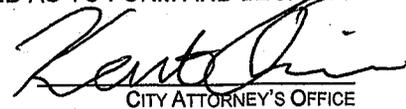


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

INTRODUCED BY COUNCIL MEMBER FORTUNATO BAS AND MCELHANEY

19 FEB -8 AM 9:00

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

6 Affirmative Votes Required

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

**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 2017 Table S1101); and

**WHEREAS**, in January 2019 the median rental price for a one-bedroom unit in Oakland was \$2,370 per month, a 12.9 percent increase over January 2018, and the median rental price for a two-bedroom unit in January 2019 was \$2,860, a 15.8 percent increase over January 2019 (Zumper National Rent Report: February 2019); and

**WHEREAS**, Oakland's rental housing costs are the sixth highest in the nation, behind San Francisco, New York, San Jose, Boston, and Los Angeles (Zumper National Rent Report: February 2019); and

**WHEREAS**, in July 2018, the City Council placed on the ballot Measure Y, proposing to remove from the Just Cause for Eviction Ordinance exemption for owner-occupied two to three unit properties; and

**WHEREAS**, only the voters may modify the exemptions from the Just Cause for Eviction Ordinance, but the City Council has the authority to modify exemptions from the rent stabilization ordinance; and

**WHEREAS**, in staff reports proposing the ballot measure, Councilmembers Kalb and Gallo announced their intention to introduce an ordinance to eliminate the rent control exemption on these properties upon passage of Measure Y; and

**WHEREAS**, on November 6, 2018, Oakland voters passed Measure Y; and

**WHEREAS**, the City's current rent stabilization ordinance (O.M.C. Chapter 8.22) currently exempts from its provisions owner-occupied two to three unit properties after the owner lived in the unit for more than two years; and

**WHEREAS**, the City Council is currently considering a policy proposal to eliminate the exemptions from rent control for owner-occupied two- and three-unit properties; and

**WHEREAS**, members of the public testified at public meetings that tenants may face large rent increases as a result of the exemption while deliberations on a permanent policy proposals are ongoing; and

**WHEREAS**, members of the public testified at public meetings that removal of the exemption will create financial pressures that compel owners to remove units from the rental market which would increase displacement and further constrain access to affordable rental stock; and

**WHEREAS**, a temporary emergency ordinance would mitigate the harms caused by speculators subverting Oakland's tenant protection laws while the City Council deliberates 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**, if the Council does not enact an emergency ordinance implementing the above measures, the City's announcement of its intention 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 Emergency.** This emergency ordinance shall remain in effect for one hundred eighty (180) days from the date of its adoption or until an ordinance permanently eliminating the exemption for owner-occupied duplexes or triplexes becomes effective, whichever is earlier.

**SECTION 3. Discontinuance of Rent Exemption for Owner-Occupied Duplex and Triplex Properties.** The exemption from the Rent Adjustment Ordinance for owner-occupied properties of two- to three-units (Oakland Municipal Code section 8.22.030A.8) is discontinued. As of the effective date of this ordinance, the initial base rent for all newly covered units shall be the rent that was in effect for the rental unit on November 6, 2018. If no rent was in effect for the newly covered unit on November 6, 2018, the initial base rent shall be the first rent in effect after that date.

**SECTION 4. Rent Increase Moratorium; Petition for Relief.** From the effective date of this ordinance, no owner or manager of a newly covered unit 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. Any owner or manager of a newly covered 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.

**SECTION 5. 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 of the Oakland Municipal Code.

**SECTION 6. Duty to Publicize.** The City Administrator shall assist with 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, and to refer to existing providers of access to legal assistance and rental assistance for tenants facing evictions.

**SECTION 7. 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 8. 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 9. Effective Date.** This ordinance shall become effective immediately if it receives six or more affirmative votes.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

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

Date of Attestation: \_\_\_\_\_

2670906v1

**NOTICE AND DIGEST**

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

This Ordinance temporarily eliminates the owner-occupied duplex and triplex exemptions from the Rent Adjustment Ordinance and places a moratorium on rent increases above the annual CPI adjustments for newly covered owner-occupied duplexes and triplexes. It also affirms the city's prohibition on illegal evictions and the city's duty to publicize city policies establishing tenant rights.

**FILED  
OFFICE OF THE CITY CLERK  
OAKLAND**

**19 FEB -8 AM 9:08**