition.
 - e. If the increase exceeds the CPI Rent Adjustment, the notice must state the amount of the increase constituting the CPI Rent Adjustment. If the amount constituting the CPI Rent Adjustment is not separately stated the tenant is not required to pay the amount of the CPI Rent Adjustment while a petition challenging the rent increase is pending.
 - f. The Rent Adjustment Program may provide optional, "safe harbor" forms for required notices, unless the ordinance or regulations require use of a specified form.
- 2. A notice to increase rent must include the information required by Subsection 8.22.070H.1. using the language and in a form prescribed by the Rent Adjustment Program.
- 3. A rent increase is not permitted unless the notice required by this section is provided to the tenant. An owner's failure to provide the notice required by this section invalidates the rent increase or change of terms of tenancy. This remedy is not the exclusive remedy for a violation of this provision. If the owner fails to timely give the tenant a written summary of the basis for a rent increase in excess of the CPI Rent Adjustment, as required by Subsection 8.22.070H.1.c., the amount of the rent increase in excess of the CPI Rent Adjustment is invalid.
- 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;
 - 2. The tenant's petition was based on decreased housing services; or
 - 3. That the owner failed to give the tenant a written summary of the basis for a rent increase in excess of the CPI Rent Adjustment as required by Section 8.22.070 H.1.c.

8.22.210 – Reports to Council.

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. Timeliness of petition hearings and appeals, and
4. Any other information the City Council or Committee may request.

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 shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.

G. A unit that is held in trust on behalf of a developmentally disabled individual who permanently occupies the unit, or a unit that is permanently occupied by a developmentally disabled parent, sibling, child, or grandparent of the owner of that unit.

~~H. Newly constructed rental units which are completed and offered for rent for the first time after the effective date of the initial Oakland Residential Rent, Relocation, and Arbitration Ordinance, provided that such new units were not created as a result of rehabilitation, improvement or conversion as opposed to new construction.~~

H. A rental unit or rental units contained in a building that has a certificate of occupancy for the new construction of the unit or building in which the rental unit(s) is contained is issued on or after January 1, 2002;

1. This exemption applies only to rental units that were newly constructed from the ground up and does not apply to units that were created as a result of rehabilitation, improvement or conversion of commercial space, or other residential rental space;
2. If no certificate of occupancy was issued for the rental unit or building, in lieu of the date a certificate of occupancy, the date the last permit for the new construction was finalized prior to occupancy shall be used;

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.

2. The tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law, provided further that notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet following a written request by the tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord.
3. The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement; provided, that such terms do not conflict with any of the provisions of this chapter. [O.M.C. Chapter 8.22, Article II].
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.
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 his or her occupancy as a principal residence where he or she has previously occupied the rental unit as his or her principal residence and has the right to recover possession for his or her 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 his or her own use and occupancy as his or her 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. Here 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 (36) month period,
 - c. The owner must move into the unit within three (3) months of the tenant's vacation of the premises.
 - ~~[d. When the owner seeking possession of a unit under Section 6(A)(9) [8.22.360 A.9] owns a similar vacant unit, the owner's decision not to occupy said similar unit shall create a rebuttable presumption that they are seeking to recover possession in bad faith.] *~~
 - e.d. 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 § 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 d)(i)(b) [8.22.360 A.9.e d.i.b)] and who suffers from a life threatening illness as certified by his or her primary care physician.
 - fe. The provisions of Subsection (e d) [8.22.360 A.9.e d] above shall not apply where the landlord's qualified relative who will move into the unit is 60 years of age or older, disabled or

catastrophically ill as defined by Subsection (e d) [8.22.360 A.9.e d], and where every rental unit owned by the landlord is occupied by a tenant otherwise protected from eviction by Subsection (e d) [8.22.360 A.9.e d].

- gf A tenant who claims to be a member of one of the classes protected by Subsection 6(A)(9)(e d) [8.22.360 A.9.e d] 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.
- hg 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 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 him or her 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.
- ih A notice terminating tenancy under this Subsection must contain, in addition to the provisions required under Subsection 6(B)(56) [8.22.360 B.56]:
 - ii ~~[sic]~~ A listing of all property owned by the intended future occupant(s).
 - iii ~~[sic]~~ The address of the real property, if any, on which the intended future occupant(s) claims a homeowner's property tax exemption.
 - iv ~~[[sic] A statement informing tenant of his or her rights under Subsection 6(C) [8.22.360 C].]~~ *
- i. The Landlord must pay relocation payments to the Tenant whose tenancy is being terminated in such amounts and

according to such procedures as the City Council may determine. Unless the City Council adopts another standard, the relocation amounts set forth in O.M.C. 8.22.450 (Ellis Act Ordinance shall apply).

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 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. Upon recovery of possession of the rental unit, owner of record shall proceed without unreasonable delay to effect the needed repairs. The tenant shall not be required to vacate pursuant to this section, for a period in excess of three months; provided, however, that such time period may be extended by the Rent Board upon application by the landlord. The Rent Board shall adopt rules and regulations to implement the application procedure.
 - b. Upon completion of the needed repairs, owner of record shall offer tenant the first right to return to the premises at the same rent and pursuant to a rental agreement of substantially the same terms, subject to the owner of record's right to obtain rent increase for capital improvements consistent with the terms of the Oakland Residential Rent Arbitration Ordinance or any successor ordinance.
 - c. A notice terminating tenancy 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 statement informing tenant of his or her rights under Subsection 6(C) [8.22.360 C].]*~~

~~iv.iii.~~ An 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 ~~[in good faith, without ulterior reasons and with honest intent,]*~~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], she or he must do so according to the process established in CCC § 1946 (or successor provisions providing for 30 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], she or he must do so according to the process established in CCP § 1161 (or successor provisions providing for 3 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 the Rent Board.
- 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].
- 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].
- e. 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. [The following additional provisions shall apply to a landlord who seeks to recover a rental unit pursuant to Subsections 6(A)(9) [8.22.360 A.9] or (10) [8.22.360 A.10]:~~

- ~~1. Where the landlord owns any other residential rental units, and any such unit is available or will become available between the time of service of written notice terminating tenancy and the earlier of the surrender of possession of the premises or the execution of a writ of possession pursuant to the judgment of a court of competent jurisdiction, the landlord shall, as a condition of obtaining possession pursuant to Section 6 [8.22.360], notify tenant in writing of the existence and address of each such vacant unit and offer tenant the right to choose any available rental unit and at the tenant's option: i) to enter into a temporary rental agreement; or ii) to enter into a new rental agreement. The landlord shall offer that unit to the tenant at a rent based on the rent that the tenant is currently paying, with upward or downward adjustments allowed based upon the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board.*~~

2. ~~The following shall be considered rebuttably presumptive violations of this chapter by the landlord:*~~

- a. ~~Where the event which the landlord claims as grounds to recover possession under Subsection 6(A)(9) [8.22.360 A.9] or (10) [8.22.360 A.10] is not initiated within three (3) months after the tenant vacates the unit.*~~
- b. ~~Where a landlord times the service of the notice, or the filing of an action to recover possession, so as to avoid offering a tenant a replacement unit.*~~
- c. ~~Where the individual (a landlord or qualified relative) for whom the Subsection 6(A)(9) [8.22.360 A.9] eviction occurred does not occupy a unit for a minimum of thirty-six (36) consecutive months.]~~

D.C. Substantive limitations on 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;
 - 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 ordinance, landlord must allege and prove that the unit is covered by one of the exceptions enumerated in Section 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. Failure to make such allegations in the notice shall be a defense to any unlawful detainer action.
- 3. This subsection (D C) [8.22.360 D C] is intended as both a substantive and procedural limitation on a landlord's right to evict. A landlord's failure to comply with the obligations described in Subsections 7(D C)(1) or 7(C)(2) [sic] [8.22.360 D C.1 or 8.22.360 D C.2] shall be a defense to any action for possession of a rental unit.

ED. 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].

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

A. Except for the specific text inserted or modified by this Section 1 of this measure, 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.

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:

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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?

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?	Yes	
	No	

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: _____

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MEETING OF THE
OAKLAND CITY COUNCIL
JUN 2 1 2016