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CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89315 C.M.S.

INTRODUCED BY COUNCILMEMBERS DAN KALB AND CARROLL FIFE

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION, AN ORDINANCE TO AMEND OAKLAND MUNICIPAL CODE SECTION 8.22.300 ET SEQ. (JUST CAUSE FOR EVICTION ORDINANCE) TO:

(1) EXTEND EVICTION PROTECTIONS TO TENANTS IN VEHICULAR RESIDENTIAL FACILITIES AND NEWLY CONSTRUCTED RENTAL UNITS, EXCEPT ACCESSORY DWELLING UNITS DURING THE FIRST TEN YEARS;

(2) REMOVE FAILURE TO EXECUTE A LEASE EXTENSION AS GROUNDS FOR EVICTION;

(3) PROHIBIT NO-FAULT EVICTIONS OF EDUCATORS AND CHILDREN DURING THE SCHOOL YEAR; AND

(4) MAKE OTHER CLARIFYING AMENDMENTS; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION

WHEREAS, on November 5, 2002, Oakland voters passed the Just Cause for Eviction Ordinance (Measure EE), codified in Chapter 8.22, Article II of the Oakland Municipal Code, establishing various tenant protections and procedures pertaining to residential evictions in Oakland; and

WHEREAS, by limiting the grounds upon which tenants may be evicted, the Just Cause for Eviction Ordinance plays a crucial role in the City's ongoing efforts to slow down, reduce, and prevent displacement and homelessness within the City of Oakland; and

WHEREAS, Oakland continues to experience a severe housing shortage and an unprecedented number of unhoused or marginally housed residents; and

WHEREAS, since the Just Cause for Eviction Ordinance was passed in 2002, voters and City Council have recognized on numerous occasions the need to expand coverage of the Ordinance by adding additional protections and removing exemptions, and that doing so is in the best interest of the City; and

WHEREAS, tenants residing in rental units that were newly constructed and issued a certificate of occupancy on or after December 31, 1995, are currently exempt from coverage under the Just Cause for Eviction Ordinance and therefore do not have the same protection from eviction as other tenants in the City; and

WHEREAS, tenants residing in rental units that were constructed on or after December 31, 1995, would have a significantly reduced risk of displacement if such units are subject to just cause eviction protections; and

WHEREAS, most if not all neighboring cities with just cause protections do not exempt newly constructed units, such as San Francisco, Berkeley, Hayward, Alameda, and Richmond, making Oakland's current ordinance an outlier and more restrictive than other jurisdictions across the state; and

WHEREAS, the extension of just cause protections to newly constructed units will not impact rental rates for such units, and owners of newly constructed units will still have the benefit of unregulated rental increases pursuant to the Costa-Hawkins Rental Housing Act; and

WHEREAS, on July 28, 2020, the City Council adopted Ordinance No. 13611 C.M.S., establishing a pilot program allowing residential occupancy of one recreational vehicle ("RV") on undeveloped property; and

WHEREAS, on June 1, 2021, the City Council adopted Resolution No. 88675 C.M.S. which, among other things, directed staff to report back to City Council with action to regulate and permit RV parks in Oakland; and

WHEREAS, on November 16, 2021, the City Council adopted Ordinance No. 13666 C.M.S., which amended the Oakland Planning Code (O.M.C. Title 17), the Oakland Building Construction Code (O.M.C. Chapter 15.04), and other miscellaneous sections of the Oakland Municipal Code to promote cost-efficient construction innovation and expanded housing options by, among other things, allowing residential occupancy of Vehicular Residential Facilities, including RVs and tiny homes on wheels, in all zoning districts where residential uses are permitted; and

WHEREAS, on November 16, 2021, the City Council adopted Ordinance No. 13668 C.M.S., which amended the Residential Rent Adjustment Program Ordinance (O.M.C. Chapter 8.22) to add Vehicular Residential Facilities as covered units; and

WHEREAS, extending just cause eviction protections to Vehicular Residential Facilities

will help promote housing stability and extend tenant protections to some of the City's most vulnerable renters; and

WHEREAS, the rental of multiple recreational vehicles and other types of mobile homes on private property is already subject to a number of regulations under state law, such as through the Mobilehome Parks Act and the Special Occupancy Parks Act, which allow for temporary rentals and evictions based on change of use of the underlying property; the extension of Oakland's just cause protections to Vehicular Residential Facilities will only impact properties not already subject to regulation under state law; and

WHEREAS, extending just cause protections to Vehicular Residential Facilities will not prohibit owners from removing such units from the rental market should they chose to do so, or from evicting tenants who fail to pay rent, violate their lease, or create a nuisance, among other reasons why tenants may still be removed from such facilities; and

WHEREAS, currently, the Just Cause for Eviction Ordinance provides that a tenant may be evicted at the expiration of their rental agreement solely because the tenant declines to enter into another long-term lease agreement; however, allowing tenants to rent on a periodic (e.g. month-to-month) basis rather than requiring the execution of a new lease agreement will afford tenants reasonable flexibility in renting and avoid unnecessary evictions; and

WHEREAS, when an owner fails to comply with requirements for an owner or relative move-in eviction, aggrieved tenants may sue for damages but do not currently have an express right to re-occupy the unit, and allowing tenants a move-back option will help reduce unnecessary displacement and expand available remedies in the event of owner noncompliance; and

WHEREAS, notwithstanding that the Just Cause for Eviction Ordinance authorizes the Council to add defenses to the Ordinance, the Council desires to submit to the voters a new defense to no-fault evictions for educators and children during the school year; and

WHEREAS, evictions of educators and families with children during the school year are particularly disruptive and can have devastating impacts on children's development and the ability of schools to provide a consistent and stable learning environment to all students; and

WHEREAS, studies consistently show that moving homes in the middle of the school year can have negative impacts on children's academic performance, social relationships, and mental health; and limiting evictions during the school year where possible is one way to minimize the harmful impacts that already come with eviction; and

WHEREAS, the City of Oakland is interested in putting forth policies that help to maintain the ability of people in all income categories to live in the City; and

WHEREAS, the City Council finds that reasonable regulation of aspects of the landlord-tenant relationship is necessary to foster constructive communication, maintain an adequate supply of a variety of rental housing options, and protect the health, safety, and the general welfare of the public; and

WHEREAS, this action is not a “project” under the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Section 21065 because it will not cause a direct or reasonably foreseeable indirect physical change to the environment. Thus, CEQA does not apply to this project. Even if this action was a “project,” the action is exempt from CEQA pursuant to multiple sections of the CEQA Guidelines, which taken together or separately have an independent basis for exemption, including but not limited to: Section 15378 (regulatory actions), Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), and Section 15061(b)(3) (no significant effect on the environment), since the legislation contains no provisions modifying the physical design, development, or construction of residential or nonresidential structures and, accordingly, it can be seen with certainty that there is no possibility that it: (1) may have a significant effect on the environment, and/or (2) result in any direct or indirect physical changes to the environment; and

WHEREAS, California Election Code Section 9217 provides that an ordinance adopted by voters may be amended only by a vote of the people, unless provision for amendment is otherwise made in the ordinance, and the Just Cause for Eviction Ordinance did not authorize the Council to make some of the amendments specified in this measure; now, therefore, be it

RESOLVED: That the Oakland City Council finds and determines the forgoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED: That the Oakland City Council does hereby submit to the voters, at the November 8, 2022, General Municipal Election, proposed amendments to the Just Cause for Eviction Ordinance (Measure EE [O.M.C., Chapter 8, Article II (8.22.300 *et seq.*)] as set forth below. Added text is shown as double underscored type; deleted text is shown as ~~strikethrough~~ type; portions of the provisions not cited or not shown in underscoring or ~~strikethrough~~ type are not changed.

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

SECTION 1. Amendments to Section 4 of Measure EE [O.M.C. Section 8.22.340]. Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.

Section 4 [8.22.340] – Definitions.

"Landlord" means an owner of record, or lessor or sublessor of an owner of record, or any other person or entity entitled either to receive rent for the use or occupancy of any rental unit or to maintain an action for possession of a rental unit, or an agent, representative, or successor of any of the foregoing.

"Owner of Record" means a natural person, who is an owner of record holding an interest equal to or greater than thirty-three percent (33%) in the property at the time of giving a notice terminating tenancy and at all times thereafter, until and including the earlier of the tenant's surrender of possession of the premises or the execution of a writ of possession pursuant to the judgment of a court of competent jurisdiction; but not including any lessor, sublessor, or agent of the owner of record.

"Rent" means the consideration, including any deposit, bonus, benefit, or gratuity demanded

or received for, or in connection with, the use or occupancy of rental units and housing services. Such consideration shall include, but not be limited to, moneys and fair value of goods or services rendered to or for the benefit of the landlord under the rental agreement, or in exchange for a rental unit or housing services of any kind.

"Rent Board" means city of Oakland Housing, Residential Rent, and Relocation Board (HRRRB), aka Residential Rent Arbitration Board (RRAB), aka Rent Arbitration Board, aka Oakland Rent Board, aka Rent Board, established under Ordinance No. 9980 and subsequent amendments.

"Rental Agreement" means an agreement, oral, written, or implied, between a landlord and a tenant for the use and/or occupancy of a rental unit.

"Rental Unit" (aka Unit, aka Premises) means any unit in any real property, regardless of condition or zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes), together with all housing services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the tenant. "Rental Unit" includes Vehicular Residential Facilities, as defined by Oakland Planning Code Section 17.10.700, that is 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, unless the property is a Special Occupancy Park as defined by state law.

"Property" means a parcel of real property, located in the city of Oakland, that is assessed and taxed as an undivided whole.

"Tenant" means any renter, tenant, subtenant, lessee, or sublessee of a rental unit, or any group of renters, tenants, subtenants, lessees, sublessees of a rental unit, or any other person entitled to the use or occupancy of such rental unit, or any successor of any of the foregoing.

"Skilled Nursing Facility" means a health facility or a distinct part of a hospital that provides, at a minimum, skilled nursing care and supportive care to patients whose primary medical need is the availability of skilled nursing care on an extended basis. Such facility must provide twenty-four (24) hour inpatient care, an activity program, and medical, nursing, dietary, pharmaceutical services. Additionally, the facility must provide effective arrangements, confirmed in writing, through which services required by the patients but not regularly provided within the facility can be obtained promptly when needed.

"Health Facility" means any facility, place or building that is organized, maintained, and operated for the diagnosis, care, and treatment of human illness, physical or mental, including convalescence and rehabilitation, and including care during and after pregnancy, or for any one or more of these purposes.

"Maximum Lawful Rent" means the maximum rent which may lawfully be charged for such unit under the terms of the Oakland Residential Rent Arbitration Ordinance or successor ordinances intended to limit or regulate rent charged for residential rental units within the city of Oakland.

"Business Tax Declaration" means the annual declaration required to be filed in connection with a landlord's obtaining or renewing a city business license for rental units. Any failure by a landlord to file such a declaration, whether pursuant to an exemption or otherwise, shall not relieve a rental unit from being subject to the provisions of this Chapter.

"Child/Parent" means a child/parent relationship is one in which a child is either a parent's

biological child or adopted child, provided that such relationship was established prior to the child's eighteenth birthday and at least one year prior to the attempted eviction. At the time of attempted eviction, a child of an owner of record must be over the age of eighteen (18) or be emancipated.

"Tenants' Rights Organization" means any unincorporated ~~tenant's~~ tenants' association, incorporated tenants' association, nonprofit housing and/or tenant's rights entity of any form.

SECTION 2. Amendments to Section 5 of Measure EE [O.M.C. Section 8.22.350]. Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.

Section 5 [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~~ their 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. Reserved.
- 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. ~~Reserved.~~ A rental unit or rental units contained in a building that was newly constructed and received a certificate of occupancy within the past 10 years. This exemption applies only to permitted 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 existing residential or commercial space.

- I. ~~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 December 31, 1995.~~
 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.~~

SECTION 3. Amendments to Section 6 of Measure EE [O.M.C. Section 8.22.360]. Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.

Section 6 [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.
 - 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 lesser of (i) or (ii):

- (i) Two persons in a studio unit, three persons in a one-bedroom unit, four persons in a two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom unit;
- (ii) 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.

- 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 H].~~ 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 ~~his or her~~ their own occupancy as a principal residence where ~~he or she~~ the owner has previously occupied the rental unit as ~~his or her~~ their principal residence and has the right to recover possession for ~~his or her~~ 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 ~~his or her~~ their own use and occupancy as ~~his or her~~ 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. ~~Here~~ 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 (36) month period~~;~~_±
 - c. The owner must move in to 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 § 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 ~~his or her~~ 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 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 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 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~~ 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)(5) [8.22.360 B.5]:
 - 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 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. ~~Upon recovery of possession of~~ As soon as the tenant vacates the rental unit, ~~the~~ owner of record shall proceed without unreasonable delay to ~~effect~~ complete 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, ~~the~~ owner of record shall offer ~~the~~ tenant the first right to return to the premises at the same rent and pursuant to ~~a rental agreement of substantially the same terms~~ 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 ~~obtain rent increase for capital improvements consistent with the terms of the Oakland Residential Rent Arbitration Ordinance or any successor ordinance~~ petition the Rent Adjustment Program for a rent increase as provided by the Residential Rent Adjustment Ordinance.
 - c. A notice ~~terminating tenancy 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. ~~Reserved.~~ 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], ~~she or he~~ the landlord must do so according to the process established in CCC § 1946 (or successor provisions providing for a 30 or 60 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~~ the landlord 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] and a statement informing tenants of the limitations on evictions as set forth in Subsection 6(D)(8) [8.22.360D.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) [8.22.360D.8].
 - 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. 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;
 - 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, 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 7(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, and 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 Subsection 8.22.360 A.1-10, it shall be a defense if the landlord failed to substantially comply with O.M.C. 8.22.510.
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 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 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 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.

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 4. Applicability and Grandparenting. The amendments set out in this Measure apply to all notices terminating tenancy that have been served as of the effective date of this Measure, but where such rental unit has not been vacated or an unlawful detainer judgment has not been issued as of the effective date of this Measure.

SECTION 5. Severability. Should any provision of this Measure, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Measure or the application of this Measure to any other person or circumstance and, to that end, the provisions hereof are severable

SECTION 6. Findings Regarding Just Cause for Eviction Ordinance Provided Pursuant to Civil Code Section 1946.2. The people of the City of Oakland find 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 and, in conjunction with other City ordinances, provides for higher relocation assistance amounts. The people of the City of Oakland find that the Just Cause

for Eviction Ordinance as amended herein is more protective than the provisions of Civil Code Section 1946.2.

SECTION 7. California Environmental Quality Act. This action is not a “project” under the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Section 21065 because it will not cause a direct or reasonably foreseeable indirect physical change to the environment. Thus, CEQA does not apply to this project. Even if this action was a “project,” the action is exempt from CEQA pursuant to multiple sections of the CEQA Guidelines, which taken together or separately has an independent basis for exemption, including but not limited to: Section 15378 (regulatory actions), Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), and Section 15061(b)(3) (no significant effect on the environment), since the legislation contains no provisions modifying the physical design, development, or construction of residential or nonresidential structures and, accordingly, it can be seen with certainty that there is no possibility that it: (1) may have a significant effect on the environment, and/or (2) result in any direct or indirect physical changes to the environment; and

SECTION 8. Regulations: The Rent Board is authorized to promulgate regulations to implement the Tenant Relocation Plan requirement, subject to Council ratification; and

SECTION 9. Effective Date. This Measure 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.

SECTION 10. No Effect on Emergency Ordinance. Nothing in this Measure is intended to affect, supersede, or replace any protections provided by the Eviction Moratorium Emergency Ordinance (C.M.S. 13589) enacted on March 27, 2020, amended by Ordinance Nos. 13594 C.M.S. and 13606 C.M.S.

; and be it

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

PROPOSED AMENDMENTS TO OAKLAND’S JUST CAUSE FOR EVICTION ORDINANCE

<p>Measure __. Shall the Measure amending the Just Cause for Eviction Ordinance to: (1) prohibit no-fault evictions of children and educators during the school year; (2) extend eviction protections to tenants in recreational vehicles (RVs), tiny homes on wheels, and newly constructed units except during the first 10 years after issuance of the certificate of occupancy; (3) remove failure to sign a new lease as grounds for eviction; and (4) make other clarifying amendments, be adopted?</p>	Yes	
	No	

; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 8, 2022, to file with Alameda County certified copies of this Resolution; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots the recitals and measure language to be voted on by the voters of the qualified electors of the City of Oakland; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Oakland, Chapter 3.08 of the Oakland Municipal Code, the Government Code and the Election Code of the State of California; and be it

FURTHER RESOLVED: That in accordance with applicable law, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; 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 2022 General Municipal Election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 8, 2022 General Municipal Election, consistent with the laws of the City of Oakland and the State of California.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: JUL 11 2022

AYES - FIFE, GALLO, KALB, ~~WILLIAMS~~, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - 1 - Kaplan

ATTEST:

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

22 JUL 27 AM 9:02

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE _____

TITLE: AMENDMENTS TO OAKLAND'S JUST CAUSE FOR EVICTION ORDINANCE TO: (1) PROHIBIT NO-FAULT EVICTIONS OF CHILDREN AND EDUCATORS DURING THE SCHOOL YEAR; (2) PROVIDE EVICTION PROTECTIONS TO TENANTS IN RECREATIONAL VEHICLES ("RVs"), TINY HOMES ON WHEELS, AND NEWLY CONSTRUCTED RENTAL UNITS EXCEPT DURING THE FIRST 10 YEARS AFTER ISSUANCE OF THE CERTIFICATE OF OCCUPANCY; (3) REMOVE FAILURE TO SIGN A NEW LEASE AS GROUNDS FOR EVICTION; AND (4) MAKE OTHER CLARIFYING AMENDMENTS

CITY ATTORNEY'S SUMMARY OF MEASURE _____:

The Just Cause for Eviction Ordinance ("Ordinance") protects residential tenants from "arbitrary, unreasonable, discriminatory, or retaliatory evictions" by limiting the reasons a tenant may be evicted (i.e., reasons/grounds that constitute "just cause for eviction"). The Ordinance is codified in Oakland Municipal Code section 8.22.300 et. seq.

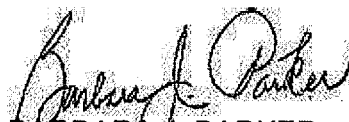
The Ordinance exempts residential units that were built after 1995 from its coverage, i.e. landlords of such properties may evict tenants without satisfying one of the reasons specified in the Ordinance as constituting "just cause." This measure would remove the current exemption for residential units built after 1995 and replace it with an exemption for units that were built "from the ground up" within the past 10 years.

This measure would explicitly provide eviction protections for Vehicular Residential Facilities, such as recreational vehicles ("RVs") and tiny homes on wheels that are rented for residential use.

The Ordinance allows eviction of a tenant who fails to execute a new lease agreement. This measure would remove failure to execute a new lease agreement as a "just cause" reason for eviction. The measure also would prohibit "no fault" evictions during the school year when the household includes a teacher or other specified school employee, or a minor child who is enrolled in school. Additionally, this measure would clarify that tenants have a right to re-occupy a unit if they are evicted to facilitate an owner move-in eviction but the owner does not occupy and continue to reside in the unit for the time period required by the Ordinance.

The measure also includes other non-substantive clarifying amendments to the Ordinance.

This measure was placed on the ballot by the Oakland City Council. Passage of this measure requires an affirmative vote of a majority of voters (i.e., more than 50% of the votes cast). A "yes" vote will approve the measure; a "no" vote will reject the measure.


BARBARA J. PARKER
City Attorney

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE — 22 JUL 27 AM 9:02

The Just Cause for Eviction Ordinance (Oakland Municipal Code Chapter 8.22, Article II) has been in effect since 2003 and generally allows landlords to evict tenants from residential rental units only for a limited number of reasons that are specified in the Ordinance, i.e., "just cause" reasons/grounds for eviction.

Currently, residential rental units built after 1995 are exempt from the Ordinance's coverage, i.e., landlords of such units may evict tenants without satisfying one of the "just cause" grounds specified in the Ordinance. This measure would replace this exemption with a provision that exempts only units that were constructed within the past 10 years.


Currently, the Ordinance does not explicitly address eviction protections for Vehicular Residential Facilities such as recreational vehicles ("RVs") and tiny homes on wheels ("Vehicular Residential Facilities"). This measure would clearly provide eviction protections to tenants who reside in "Vehicular Residential Facilities." Coverage under the Just Cause for Eviction Ordinance is distinct from coverage under the Residential Rent Adjustment Program Ordinance, which regulates the amount of rent that landlords can charge tenants.

Currently, a tenant may be evicted if they fail to sign a new lease agreement after their lease expires. This measure would remove failure to sign a new lease as a just cause for eviction. Under state law, the lease would convert to a month-to-month tenancy when the original lease term expires.

The measure also would limit certain "no fault" evictions when a teacher or other school employee or a minor who is enrolled in school resides in the unit as a tenant or as a family member of a tenant. For such households, a landlord could seek to evict the tenants from the unit so that the landlord or the landlord's relative can move in during the summer recess from school. During the school year, the tenants in such a household would have a defense to this type of an eviction.

Additionally, under existing law, when a landlord evicts a tenant in order to move into the unit or have a qualifying relative move into the unit, the landlord or relative must move into the unit within three months after the tenant moves out and must reside in the unit for at least three consecutive years. This measure would clarify that if the landlord or relative does not comply with the foregoing requirements, the landlord must allow the tenant to move back into the unit at the same rental rate the tenant was paying when they vacated the unit. The three-month move-in period may be extended for certain reasons, such as to complete certain renovations.

This measure was placed on the ballot by the Oakland City Council. Passage of this measure requires an affirmative vote of a majority of voters (i.e., more than 50% of the votes cast). A "yes" vote will approve the measure; a "no" vote will reject the measure.


BARBARA J. PARKER
City Attorney

22 AUG -1 PM 4:21

Just Cause for Eviction Expansion Ballot Measure November 2022
Impartial Financial Analysis
Office of The City Auditor

Summary

This measure, if approved by a majority of the voters, would amend Oakland Municipal Code 8.22.300, the Just Cause for Eviction Ordinance (Measure EE passed by Oakland voters in November 2002). Specifically, this measure would: 1) extend eviction protections to vehicular residential facilities and newly constructed rental units except accessory dwellings constructed in the first 10 years; 2) remove failure to execute a lease extension as grounds for eviction; and 3) prohibit most no-fault evictions affecting children and Oakland Unified School District employees during the school year.

Financial Analysis

If the measure passes, and if the City Council adopts the amendment to the Just Cause Ordinance (Ordinance), the fiscal impact to the City of Oakland (City) should be negligible, as any staffing or other costs associated with the measure would likely be offset by the fees assessed on the additional rental units and vehicular residential facilities that would be subject to the Ordinance.

The proposed amendment, however, would increase the number of rental properties and vehicular residential facilities subject to the Ordinance, as well as the resulting fees. Currently, owners of rental properties covered by the Ordinance are required to pay annual fees of \$101 per unit. Moreover, rental property owners and vehicular residential facilities will be able to pass on up to half of these fees to their tenants. Thus, more renters potentially could be required to pay up to half of the annual per unit fees associated with the Ordinance.

Our independent analysis is based on the best information available at this time.