

2016 APR -6 PM 5:00

REVISED APRIL 5, 2016

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

### ORDINANCE NO. 13360 C.M.S.

INTRODUCED ON BEHALF OF MEMBERS OF THE PUBLIC  
BY COUNCIL PRESIDENT LYNETTE GIBSON MCELHANEY

6 Affirmative Votes Required

**INTERIM EMERGENCY ORDINANCE TO TEMPORARILY: 1) ELIMINATE THE EXEMPTIONS FROM RENT CONTROL FOR OWNER-OCCUPIED DUPLEXES AND TRIPLEXES AND SUBSTANTIALLY REHABILITATED PROPERTIES; 2) PLACE A MORATORIUM ON RENT INCREASES ABOVE THE ANNUAL CPI ADJUSTMENT; 3) AFFIRM THE CITY'S PROHIBITION ON ILLEGAL EVICTIONS; 4) AFFIRM THE CITY'S DUTY TO PUBLICIZE CITY POLICIES ESTABLISHING TENANT RIGHTS; AND 5) DIRECT THE CITY ADMINSTRATOR TO EVALUATE POTENTIAL PERMANENT RENT STABILIZATION MEASURES**

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

**WHEREAS**, the housing affordability crisis threatens the public health and 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 by rent increases (U.S. Census Bureau, ACS 2014 Table S1101);

**WHEREAS**, in February 2016 the median rental price for a one-bedroom unit in Oakland was \$2,250 per month (\$27,000 per year), a 13.6 percent increase in costs over February 2015, and the median rental price for a two-bedroom unit in February 2016 was \$2,700 per month (\$32,400 per year), an 18.9 percent increase over costs in February 2015 (Zumper National Rent Report: March 2016); and

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

**WHEREAS**, in 2014 the estimated annual median household income for households that rented in Oakland was \$36,657 and a household earning the annual median household income would pay 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) based on the 2016 median rental prices for such units; and

**WHEREAS**, the affordable rent for a family earning \$36,657 is defined as only paying thirty percent of income on housing 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**, many 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 or approximately 28% of Oakland's 93,000 renting 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 and dramatic rent increases has a direct impact on the health of Oakland's citizens by uprooting children from their schools, disrupting long standing community networks that are integral to citizens' welfare, forcing low-income residents to pay unaffordable relocation costs, segregating low-income residents into less healthy 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 City Council, City Administrator and Mayor have publicly pledged to address housing affordability and are currently working to develop and enact legislation that seeks to mitigate the harms that the housing market is bringing upon low-income citizens; and

**WHEREAS**, on December 9<sup>th</sup>, 2014 the Oakland City Council adopted the 2015-2023 Housing Element which outlined forty six policies to address the housing affordability crisis; and

**WHEREAS**, on September 30<sup>th</sup>, 2015 the City Council adopted the Housing Equity Road Map as a complement to the Housing Element which included additional policies to bolster renter protections as well as an action plan for implementation; and

**WHEREAS**, On January 5<sup>th</sup>, 2016 the City Council declared a 'Shelter Crisis' in order to better serve the growing number of homeless individuals in Oakland who far outpace the number of available shelter beds and housing units; and

**WHEREAS**, on March 3, 2016, the following organizations brought forth to the Rules and Legislation Committee a rules request and resolution for a rent increase and eviction moratorium that formed the foundation of this ordinance: Oakland Tenants Union, Oakland Alliance, Oakland Parents Together, The John George Democratic Club, the Wellstone Democratic Renewal Club, Block By Block Organizing Network, Black Women Organized for Political Action, OaklandWorks, Attendees of the Oakland Post Salon, and other members of the public; and

**WHEREAS**, the City Council is currently considering the policy proposals from the aforementioned plans and other options in order to adopt successful policies as quickly as possible; and

**WHEREAS**, the City needs a temporary emergency ordinance to mitigate the harms of rapidly escalating rent increases while the City Council completes its deliberations over permanent reforms; and

**WHEREAS**, pursuant to City Charter Section 213 the City Council may introduce and adopt an emergency ordinance at the same City Council meeting by an affirmative six votes of the council; and

**WHEREAS**, pursuant to City Charter Section 213 the City Council must state the reasons constituting the necessity of an emergency ordinance in order to preserve the public peace, health or safety of the City in an emergency; and

**WHEREAS**, the City's current rent stabilization ordinance (O.M.C Chapter 8.22) currently exempts from its provisions owner-occupied two and three unit buildings as well as buildings that have met the qualifications for a substantial rehabilitation exemption; and

**WHEREAS**, the City's current rent stabilization ordinance (O.M.C Chapter 8.22) sets the maximum allowable rent increase in any twelve month period at ten percent; and

**WHEREAS**, based on the findings above, the City desires to further the public health, safety and welfare by temporarily eliminating the exemptions for owner-occupied two- and three-unit buildings and new substantially-rehabilitated buildings, and reducing the maximum allowable rent increase in any twelve month period to the CPI Rent Adjustment, as defined in Section 8.22.020 of the Residential Rent Adjustment Ordinance; and

**WHEREAS**, if the Council does not enact an emergency ordinance implementing the above measures, the City's announcement of its intent to act would exacerbate the instability of the housing market and the uncertainty of public peace, health, and welfare by, in effect, providing for a brief incentive period during which landlords could increase rents despite the clear intent of the City to regulate such practices; and

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

**SECTION 1. Emergency Finding.** The City Council finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance. The City Council further finds that there is a necessity to pass an emergency ordinance by the powers given to the City Council under Section 213 of the City Charter due to rapidly escalating rents that, through the displacement of low and moderate income residents directly, threaten the welfare and public health of the City.

**SECTION 2. Duration of Interim Ordinance.** This emergency ordinance shall remain in effect for ninety (90) days from the date of its adoption.

**SECTION 3. Discontinuance of Rent Exemption for Owner-Occupied Duplex and Triplex Properties.** The exemption from the Rent Adjustment Program for owner-occupied properties of two- to three-units (Oakland Municipal Code section 8.22.030A.8) is discontinued; provided, however, that any legal rent increase for which a notice to the tenant was properly given prior to April 5, 2016 shall be permitted.

**SECTION 4. Discontinuance of Exemption for Substantial Rehabilitations.** The substantial rehabilitation exemption from the protections for renters found under Chapter 22 of the Oakland Municipal Code ("Residential Rent Adjustments and Eviction") shall be prospectively discontinued. Only those projects for residential buildings that have received permits for construction meeting the definition of "substantial rehabilitation" in Section 8.22.030.B.2 of the Residential Rent Adjustment Ordinance and for which no less than twenty-five (25) percent of the substantial rehabilitation project costs, as identified in building permits, have been expended as of the effective date of this ordinance may receive a new exemption. No other projects may receive a new exemption for substantial rehabilitation of a building. For purposes of this Section, "expended" means actually paid or contractually committed to pay an expense.

**SECTION 5. Rent Increase Moratorium; Petition for Relief.** From the effective date of this Ordinance no owner or manager of a residential unit regulated by Oakland's Residential Rent Adjustment Ordinance (Section 8.22.010 *et seq.*) may serve or give notice of a rent increase that exceeds the CPI Rent Adjustment, as defined in Section 8.22.020 of the Residential Rent Adjustment Ordinance, for the twelve (12) months preceding the increase. The moratorium on rent increases above the CPI Rent Adjustment provided for in this Ordinance shall not apply to any rent increase for which a notice to the tenant was properly given prior to April 5, 2016. Any owner or manager of a residential unit who claims that the allowable rent under the moratorium is insufficient to provide a fair return based on maintaining the property's net operating income may file a petition with the Rent Program requesting relief from the moratorium by way of a rent increase in excess of the CPI Rent Adjustment necessary to provide a fair return. The City Administrator shall provide a working definition of "maintaining the property's net operating income."

**SECTION 6. City Policy on Illegal Evictions.** It remains the policy of the City of Oakland that no housing provider shall take action to terminate any tenancy in any unit

covered by the Just Cause Ordinance (O.M.C. 8.22.300, et seq.) including, but not limited to, making a demand for possession of a rental unit, threatening to terminate a tenancy, serving any notice to quit or other eviction notice, or bringing any action to recover possession of a rental unit except for such "just cause" evictions as provided for in the city's current Just Cause for Eviction Ordinance as enacted by Measure EE and codified in Chapter 8.22.300 of the Oakland Municipal Code.

**SECTION 7. Duty to Publicize.** The City Administrator shall develop a plan for better publicizing and educating the public about tenant rights and landlord responsibilities established by City's Just Cause for Eviction Ordinance and Residential Rent Adjustment Program.

**SECTION 8. Administrative Remedies.** For violations of the rent increase limitations set out in this ordinance, the City Administrator may issue an administrative citation pursuant to Oakland Municipal Code section 1.12 for a first and second violation by a property owner or manager and a Civil Penalty pursuant to Oakland Municipal Code section 1.08 for three or more violations by a property owner or manager which shall constitute a major violation. Prior to issuing a first administrative citation, the City Administrator must have given the property owner or manager a warning notice of a potential violation. If the City Administrator determines the violation contained in the warning notice was not timely cured, the City Administrator may issue a citation based on the failure to cure the violation. After a property owner or manager has been given a warning letter, all subsequent violations for any other unit of that property owner may be cited.

**SECTION 9. Direction to City Administrator.** The City Council shall direct the City Administrator to analyze and investigate the impacts, legality, and potential implementation of making the measures included in this Ordinance, and other measures identified by the City Council as meriting further study, permanent.

**SECTION 10. Award of Housing Enforcement Assistance Funds.** The City Council reaffirms its commitment to increase outreach and education for the Tenant Protection Ordinance and Just Cause for Eviction Law. To that end, the City Administrator is directed to release the Request for Proposal (RFP) in the amount of \$100,000 which was previously voted on and approved by Council to increase education and outreach for the Tenant Protection Ordinance and Just Cause for Eviction law within 21 days; and the City Administrator shall report back to the Council no later than May 17, 2016 on the status of awarding the contract(s).

**SECTION 11. Schedule on Report of Minimum Wage Law Funding.** The City Administrator is directed to schedule a status report regarding awarding the \$240,000 to implement Measure FF, Minimum Wage & Paid Sick Days Law on May 17, 2016.

**SECTION 12. Environmental Review.** This ordinance is exempt from the California Environmental Quality Act under CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment, in that this ordinance applies the City's rent stabilization measures to existing residential units in the City, which is solely an



administrative process resulting in no physical changes to the environment. Accordingly, this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures.

**SECTION 13. 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 14. Effective Date.** This ordinance shall become effective immediately if it receives six or more affirmative votes.

IN COUNCIL, OAKLAND, CALIFORNIA,

APR 05 2016

PASSED BY THE FOLLOWING VOTE:


AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLÉN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:

  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Date of Attestation:

April 7, 2016

## **NOTICE AND DIGEST**

**INTERIM EMERGENCY ORDINANCE TO TEMPORARILY: 1) ELIMINATE THE EXEMPTIONS FROM RENT CONTROL FOR OWNER-OCCUPIED DUPLEXES AND TRIPLEXES AND SUBSTANTIALLY REHABILITATED PROPERTIES; 2) PLACE A MORATORIUM ON RENT INCREASES ABOVE THE ANNUAL CPI ADJUSTMENT; 3) AFFIRM THE CITY'S PROHIBITION ON ILLEGAL EVICTIONS; 4) AFFIRM THE CITY'S DUTY TO PUBLICIZE CITY POLICIES ESTABLISHING TENANT RIGHTS; AND 5) DIRECT THE CITY ADMINISTRATOR TO EVALUATE POTENTIAL PERMANENT RENT STABILIZATION MEASURES**

The Ordinance: temporarily eliminates the exemptions from rent control for owner-occupied duplexes and triplexes and substantially rehabilitated properties; places a moratorium on rent increases above the annual CPI adjustment; affirms the City's prohibition on illegal evictions; directs the City Administrator to report to City Council no later than May 17, 2016 on the status of awarding the contract for Tenant Protection Ordinance education and outreach; directs the City Administrator to schedule a status report to City Council on May 17, 2016 regarding awarding \$240,000 to implement the Minimum Wage law; affirms the city's duty to publicize city policies establishing tenant rights; and directs the City Administrator to evaluate potential permanent rent stabilization measure.