



## **RECEIPT FOR OAKLAND RENT CONTROL ORDINANCE DOCUMENTS**

By initialing next the items below Buyer(s) acknowledge receipt of the following documents:

- \_\_\_\_\_ Measure EE, 16 pages
- \_\_\_\_\_ Owner's Pre-Move Out Disclosure Certification Form, 1 page
- \_\_\_\_\_ Pre-Move Out Negotiations Disclosure Form Required by Tenant Move Out Agreement Ordinance, 3 pages
- \_\_\_\_\_ Tenant Move Out Agreement Ordinance, 16 pages
- \_\_\_\_\_ Memo Regarding Uniform Relocation Ordinance dated 12/18/2017, 1 page
- \_\_\_\_\_ Supplemental Amendment to Proposed Uniform Relocation Ordinance, 1 page
- \_\_\_\_\_ Owner Move In (OMI) Laws for Oakland, 5 pages
- \_\_\_\_\_ What you need to know about Oakland's Tenant Move Out Agreement Ordinance, 3 pages
- \_\_\_\_\_ City of Oakland Regulations That May Affect You, 4 pages

Please initial each item above to indicate receipt of these documents. Buyer(s) must carefully read and sign each page of these documents and should obtain any inspections Buyer(s) deems appropriate, including but not limited to a roof, home and pest inspection. Winkler Real Estate Group has not verified any of the information provided.

Buyers: \_\_\_\_\_

Date: \_\_\_\_\_

Seller: \_\_\_\_\_

Date: \_\_\_\_\_



## Oakland Measure EE Disclosure

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On November 15, 2002, the voters in Oakland approved an ordinance known as Measure EE so as to limit ability of a landlord to evict tenants to a list of reasons specified in the ordinance.

A copy of this ordinance is being provided to the undersigned as a customer service only. Any questions about the ordinance, including but not limited to its applicability to any given property, landlord or tenant, or any other questions regarding Oakland laws that impact landlord-tenant relationships should be directed to an attorney who is an expert on Oakland landlord-tenant law.

Realtors are not experts on landlord-tenant laws and thus will not provide any services or advice on this topic, including but not limited to noticing requirements and /or eviction procedures.

***The undersigned acknowledge receipt of a copy of this disclosure and the attached 15 pages of ordinance.***

Buyer: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer: \_\_\_\_\_

Date: \_\_\_\_\_

**REGULATIONS FOR THE JUST CAUSE FOR EVICTION ORDINANCE  
(MEASURE EE, CODIFIED IN THE OAKLAND MUNICIPAL CODE AT  
8.22.300, et seq.)**

**Introduction**

The following regulations address portions of the Just Cause for Eviction Ordinance ("Just Cause Ordinance"). Only those sections where the Housing, Residential Rent and Relocation Board ("Rent Board") adopted regulations are included. The numbering system follows the codified version of the Just Cause Ordinance. These Regulations were originally adopted in 2004 and include the 2007 Amendments.

8.22.350 Applicability. [Section 5]

**B. Health Facilities.**

1. Where a federal, state, county, or local license or permit is required in order to lawfully engage in the activity that qualifies for the exemption, the landlord must plead and prove that the facility is properly licensed.

**C. Substance Abuse Treatment Facilities.**

1. Where a federal, state, county, or local license or permit is required in order to lawfully engage in the activity that qualifies for the exemption, the landlord must plead and prove that the facility is properly licensed.

**D. Homeless Transitional Facilities.**

1. Where federal, state or local license or permit is required in order to lawfully engage in the activity that qualifies for the exemption, the landlord must plead and prove that the facility is properly licensed.

**H. New Construction Exemption.**

1. **Date to Qualify for Exemption.** The new construction exemptions under the Just Cause Ordinance and the Rent Adjustment Ordinance differ as the date after which units must be constructed for the units to qualify for the new construction exemption. For purposes of O.M.C. 8.22.350 H (exemption under the Just Cause Ordinance for newly constructed units), newly constructed rental units are residential rental units that have a certificate of occupancy as new construction issued after October 14, 1980 and are first offered for rent on or after that date. (The new construction exemption under the Rent Adjustment Ordinance is for units newly constructed and that received a certificate of occupancy on or after January 1, 1983 (O.M.C. 8.22.030 A5)).

2. The intent of this regulation is to conform the definitions of what constitutes new construction in the Just Cause Ordinance and the Rent Adjustment Ordinance for purposes of the new construction exemption. To qualify as a newly

constructed rental unit, the dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential.

- a. Newly constructed units include legal conversions of uninhabited spaces not used by tenants, such as:
  - i. Garages;
  - ii. Attics;
  - iii. Basements;
  - iv. Spaces that were formerly entirely commercial.
- b. Dwelling units not eligible for the new construction exemption include:
  - i. Live/work space where the work portion of the space was converted into a separate dwelling unit;
  - ii. Common area converted to a separate dwelling unit.

#### 8.22.360 Good Cause Required for Eviction.

A.2. a. A “material term of the tenancy” of the lease includes obligations that are implied by law into a residential tenancy or rental agreement and are an obligation of the tenant. Such obligations that are material terms of the tenancy include, but are not limited to:

- i. Nuisance. The obligation not to commit a nuisance. A nuisance, as used in these regulations, is any conduct that constitutes a nuisance under Code of Civil Procedure § 1161 (4). Provided that a termination of tenancy for any conduct that might be included under O.M.C. 8.22.360 A4 (causing substantial damage), A5 (disorderly conduct), or A6 (using premises for illegal purpose) and which also be considered a nuisance, can follow the requirements of those sections in lieu of this section (O.M.C 8.22.360 A2). Nuisance also includes conduct by the tenant occurring on the property that substantially interferes with the use and enjoyment of neighboring properties that rises to the level of a nuisance under Code of Civil Procedures § 1161 (4). [revised reg. 12/06/07]

- ii. Waste. The obligation not to commit waste, as the term waste may be applicable to a residential tenancy under California Code of Civil Procedure § 1161. Waste, as used in these regulations, is any conduct that constitutes waste under Code of Civil Procedure § 1161 (4). Provided that a termination of tenancy for any conduct that falls under O.M.C 8.22.360 A4 (causing substantial damage) and might also be considered waste can follow the requirements of that section in lieu of this section (O.M.C 8.22.360 A2). [revised reg. 12/06/07].

b. Repeated violations for nuisance, waste or dangerous conduct. [new reg. 12/06/07]

- i. Repeating the same nuisance, waste, or dangerous conduct within 12 months. The first time a tenant engages in conduct that constitutes nuisance, waste or is dangerous to persons or property within any 12 month period,

the landlord must give the tenant a warning notice to cease and not repeat the conduct. If the tenant repeats the same or substantially similar nuisance, waste or dangerous conduct within 12 months after the landlord served the prior notice to cease, the landlord need not serve a further notice to cease, but may give a notice pursuant to Code of Civil Procedure § 1161 for the repeated conduct.

ii. Repeating different nuisance or waste conduct within 24 months. The first two times a tenant engages in different conduct that constitutes waste or a nuisance that interferes with the right of quiet enjoyment of other tenants at the property, the landlord must give the tenant a warning notice to cease and not repeat the conduct. If within 24 months after the landlord served the first of the two notices to cease for the waste or nuisance conduct, the tenant again engages conduct that constitutes waste or a nuisance that interferes with the right of quiet enjoyment of other tenants at the property, the landlord need not serve a further notice to cease, but may give a notice pursuant to Code of Civil Procedure § 1161 for the third incident of waste or nuisance conduct. [new reg. 12/06/07]

c. By giving a tenant a notice that the tenant has violated a material term of tenancy, the landlord is not precluded from also noticing a possible eviction for the same conduct under a separate subsection of O.M.C. 8.22.360 so long as the notices are not contradictory or conflicting. [existing reg. renumbered]

Reg. 8.22.360A.4.

A notice that the tenant has willfully caused substantial damage must give the tenant at least 45 days after service of the notice to repair the damage or pay the landlord for the reasonable cost of repairing such damage. [new reg. 12/06/07]

Reg. 8.22.360A.5.

Destroying the peace and quiet of other tenants at the property is conduct that substantially interferes with the peace, quiet, and enjoyment of other tenants at the property. [new reg. 12/06/07]

Reg. 8.22.360A.6.

a. For purposes of Subparagraph O.M.C. 8.22.360 A.6 a person who illegally sells a controlled substance upon the premises or uses the premises to further that purpose is deemed to have committed the illegal act on the premises, in accordance with California Code of Civil Procedure § 1161(4).

b. Using the premises for an unlawful purpose is any conduct that constitutes using the premises for an unlawful purpose under Code of Civil Procedure § 1161 (4). [new reg. 12/06/07]

A.9.g. This regulation addresses a tenant's claim of "protected status" as elderly, disabled, or catastrophically ill pursuant to Section 8.22.360 A.9.e. and how it may be contested by a landlord.

i Statement With Supporting Evidence Of Protected Status. In order to present a claim for protected status, a tenant must give the landlord a statement claiming protected status along with evidence supporting the claim. The evidence must include a statement that the tenant has resided in the unit for more than five years. The supporting evidence must be of the tenant's age, or that the tenant has a disability that limits a major life activity, or that he or she has a catastrophic illness. If the tenant produces evidence of protected status sufficient to establish a facial claim of protected status, the landlord has the burden of producing evidence to contradict the tenant's evidence. Below are examples of types of evidence concerning protected status that may be used to present a claim that a tenant is entitled to protected status:

(a) Elderly status: driver's license, DMV identity card, birth certificate, or other document in which the age or date of birth must be submitted under oath.

(b) Disabled status: Evidence that a tenant has a disability that limits a major life activity may be in the form of a statement from a treating physician or other appropriate health care provider authorized to provide treatment, such as a psychologist. A tenant may also submit evidence of a medical determination from another forum, such as Social Security or workers' compensation, so long as it includes the fact of that the tenant has a disability and its probable duration.

(c) Catastrophically ill status. Evidence of disabled status plus a statement from the tenant's primary care physician or other appropriate health care provider that the tenant has a life threatening illness. The evidence need not provide any information on the nature of the disability or catastrophic illness.

ii. Jurisdiction Over Challenges to Protected Status. Courts have concurrent jurisdiction with the Rent Program over landlord challenges to a tenant's claim to protected status.

(a). Court. A tenant may defend against an eviction by claiming protected status claim where the landlord seeks recovery of the unit for occupancy by the owner or the landlord's eligible relative.

(b). Rent Program.

1. A landlord and a tenant may agree at any time to have the Rent Program address a tenant's claim for protected status. Either the landlord or the tenant may petition the Rent Program at any time to seek resolution of the claim for protected status, but the Rent Program will not assume jurisdiction over the petition unless the other party agrees to Rent Program jurisdiction.

2. A landlord who is selling a property may request that a tenant state whether the tenant will claim protected status if the landlord's successor seeks to evict the tenant for occupancy by the owner or the owner's close relative.

(a). The owner may make this request under the conditions and procedures:

- i. The building contains 6 or fewer rental units.
- ii. The building contains more than 6 rental units and the unit the tenant occupies is unique. Unique means that no more than 5 percent of the units in the building are similar in size, location, and/or amenities.
- iii. The landlord has an accepted offer from a purchaser and the offer is contingent upon the availability of a unit to owner-occupy.
- iv. The landlord makes the request to the tenant on a form provided by the Rent Program verifying the appropriate information under penalty of perjury.

(b) The tenant must respond within 15 calendar days of service of the request. A tenant who fails to respond within the 15 calendar days is deemed to have waived any claim of entitlement to protected status as of the last date the response was due.

iii. Rent Program Hearings Contesting Protected Status.

(a) Procedure. Rent Program hearings contesting a tenant's disability or catastrophic illness are conducted in accordance with the procedures set forth in Rent Adjustment Program Regulation 8.22.090. Rent Program staff may establish any additional specialized procedures necessary for hearings under this section.

(b) Confidential Nature of Hearings. Evidence of a tenant's disability or illness is deemed confidential. Hearings, records of hearings, and decisions (except for whether the tenant has protected status) based on disability, or catastrophic illness will not be open to the public. Records of the decision will not be considered public records for purposes of the California Public Records Act (Cal. Government Code § 6250, *et seq.*). The landlord or his/her representative, agent, or attorney may not release any evidence or records or information contained in such evidence or records pertaining to the tenant's disability or illness to a person other than the parties or their representatives for the hearing. Rent Program staff may adopt supplementary rules to conduct hearings so as to protect the medical privacy of tenants while permitting parties to obtain necessary evidence.

(c) Tenant's Burden. The tenant has the burden of proving protected status.

(d) Health Care Examination.

(1) Landlord's Request. If the landlord reasonably determines that in order to respond the tenant's evidence of disability or illness a medical examination is necessary, the landlord may request the Rent Program order the tenant to obtain the opinion of a second health care provider, designated or approved by the landlord, concerning any information on which the tenant bases her/his claim for protected status. The examination will be at the landlord's own expense.

(2) Independent Examination. The landlord and tenant may agree to have an independent examination conducted by a health care provider

agreed to by the parties or appointed by the Hearing Officer. The parties must agree that the results of the independent examination will be binding on the parties as to the tenant's status as disabled or catastrophically ill. The independent examination will be at the landlord's expense unless the parties agree otherwise.

(3) Limitation on Examination. Any health care examination under this subsection must be limited to the health related condition that the tenant claims is the basis for the disability or catastrophically ill status. The Hearing Officer may issue such orders or place such conditions on the examination as may be necessary to limit the examination to the tenant's condition at issue.

(4) Tenant Refusal to be Examined. At tenant's refusal to be examined at the landlord's request or to cooperate with such examination will defeat the tenant's claim of protected status, unless the tenant can prove her/his claim by clear and convincing evidence and the landlord's request for an examination is unreasonable.

iv. No Appeal to Rent Board for Disability or Catastrophically Ill Claims Unless Tenant Waives Privacy in Medical Records. Neither party may appeal the Hearing Officer's decision to the Rent Board unless the tenant is willing to waive any privacy or confidentiality to medical records or other confidential records pertaining to the tenant's disability or illness. Without such a waiver, a decision of the Hearing Officer is final as to the administrative processes of the City of Oakland and any party wishing to further contest the Hearing Officer's decision must seek judicial review.

v. Landlord or Landlord's Relative or Other Tenant for Claims Protected Status. A landlord may still evict a tenant with protected status where the landlord or the landlord's relative who will be occupying the unit has protected status, or where every other unit of the landlord is occupied by a tenant claiming protected status. In either of the aforementioned circumstances, any challenge to the landlord's right to evict a tenant with protected status would be addressed in an unlawful detainer or other court proceeding.

A.10 Eviction for Repairs. Petitioning to extend time for tenant vacancy.

a. Purpose. When a landlord seeks to recover possession of a unit to make repairs, the repairs must be completed in time to permit the tenant to reoccupy the unit after three months of vacancy. If more than three months of vacancy are required to complete the repairs, the landlord may petition the Rent Program to extend this time.

b. Additional Notice Requirements. In addition to the other requirements for the notice terminating tenancy in the Just Cause Ordinance or by state law, the landlord must include the following information in a prominent place on the front of the notice:

i. If the tenant wishes to return to the rental unit, the tenant must provide the landlord with a forwarding address and telephone number or other contact information. A tenant who fails to provide this information may not be entitled to return to the rental unit.



ii. Rent Program staff will issue a form notice for evictions brought pursuant to this Section.

c. Time for Petitioning.

i. When the landlord knows before the notice to terminate tenancy is served on the tenant that the repairs cannot be completed within the three-month period, the landlord must file the petition with the Rent Program and serve the tenant with a copy of the petition to extend time with or before the notice to terminate tenancy.

ii. When the landlord discovers, after serving the notice to terminate tenancy, that the work will require longer than 3 months, the landlord must file the petition within 15 days of first learning that the work will not be completed within 3 months.

d. Petition and response contents. Rent Program staff will issue form petitions and responses that will specify the required contents.

e. Priority. The nature and subject matter of the petition requires an expeditious decision on these petitions. The Rent Program will give priority to the hearing on the petition.

f. Tenant Response. To expedite the landlord's petition, no formal response from the tenant will be required until the hearing.

g. Conduct of Hearings. Rent Program hearings contesting the rent for an available vacant unit are conducted in accordance with the procedures set forth in Rent Adjustment Program Regulation 8.22.090.

h. Appeals. The hearing officer's decision may be appealed to the Rent Board within the time frame set forth in O.M.C. 8.22.120 and in accordance with Rent Adjustment Program Regulations. Rent Program staff may assign the appeal to a panel of the Board to expedite it.

i. Penalty. In addition to any other remedies a tenant may have, a landlord who fails to timely file a petition seeking an extension or unreasonably delays completing the repairs will forfeit one month of any rent increase based the repairs that necessitated the tenant's eviction for each month, or fraction thereof that the tenant's return is unreasonably delayed.

#### B.4. Notice to Cease Substantial Violation of Material Term of Tenancy.

a. The purpose of a "Notice to Cease" under O.M.C. 8.22.360 is to advise the tenant of specific conduct that, if repeated, not stopped, or not cured, may cause the tenant to be evicted.

b. A Notice to Cease must state:

i. The term of tenancy or Just Cause Ordinance that has been violated;

ii. With specificity the conduct that violates the term of the tenancy;

iii. The date(s) on which the conduct occurred, or if that date is not known to the landlord, the approximate date on which conduct occurred.

iv. If the conduct is repeated, not stopped, or not cured, that the landlord may initiate eviction proceedings against the tenant. If the violation can be cured, the date by which the violation must be cured or a notice of termination of

tenancy may be given. The tenant must be given a reasonable opportunity to cure the violation.

c. Service of Notice to Cease.

i. Service of the notice to cease may be accomplished by any means authorized by California Civil Code § 1946. California Civil Code §1946 permits service by any one of the following means, either:

(a) By delivering a copy to the tenant personally; or;

(b) If he or she is absent from his or her place of residence, and from his or her usual place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his or her place of residence; or;

(c) If such place of residence and business can not be ascertained, or a person of suitable age or discretion there can not be found, then by affixing a copy in a conspicuous place on the property, and also delivering a copy to a person there residing, if such person can be found; and also sending a copy through the mail addressed to the tenant at the place where the property is situated. Service upon a subtenant may be made in the same manner; or

(d) By sending a copy by certified or registered mail addressed to the other party.

d. Effective Date of Notice to Cease.

i. A Notice to Cease is effective upon receipt if:

(a) The notice is personally delivered to the tenant;

(b) The notice is affixed to the property and a copy is personally delivered to a person residing there.

ii. A Notice to Cease is effective 5 days after the Notice is placed in the mails if:

(a) The notice is left with a person residing in the unit and mailed;

(b) The notice is delivered by certified or registered mail.

e. Notice to Terminate Tenancy. If the conduct described in the notice is repeated, not stopped, or not cured within the cure period, the Landlord may serve a notice pursuant to California Code of Civil Procedure § 1161.

f. Further Interpretation. The notice to cease required by this section is similar to provisions addressing notices of default found in commercial leases. These provisions in commercial leases give the tenant an opportunity to cure a default prior to being served with a notice to cure or quit or to terminate tenancy pursuant to California Code of Civil Procedure § 1161. Landlords and tenants may look to case law interpreting such provisions in commercial leases for further guidance on addressing issues that may arise under this section.

g. A Notice to Cease pursuant to Sections 8.22.360A 2, 4, 5 and 7 must give the tenant at least 7 days after service to cure the violation. If the violation presents an immediate and substantial danger to persons or the property the landlord may give the tenant a notice that the violation must be corrected within 24 hours after service of the notice. [new reg. 12/06/07]

h. Appendix A provides forms of notices to cease that are the preferred forms that landlords may use where notices to cease are required by Section 8.22.360. Nothing herein precludes the use of a different notice to cease form, so

long as it provides the information required by law. [new reg. 12/06/07]

B.6.b. This regulation sets out the preferred language landlords must insert into notices terminating tenancy or notices to cure or quit regarding advice from the Rent Program. As preferred language, the language used in this regulation is “safe harbor” language that, if used by a landlord in applicable notices, cannot be challenged by the tenant as being not in compliance with the O.M.C. 8.22.360 B.6.b. Other language imparting the same information may also be acceptable.

i. The following statement must be included in notices terminating tenancy or notices to cure or quit regarding advice from the Rent Program. “Information regarding evictions is available from the City of Oakland’s Rent Program. Parties seeking legal advice concerning evictions should consult with an attorney. The Rent Program is located at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612, (510) 238-3501, website: [www.oaklandnet.com](http://www.oaklandnet.com). (as of January 2004)”

C.1. Determining Rent for a Replacement Unit. The Just Cause for Eviction Ordinance requires a landlord to offer a replacement unit (if one is vacant) to a tenant being evicted for occupancy by the owner or the owner’s relative (O.M.C. 8.22.360 A.9.), or for the rehabilitation of the tenant’s unit (O.M.C. 8.22.360 A.10). This regulation addresses how to set the rent for the replacement unit in the event the landlord and tenant are not able to agree on the rent.

a. When the Rent Program Can Determine Rent For The Replacement Unit. The Rent Program can determine the amount of the rent for the vacant unit when the unit is not subject to vacancy decontrol under the Costa-Hawkins Rental Housing Act (California Civil Code § 1954.50, *et seq.*) or is exempt from the Rent Adjustment Ordinance by the ordinance itself or by or Costa-Hawkins. If the landlord contends that the replacement unit was vacancy decontrolled under Costa-Hawkins or is exempt, the landlord must produce the evidence showing that the replacement unit is vacancy decontrolled or exempt. The tenant may then contest the landlord’s evidence.

b. Landlord Offering Tenant Replacement Unit. A landlord seeking to evict a tenant for owner/relative occupancy or rehabilitation of the tenant’s unit must give the tenant a notice of any units that are or will become available prior to the tenant vacating the tenant’s unit. If no vacant units are available the landlord must provide written notice so stating. The notice must include the following:

i. The date the replacement unit will be vacant and available for occupancy;

ii. The landlord’s proposed rent for the replacement unit.

iii. The location and size of the replacement unit.

iv. Whether the replacement unit is vacancy decontrolled or exempt.

c. Notice to Tenant of Available Vacant Unit. This notice must be served on the tenant:

i. At the time of giving the notice to terminate tenancy if the

unit is vacant or the landlord anticipates that it will become vacant prior to the tenant's vacating.

ii. Within 5 days of the landlord's knowledge that a unit may be vacated.

d. Inspection of Vacant Units. The landlord must make reasonable efforts to make any vacant units available for inspection by the tenant.

e. Criteria for Setting Rent for Replacement Unit. If the landlord does not prove the vacant unit is vacancy decontrolled or exempt, then the rent for the replacement unit will be set according to the following criteria:

i. Rent for the tenant's current unit.

ii. The condition of the tenant's unit versus the replacement unit.

iii. The size and number and types of rooms.

iv. Other amenities, such as view, floor, location, furnishings.

f. Petitions For Determining Rent For Replacement Unit.

i. Petitioning. A tenant being evicted for occupancy by the landlord or the landlord's relative, or for major repair of the unit may contest a landlord's proposed rent for a replacement unit (including a determination of the exempt or vacancy decontrol status of the replacement unit), by filing a petition on a form prescribed by the Rent Adjustment Program.

ii. Time for Petitioning. The tenant may file the petition prior to occupying the replacement unit, but must file the petition not later than 60 days after the tenant first starts to occupy the available vacant unit.

iii. Priority. The Rent Program will make efforts to prioritize the hearing on the petition.

iv. Landlord Response. To expedite the tenant's petition, no formal response from the landlord will be required until the hearing.

v. Conduct of Hearings. Rent Program hearings contesting the rent for an available vacant unit are conducted in accordance with the procedures set forth in Rent Adjustment Program Regulation 8.22.090.

vi. Appeals. The hearing officer's decision may be appealed to the Rent Board within the time frame set forth in O.M.C. 8.22.120 and in accordance with Rent Adjustment Program Regulations. Rent Program staff may assign the appeal to a panel of the Board to expedite it.

#### O.M.C. 8.22.370 Remedies. [Section 7]

##### A. Remedies for violation of eviction controls.

1. This regulation addresses the standard that a tenant who prevails in an unlawful detainer action must meet in order to recover against the landlord who brought the unlawful detainer action. In order to recover actual damages against the landlord, the tenant must show that the landlord did not have a reasonable basis for bringing the unlawful detainer action. A landlord lacks a reasonable basis for bringing an unlawful detainer when the landlord's dominant motive for bringing the eviction was not the stated reason for bringing the eviction or the landlord lacked good faith in bringing the unlawful detainer. See O.M.C. 8.22.350 B2. The mere

fact that the landlord did not prevail is not sufficient for recovery of damages. In order to recover punitive damages in such an action, the tenant must prove, in accordance with California Civil Code § 3294 “by clear and convincing evidence that the [landlord] has been guilty of oppression, fraud, or malice.”

2. This regulation addresses the liability standards when someone assists a landlord who wrongfully endeavors to recover possession or recovers possession of a rental unit covered by the Just Cause Ordinance. For liability to attach to a person assisting a landlord acting wrongfully, the person knew or, with the exercise of reasonable diligence, should have known that the landlord’s conduct was wrongful.

3. This regulation addresses the circumstance where a landlord pursues an eviction based on a notice from the City of Oakland informing the landlord that the tenant is alleged to be engaging in, permitting, or using the premises to further certain illegal activities. When a landlord pursues evicting a tenant based on such a notice from the City, the landlord is deemed to be acting in good faith in bringing the eviction action and is not engaged in wrongful conduct except under the following circumstances:

a. The Owner knew or should have known that that there was contrary or exculpatory evidence tending to show that the City’s evidence is not sufficient to warrant the Tenant’s eviction;

b. The City did not consider the additional evidence prior to issuing its notice to the Owner; and

c. The Owner did not seek reconsideration of the City’s issuing the notice for the Tenant’s eviction pursuant to O.M.C 8.23.100 F.2.e.ii based on the additional evidence.

4. This regulation addresses the circumstance where a landlord brings an unlawful detainer to recover possession for owner/relative occupancy and the tenant defends the eviction based on protected status under O.M.C. 8.22.360 A.9. The landlord’s conduct in bringing the unlawful detainer is deemed to be acting in good faith in bringing the eviction action and is not engaged in wrongful conduct under the following circumstances:

a. The tenant had not previously given a notice claiming protected status sufficiently in advance of the landlord’s serving the tenant with the unlawful detainer complaint for the landlord to have contested the tenant’s protect status claim with the Rent Program.

b. The tenant claims protected status as a defense to the unlawful detainer;

c. The landlord contests the tenant’s protected status claim reasonably and in good faith;

d. The landlord fails to dismiss the case within a reasonable time after the landlord has had the opportunity for full discovery of the facts concerning the tenant’s protected status claim and the tenant’s protected status claim is supported by clear and convincing evidence.

Reg. 8.22.380 Non-Waiverability.

Nothing in the Ordinance is intended to prevent or interfere with parties

entering into knowing, voluntary agreements for valuable consideration to settle disputes regarding possession of rental units. Any provision in a rental agreement or any amendment thereto which waives or modifies any provision of the Ordinance is contrary to public policy and void. [new reg. 12/06/07]

## Appendix A

**Notice to Cease  
(Oakland Municipal Code § 8.22.300, et seq.)**

TO [Tenants and all others in possession] at [address of rental unit]:

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**NOTICE TO CEASE**

Pursuant to the Just Cause for Eviction Ordinance (OMC §8.22.300) you are hereby notified that you are substantially violating the following material term(s) of your tenancy:

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(attach additional sheets, if needed)

Specifically, you are engaging in the following conduct [include date and time, if known]:

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(attach additional sheets, if needed)

Please take notice that you must correct the violation within 7 days of service of this letter. If you were personally given this notice, then you have 7 days after the date you were given the notice to correct the violation. If the notice was mailed, you have 12 days from the date of mailing to correct the violation. Should you fail to correct the violation within this time period, your landlord may bring an eviction action against you.

Copies of the Just Cause for Eviction Ordinance (O.M.C. §8.22.300) and implementing regulations, information on mediation services, lists of eviction counseling agencies, and legal services providers are available by contacting Oakland's Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Fifth Floor, Oakland, CA 94612. Telephone: (510) 238-3721

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
**LANDLORD/LANDLORD'S AGENT**







**CITY OF OAKLAND**  
**RENT ADJUSTMENT PROGRAM**  
250 Frank H. Ogawa Plaza, Suite 5313  
Oakland, CA 94612-0243

TEL (510) 238-3721  
FAX (510) 238-6181  
TDD (510) 238-3254

### Owner's Pre-Move Out Disclosure Certification Form

The owner must provide this form to the Rent Adjustment Program prior to commencing Move Out Negotiations.

<b>Owner's Name</b>	<b>Telephone</b>
<b>Owner's Mailing Address</b>	<b>E-mail</b>

- (a) The owner intends to enter into Move Out Negotiations to recover possession of the rental unit located at:

Oakland, CA			
Street Number	Street Name	Unit Number	Zip Code

- (b) A list of all dates on which the Owner initiated other Move Out Negotiations with any current or prior Tenants at the property and the Rental Units occupied by each Tenant, completed to the best of the Owner's recollection and knowledge.

Date of Move Out Negotiation	Unit Number

I certify that I have provided each Tenant with the disclosure form required by the Tenant Move Out Agreement Ordinance.

Owner's Name And Owner's Representative, if Applicable	Date the owner provided tenant with the disclosure form
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Owner's or Representative's Signature



## **Pre-Move Out Negotiations Disclosure Form Required by Tenant Move Out Agreement Ordinance**

The Oakland City Council passed the Tenant Move Out Agreement Ordinance (TMOO, O.M.C. 8.22.700 et seq.), effective May 1, 2018, which provides that owners must do the following if they wish to offer a tenant compensation to vacate their rental unit:

- The owner must file a Pre-Move Out Disclosure Certification Form with the Rent Adjustment Program prior to entering into Move Out Negotiations.
- The owner must give this Disclosure Notice to the tenant prior to entering into Move Out Negotiations. The owner must also file the executed Move Out Agreement with the Rent Adjustment Program within 45 days of the tenant and landlord signing the Move Out Agreement.

Under the Tenant Move Out Agreement Ordinance, a tenant has the following rights when considering a Move Out Agreement:

- **The right to not accept** - A tenant is not required to enter into a Move Out Agreement or engage in Move Out Negotiations, and the landlord may not retaliate against a tenant for not accepting the offer. Offering payments to a tenant to vacate more than once in six (6) months after the tenant has notified the owner in writing that the tenant refuses to enter into a Move Out Agreement or engage in Move Out Negotiations constitutes harassment under the Tenant Protection Ordinance (O.M.C. 8.22.600, et seq.)
- **The right to consult an attorney** - A tenant has the right to consult an attorney before entering into a Move Out Agreement or engaging in Move Out Negotiations.
- **The right to rescind** - A tenant may rescind the Move Out Agreement at any time during the twenty-five (25) days after the agreement has been signed by both the landlord and tenant, unless the parties agree in writing to a shorter period of no less than fifteen (15) days. During this period, the tenant may rescind the Agreement as long as the tenant has not moved out, and the decision to rescind is unanimous among the tenants who are parties to the Move Out Agreement.
- **Extended right to rescind if the Move Out Agreement does not comply with the Ordinance** - A Move Out Agreement can be rescinded within six months if it does not meet the specifications required under the Ordinance.



## **Additional Information**

**Relocation amounts for 2017-2018:** The Uniform Relocation Ordinance requires owners to provide tenants displaced by code compliance activities, owner or relative move-ins, the Ellis Act, and condominium conversions with relocation payments. The payment amount depends on the size of the unit and adjusts for inflation annually on July 1st. The base payment amounts until June 30, 2018 are:

- \$6,649.50 per studio/one bedroom unit
- \$8,184.00 per two bedroom unit
- \$10,102.13 per three or more bedroom unit

Tenant households in rental units that include lower income, elderly or disabled tenants, and/or minor children are entitled to a single additional relocation payment of two thousand five hundred dollars (\$2,500) per unit from the owner.

**Right to return:** Tenants have an option or right to return to their Rental Unit after certain no-fault evictions, such as code compliance evictions after the repairs are completed or Ellis evictions if the units are re-rented. Waiver of these rights, if applicable, may make a Move Out Agreement more valuable.

**Market rents may be much higher:** Market rate rents in the area may be significantly higher than your current rent and that you may wish to check rents for comparable rental units before entering into a Move Out Agreement, particularly a Move Out Agreement that waives any options or rights to return to the rental unit that you may have.

**Payments may be taxable:** Payments pursuant to a Move Out Agreement may be subject to federal and/or state taxation. You should consult taxing authorities or a tax professional for more information or advice on taxability.

**Public records:** Move Out Agreements and documents related to Move Out Agreements that are submitted to the City may be public, but the City may redact personal information to the extent possible consistent with Oakland, state, and federal public records laws or policies. Parties to a potential Move Out Agreement should be advised that information a party believes to be private may be subject to public disclosure.

**For additional assistance:** You may find information regarding tenants' rights and contact information for tenants' assistance organizations at the City's Rent Adjustment Program office or on the Rent Adjustment Program website at <http://rapwp.oaklandnet.com>.



**CITY OF OAKLAND**  
**RENT ADJUSTMENT PROGRAM**  
250 Frank H. Ogawa Plaza, Suite 5313  
Oakland, CA 94612-0243

TEL (510) 238-3721  
FAX (510) 238-6181  
TDD (510) 238-3254

**The following people will be conducting Move Out Negotiations on behalf of the owner. (If the owner is an entity, provide the names of all people within that entity who will be conducting the Move Out Negotiations.)**

1.	2.
Print Name	Print Name
3.	4.
Print Name	Print Name

**Each tenant must sign this three-page Pre-Move Out Negotiations Disclosure Form below and write the date the owner provided the tenant with the disclosure form as required by TMOO. The owner must also sign and write the date the owner provided the tenant with the disclosure form as required by TMOO. The owner is not required to file a copy of the Disclosure Form with the Rent Adjustment Program. The owner is required to retain a copy of each signed Disclosure Form for five years.**

Tenant's Name	Owner's Name
Tenant's Signature	Owner's Signature
Date the owner provided tenant with the disclosure form (Tenant)	Date the owner provided tenant with the disclosure form (Owner)

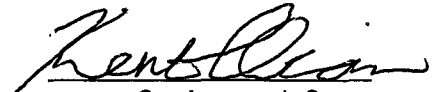
**For elderly, disabled, or catastrophically ill tenants. Owners who fail to comply with the requirements of Oakland's Tenant Move Out Agreement Ordinance (O.M.C. 8.22.700, et seq.) may be subject to more significant penalties if the tenant is elderly, disabled, or catastrophically ill. As defined in the Ordinance, elderly tenants are sixty (60) years of age or older. Tenants are disabled if they are disabled under Section 12926 of the California Government Code. Tenants are catastrophically ill if they are both disabled under Section 12926 of the California Government Code and suffering from a life threatening illness, as certified by their primary care physician. Do you believe that you are elderly, disabled, or catastrophically ill as those terms are defined above? (initial next to the appropriate line)**

Yes \_\_\_\_\_ No \_\_\_\_\_ I don't know \_\_\_\_\_ Prefer not to say \_\_\_\_\_

18 MAR 15 PM 12:01

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY CITY ATTORNEY PARKER, COUNCILMEMBERS GUILLÉN AND KALB



CITY ATTORNEY'S OFFICE  
REVISED MAR. 15, 2018

SECOND REVISED

OAKLAND CITY COUNCIL

13479

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

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**AN ORDINANCE ADDING A NEW ARTICLE TO O.M.C. CHAPTER 8.22 TO (1) REGULATE TENANT MOVE OUT AGREEMENTS AND NEGOTIATIONS; (2) CREATE DISCLOSURE AND REPORTING REQUIREMENTS FOR SUCH AGREEMENTS AND NEGOTIATIONS, AND (3) PROVIDE REMEDIES FOR VIOLATIONS**

**WHEREAS**, the increased demand for rental housing in Oakland has caused rents to skyrocket, destabilizing Oakland's rental housing market and triggering an affordable housing crisis; and

**WHEREAS**, Oakland's rental housing costs were the fifth highest in the nation in August 2016, with median rental prices of \$2,210 per month for a one-bedroom unit (up 39.6% over the past three years) and \$2,730 per month for a two-bedroom unit (up 60.5% over the past three years) (Zumper National Rent Report: August 2016); and

**WHEREAS**, the majority of Oakland's residents are renters, many of whom live in rent-controlled units or units covered under Oakland's Just Cause for Eviction Ordinance; and

**WHEREAS**, the widening gap between prices for market value rental housing and rent-controlled units increasingly incentivizes property owners to deploy abusive tactics against tenants of rent-controlled units to force them to move; and

**WHEREAS**, property owners are incentivized to use similar tactics to encourage tenants of units covered under Oakland's Just Cause for Eviction Ordinance to move; and

**WHEREAS**, property owners may negotiate move out agreements to circumvent state and local legal requirements and restrictions for no-fault evictions, including payment of relocation assistance, limitations on re-renting the unit, and reporting requirements. Oakland's recent amendments to its Ellis Act Ordinance and its Relocation Ordinance, which expanded eligibility for relocation payments and increased the amount property owners must pay, will only make move out agreements a more appealing option for property owners seeking to remove tenants; and

**WHEREAS**, cash move out agreements for thousands of dollars can prove cost-effective for property owners, who can recoup their investment by selling the building for a greater return with vacant units or re-renting the units at market rate; and

**WHEREAS**, many move out negotiations are conducted under circumstances where there are significant bargaining power disparities between property owners and tenants. This makes tenants vulnerable to property owners who resort to intimidation or manipulation to persuade tenants to accept move out offers that deprive them of the full extent of their legal rights to return to the unit or are in amounts below the minimum relocation benefits to which tenants may be entitled; and

**WHEREAS**, many Oakland residents are not able to afford suitable housing in their neighborhoods or communities after they accept move out offers (A Roadmap Towards Equity: Housing Solutions for Oakland, California: September 2015); and

**WHEREAS**, elderly, disabled, and catastrophically ill tenants can be particularly susceptible to property owners' high-pressure tactics and face more significant barriers in securing new housing; and

**WHEREAS**, with the exception of certain provisions of the Tenant Protection Ordinance (O.M.C. 8.22.600 et seq.), move out negotiations and agreements are not subject to regulation in Oakland. In the absence of data collection concerning the frequency, location, and terms of move out agreements, the City is not able to accurately assess their impact on tenant displacement in certain communities and on the local housing market as a whole; and

**WHEREAS**, the City Council of Oakland regards tenant displacement as one of the most significant challenges facing the City and is dedicated to pursuing policies that promote housing security for inhabitants of all income levels and preserve the integrity and character of the Oakland community; and

**WHEREAS**, in light of the increased housing pressures placed on low- and middle-income residents, the City Council finds that reasonable regulation of aspects of the property owner-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 general welfare of the public; and

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

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

**SECTION 1. Addition of Article VII to Chapter 8.22 of the Oakland Municipal Code.** That the City Council hereby adopts the addition of Section 8.22.700 et. seq. as Article VII of Chapter 8.22 of the Oakland Municipal Code, as follows.

**Article VII – Tenant Move Out Agreement Ordinance**

**8.22.700 Findings and Purpose**

- A. This Ordinance shall be known as the "Tenant Move Out Agreement Ordinance."
- B. The majority of Oakland's residents are renters, many of whom live in rent-controlled units or units covered by Oakland's Just Cause for Eviction Ordinance.
- C. The City of Oakland is dedicated to pursuing policies that protect its most vulnerable residents and promote housing security for inhabitants of all income levels.
- D. Oakland's affordable housing crisis has exacerbated bargaining power disparities between property owners and tenants, contributing to a dynamic whereby tenants may enter into move out agreements without full knowledge or understanding of their legal rights.
- E. The City Council finds that reasonable regulation of aspects of the property owner-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 general welfare of the public.
- F. The main purposes of this Ordinance are to improve the fairness and transparency of move out negotiations and move out agreements, to ensure that tenants who enter into move out negotiations or move out agreements are aware of their rights, to prevent property owners from contracting around the legal rights and



remedies available to tenants under existing law, and to equip the City with useful tools for monitoring the impacts of move out agreements on Oakland's residents and housing market.

## **8.22.710 Definitions**

"Catastrophically Ill" has the same meaning as in O.M.C. 8.22.360 A.9.e.ii.

"City Administrator" means the Oakland City Administrator or their designee.

"City Attorney" means the Oakland City Attorney or their designee.

"Disabled" has the same meaning as in O.M.C. 8.22.360 A.9.e.i.b.

"Elderly" means sixty (60) years of age or older.

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

"Move Out Agreement" means a written agreement wherein the Owner pays the Tenant money or other consideration to vacate a Rental Unit. An agreement to settle an unlawful detainer action filed in Alameda County Superior Court shall not be a "Move Out Agreement" for purposes of this Ordinance.

"Move Out Negotiations" means any discussion or bargaining, whether oral or written, between a Tenant and an Owner regarding the possibility of entering into a Move Out Agreement. A Move Out Negotiation begins upon the Owner's initiation of such discussion or bargaining and ends at the earliest of the following events: when a Move Out Agreement is executed, when the Tenant vacates their unit, when the Tenant expresses to the Owner that the Tenant no longer wishes to engage in Move Out Negotiations, or when the Owner provides written notice to the Tenant that the Owner no longer wishes to engage in Move Out Negotiations. A counteroffer by the Tenant does not end a Move Out Negotiation.

~~"New Occupant" means a Tenant who has signed an enforceable rental agreement for a Rental Unit, paid a security deposit for the unit, and given their current landlord notice of their intent to vacate their current Rental Unit (if applicable). "New Occupant" may also refer to the Owner or the Owner's qualifying relative under 8.22.360 A.9, provided that they have incurred expenses or given notice to a current landlord in reasonable reliance on the Move Out Agreement.~~

"Owner" has the same meaning as "Landlord" in O.M.C. 8.22.340.

"Rent Adjustment Program" has the same meaning as in O.M.C. 8.22.020.

"Rent Board" has the same meaning as "Board" in O.M.C. 8.22.020.

"Rental Unit" as used in this Ordinance includes a "Rental Unit" as defined in O.M.C. 8.22.340 or a "Covered Unit" as defined in O.M.C. 8.22.020.

"Tenant" has the same meaning as in O.M.C. 8.22.340.

"Tenant Protection Ordinance" means the ordinance codified at O.M.C. 8.22.600 (O.M.C. Chapter 8.22, Article V).

### **8.22.720      Applicability**

This Ordinance shall apply to all Rental Units, except Rental Units that are owned or operated by a public entity (e.g., the City of Oakland, the Redevelopment Agency of the City of Oakland, and the Oakland Housing Authority).

### **8.22.730      Pre-Negotiation Disclosures and Notifications**

A. Prior to commencing Move Out Negotiations for a Rental Unit, an Owner shall provide each Tenant in that Rental Unit with a written disclosure on a form prescribed by the City, which shall include, but is not limited to, the following:

1. A statement that the Tenant has a right to refuse to enter into a Move Out Agreement or engage in Move Out Negotiations;
2. A statement that the Owner may not retaliate against the Tenant for refusing to enter into a Move Out Agreement or engage in Move Out Negotiations;
3. A statement that the Tenant may choose to consult with an attorney before entering into a Move Out Agreement or engaging in Move Out Negotiations;
4. A statement that offering payments to a Tenant to vacate more than once in six (6) months after the Tenant has notified the Owner in writing that the Tenant refuses to enter into a Move Out Agreement or engage in Move Out Negotiations constitutes harassment under the Tenant Protection Ordinance (O.M.C. 8.22.600, et seq.);
5. A statement that the Tenant may rescind the Move Out Agreement for up to thirty (30) twenty-five (25) days after it is fully executed by all parties, unless the parties agree in writing to a shorter rescission period of not less than fifteen

~~(15) days, provided that the Tenant has not moved out, and a New Occupant does not already have rights to the occupy the Rental Unit, and the decision to rescind is unanimous among the Tenants who are parties to the Move Out Agreement;~~

6. General eligibility for relocation payments and the amounts Tenants may be entitled to;

7. A statement that the Tenant may find information regarding tenants' rights and contact information for tenants' assistance organizations at the City's Rent Adjustment Program office or on the Rent Adjustment Program website, as well information regarding the City's other relevant online resources;

8. A description of when Tenants have an option or right to return to their Rental Unit under state or local law and an explanation that waiver of these rights, if applicable, may make a Move Out Agreement more valuable;

9. A statement that market rate rents in the area may be significantly higher than the Tenant's current rent and that the Tenant may wish to check rents for comparable Rental Units before entering into a Move Out Agreement, particularly a Move Out Agreement that waives any options or rights to return to the Rental Unit that the Tenant may have;

10. A statement that payments pursuant to a Move Out Agreement may be subject to federal and/or state taxation and that the Tenant should consult taxing authorities or a tax professional for more information or advice on taxability;

11. A statement that Move Out Agreements and documents related to Move Out Agreements that are submitted to the City may be public, but that the City may redact personal information to the extent possible consistent with Oakland, state, and federal public records laws or policies. Parties to a potential Move Out Agreement should be advised that information a party believes to be private may be subject to public disclosure;

12. The names of all people authorized to conduct Move Out Negotiations and enter into Move Out Agreements on the Owner's behalf;

13. Any other information required by the Rent Adjustment Program consistent with the purposes and provisions of this Section;

14. The following statements and question in bold letters with a space for the Tenant to affix their initials next to each possible answer:

"Owners who fail to comply with the requirements of Oakland's Tenant Move Out Agreement Ordinance (O.M.C. 8.22.700, et seq.) may be subject to more significant penalties if the tenant is elderly, disabled, or catastrophically ill. As defined in the Ordinance, elderly tenants are sixty (60) years of age or older. Tenants are disabled if they are disabled under Section 12926 of the California Government Code. Tenants are catastrophically ill if they are both disabled under Section 12926 of the California Government Code and suffering from a life-threatening illness, as certified by their primary care physician. Do you believe that you are elderly, disabled, or catastrophically ill as those terms are defined above? Yes \_\_\_\_\_ No \_\_\_\_\_ I don't know \_\_\_\_\_ I prefer not to say \_\_\_\_\_."

15. A space for the Owner to sign and write the date on which the Owner provided the Tenant with the disclosure form; and

16. A space for each Tenant to sign and write the date on which they received the disclosure form.

B. The Owner shall provide the Tenant with a fully executed copy of the disclosure form, or a copy of the disclosure form executed by the Owner, within three days of execution.

C. The Owner shall retain at least one copy of each executed disclosure form, or the disclosure form executed by the Owner along with a proof of service to the Tenant, for five (5) years after the date on which the Tenant executes the form or the Owner serves the form. The Owner shall maintain a record of the date(s) on which the Owner provided the disclosure form to each Tenant.

D. Prior to commencing Move Out Negotiations for a Rental Unit, the Owner shall provide the following information to the Rent Adjustment Program, on a form prescribed by the Rent Adjustment Program and signed by the Owner under penalty of perjury:

1. The Owner's name, business address, business email address, business telephone number, and authorized agent, if applicable;

2. The address of the Rental Unit that may be the subject of Move Out Negotiations;

3. A list of all dates on which the Owner initiated other Move Out Negotiations with any current or prior Tenants at the property and the Rental Units occupied by each Tenant, completed to the best of the Owner's recollection and knowledge; and

4. A statement that the Owner provided each Tenant with the disclosure form required under this Section.
- E. The City may make the information included on this form publically available, except that the City may redact information from the forms, including personal information, to the extent such redaction is consistent with Oakland, state, or federal laws or policy addressing disclosure of documents or information within the City's possession or control. The City does not warrant that information any party to the Move Out Negotiation or Agreement believes to be private will not be released.
- F. The Owner and the Tenant may agree on the means of communicating and the service of notices pursuant to this Chapter.

#### **8.22.740 Requirements for Move Out Agreements**

- A. Every Move Out Agreement shall be in writing.
1. If the Tenant is proficient in Spanish or Chinese and is not proficient in English, the Owner shall make a copy of the Move Out Agreement available in the Tenant's language of proficiency. If the Owner negotiated the terms of the rental agreement in a non-English language, the Owner shall make a copy of the Move Out Agreement available in that language. The Owner shall provide the Tenant with the non-English copy of the agreement at the same time that the Move Out Agreement is presented to the Tenant.
  2. Immediately after the parties execute the Move Out Agreement, the Owner shall give each Tenant a copy of the fully executed agreement to retain for the Tenant's records. The Owner will provide and retain a proof of service of the executed Move Out Agreement.
- B. Every Move Out Agreement shall include the following statements in a size equal to or at least fourteen (14) point type in close proximity to the space reserved for the signature of the Tenant(s):
1. "You, the tenant, may cancel this agreement in writing at any time up to and including the ~~thirtieth (30th)~~ twenty-fifth (25th) day after all parties have signed this agreement, unless the parties you, any other tenants who signed the agreement, and your landlord agree in writing to a shorter rescission period of not less than fifteen (15) days. However, rescission is not effective if -provided that you have not moved out and a New Occupant does not have rights to occupy the Rental Unit. A New Occupant is a tenant who has signed an enforceable rental agreement for the Rental Unit, paid a security deposit for the unit, and

~~given their current landlord notice of their intent to vacate their current rental unit (if applicable). The Owner, or their qualifying relative under O.M.C. 8.22.360 A.9, may also be considered a New Occupant, provided that they have incurred expenses or given notice to their current Owner in reasonable reliance on the Move Out Agreement. To cancel this agreement, send notification of your intent to rescind to the Owner by any means through which you have agreed to communicate. If you have not agreed to a particular mode of communication, either personally serve the Owner with the notice or send the notice by registered and first class mail to the last known address of the property owner. If the document is returned undelivered, use reasonable means to notify the Owner of the rescission."~~

2. "You have a right not to enter into a Move Out Agreement."

3. "If you are entitled to relocation payments under federal, state, or local law, a Move Out Agreement for less than the amount of the relocation payments to which you are entitled violates Oakland's Tenant Move Out Agreement Ordinance (O.M.C. 8.22.700 et seq.) and is voidable by you."

4. "You may choose to consult with an attorney and/or a tenants' rights organization before signing this agreement."

5. "Owners who fail to comply with the requirements of Oakland's Tenant Move Out Agreement Ordinance (O.M.C. 8.22.700, et seq.) may be subject to more significant penalties if the tenant is elderly, disabled, or catastrophically ill. As defined in the Ordinance, elderly tenants are sixty (60) years of age or older. Tenants are disabled if they are disabled under Section 12926 of the California Government Code. Tenants are catastrophically ill if they are both disabled under Section 12926 of the California Government Code and suffering from a life-threatening illness, as certified by their primary care physician. Do you believe that you are elderly, disabled, or catastrophically ill as those terms are defined above? Yes \_\_\_\_\_ No \_\_\_\_\_ I don't know \_\_\_\_\_ I prefer not to say \_\_\_\_\_."

6. "Owners who recover possession of a rental unit pursuant to Sections 8.22.360 A.8 (owner move-back), A.9 (owner or relative occupancy), A.10 (repairs), and A.11 (taking the property off the rental market) of the Oakland Municipal Code must comply with certain requirements. In the 180 days preceding execution of this agreement, did you (the owner), or any of your agents or representatives either a) issue a notice terminating tenancy to any of the tenants who are parties to this agreement or b) otherwise communicate orally or in writing to any of those tenants that you intended to recover possession of

the unit under any of these O.M.C. Sections? Yes \_\_\_\_\_ No \_\_\_\_\_. If so, which section? \_\_\_\_\_."

Immediately after Items 1-4, there shall be a line for each Tenant to affix their initials. The question listed as Item 5 shall appear in the Move Out Agreement once for each Tenant who is a party to the Move Out Agreement. A space for the Tenant to affix their initials shall be provided next to the question. The question listed as Item 6 shall be answered by the Owner under penalty of perjury.

C. Move Out Agreements must be for greater than the amount of the relocation payments to which the Tenant may be entitled under Oakland, state, or federal law. Move Out Agreements for less than the amount to which the Tenant is entitled in relocation payments are in violation of this Ordinance and can be regarded by the Tenant as non-compliant Move Out Agreements.

#### **8.22.750 Rescission of Move Out Agreements**

A. Rescission by Right. A Tenant shall have the right to rescind a Move Out Agreement for up to twenty-five (25) ~~thirty (30)~~ days after its execution by all parties, unless the parties agree in writing to a shorter rescission period of not less than fifteen (15) days, subject to the requirements in subsection C and D below. In order to rescind a Move Out Agreement under this Section, the Tenant(s) must notify the Owner that the Tenant(s) intend(s) to rescind the Move Out Agreement. If the Tenant(s) choose(s) to place the statement in the mail, it must be postmarked or otherwise served by the ~~thirtieth (30th) day after execution of the Move Out Agreement~~ rescission deadline to be effective.

B. Rescission of Non-Compliant Move Out Agreement.

1. A Move Out Agreement that does not satisfy all of the requirements of this Ordinance, including containing any required signatures or initials by the parties, may be rescinded by the Tenant within six (6) months of its execution, subject to the requirements of subsection C and D below. In any communication to the Owner rescinding a non-compliant Move Out Agreement, the Tenant must specifically set out the reasons why the Tenant believes the Move Out Agreement is non-compliant.

2. Within five (5) days of receiving a rescission notice, the Owner must either offer the unit back to the Tenant or respond with reasons why the Move Out Agreement may not be rescinded.

3. A Tenant who rescinds a Move Out Agreement because it is non-compliant and is unable to move back into the unit may seek other remedies against the Owner.

C. In order to rescind a Move Out Agreement, the following conditions must be met:

1. The decision to rescind must be unanimous by all Tenants who are parties to the Move Out Agreement;
2. The Tenant(s) must sign a document indicating their intent to rescind the Move Out Agreement and the basis for the rescission, including any non-compliance with this Ordinance by the Owner;
3. All Tenants who are parties to the Move Out Agreement must also agree to refund all monies paid to them under the Move Out Agreement; and
4. The notice of intent to rescind may be sent by any means through which the parties have agreed to communicate. If the parties have not agreed to a particular mode of communication, the Tenant(s) must either personally serve the property owner with the notice or send the notice by registered and first class mail to the last known address of the Owner. If the document is returned undelivered, the Tenant(s) must use reasonable means to notify the Owner of the rescission.

D. A rescission is not effective if the Tenant has moved out of the unit ~~moves out and the Rental Unit has a New Occupant. Notwithstanding any waivers in a Move Out Agreement, a Tenant who is unable to rescind because the Rental Unit has a New Occupant still retains rights to seek remedies under other laws should the Owner violate other laws that permit an Owner to seek recovery of a unit (e.g., Owner or relative move in (O.M.C. 8.22.360A.9), Ellis Act Ordinance (O.M.C. 8.22.400)).~~

E. ~~Notice of New Occupant. If Owner secures a New Occupant for the Rental Unit within the 30-day rescission period, the Owner must provide the Tenant with written notification of the New Occupant within five (5) days of meeting the criteria for a New Occupant by providing the Tenant with a written statement signed under penalty of perjury. This notification must state whether the New Occupant is a new Tenant, the Owner, or a qualifying relative under the owner occupancy provisions of the Just Cause for Eviction Ordinance (O.M.C. 8.22.360A.9). The notice must also provide the Tenant with documentary evidence of the New Occupant. If the Owner is unable to provide documentary evidence of the New Occupant within five (5) days, the Tenant's right to rescind is extended by the number of days it takes the Owner to comply.~~



## **8.22.760 Filing Move Out Agreements With City**

The Owner shall file a copy of the Move Out Agreement with the Rent Adjustment Program no sooner than the ~~twentythird~~-fifth (~~23<sup>rd</sup>~~<sup>23<sup>5th</sup></sup>) and no later than the forty-fifth (45<sup>th</sup>) day after service of the executed Move Out Agreement. This filing requirement does not apply to Move Out Agreements rescinded by the Tenant pursuant to Section 8.22.750.

## **8.22.770 Remedies**

### **A. Administrative Remedies**

1. Administrative Citation. Any person violating any provision or failing to comply with any requirements of this Tenant Move Out Agreement Ordinance may be assessed an administrative citation pursuant to O.M.C. Chapter 1.12 for the first offense.
2. Administrative Civil Penalties. Any person violating any provision or failing to comply with any requirements of this Tenant Move Out Agreement Ordinance multiple times may be assessed a civil penalty for each violation pursuant to O.M.C. Chapter 1.08.

### **B. Civil Remedies**

1. A Tenant who believes that an Owner has violated provisions of this Tenant Move Out Agreement Ordinance may file an action against the Owner for equitable relief (e.g., injunctions and restitution), actual damages or minimum damages, and recovery of costs and reasonable attorney's fees. The greater of actual damages or minimum damages of \$500 per violation shall be awarded for an Owner's failure to comply with the obligations established under this Ordinance. The greater of treble actual damages or minimum damages of \$1,000 per violation shall be awarded for an Owner's willful failure to comply with the obligations established under this Ordinance.
2. The City Attorney may file an action against an Owner that the City Attorney believes has violated provisions of this Ordinance. Such an action may include requests for equitable relief (e.g., injunctions and restitution), assessment and recovery of administrative citations and civil penalties, and recovery of costs and reasonable attorney's fees. The City Attorney has sole discretion to determine whether to bring such an action.
3. An Owner who violates subsection 8.22.730 A-C, 8.22.740, or 8.22.780 D of this Tenant Move Out Agreement Ordinance with respect to Elderly or

Disabled Tenants is liable in a court action for each and every such offense for monetary damages of no less than three times the actual damages suffered by their aggrieved Tenant(s) (including damages for mental or emotional distress), or for minimum damages of one thousand dollars (\$1,000.00) per offense, whichever is greater. Any Owner who willfully violates subsection 8.22.730 A-C, 8.22.740, or 8.22.780 D of this Tenant Move Out Agreement Ordinance with respect to Elderly or Disabled Tenants is liable in a court action for each and every such offense for money damages of no less than three times the actual damages suffered by their aggrieved Tenant(s) (including damages for mental or emotional distress), or for minimum damages of one thousand five hundred dollars (\$1,500.00) per offense, whichever is greater.

4. An Owner who violates subsection 8.22.730 A-C, 8.22.740, or 8.22.780 D of this Tenant Move Out Agreement Ordinance with respect to Catastrophically Ill Tenants is liable in a court action for each and every such offense for monetary damages of no less than three times the actual damages suffered by their aggrieved Tenant(s) (including damages for mental or emotional distress), or for minimum damages of one thousand five hundred dollars (\$1,500.00) per offense, whichever is greater. Any Owner who willfully violates subsection 8.22.730 A-C, 8.22.740, or 8.22.780 D of this Tenant Move Out Agreement Ordinance with respect to Catastrophically Ill Tenants is liable in a court action for each and every such offense for money damages of no less than three times the actual damages suffered by their aggrieved Tenant(s) (including damages for mental or emotional distress), or for minimum damages of two thousand dollars (\$2,000.00) per offense, whichever is greater.

C. Nonexclusive Remedies and Penalties. The remedies provided in this Ordinance are not exclusive, and nothing in this Ordinance shall preclude a party from seeking any other remedies, penalties, or procedures provided by law.

D. An Owner who believes a Tenant may not be eligible for enhanced penalties due to age, disability, or catastrophic illness may utilize the procedure set out in regulations for contesting similar status under the Just Cause for Eviction Ordinance (O.M.C. 8.22.300, et seq.). This subsection does not preclude an Owner from contesting eligibility in a later administrative or court proceeding.

#### **8.22.780 Miscellaneous**

A. Non-waivability. The provisions of this Tenant Move Out Agreement Ordinance may not be waived. Any term of any Move Out Agreement, lease, contract, or other agreement which purports to waive or limit a Tenant's substantive or procedural rights

under this Tenant Move Out Agreement Ordinance is contrary to public policy, unenforceable, and void.

B. Waiver of Other Tenant Rights. Where a Tenant has a non-waivable right under other Oakland, state, or federal laws, a Tenant cannot waive such a right in a Move Out Agreement, including any rights or options to return to the Rental Unit.

C. Service of Notices. Notices under this Chapter must be served by registered and first class mail or by personal service, unless the Owner and Tenant agree on another form of service, such as email or facsimile. Notices served by mail are deemed received five (5) days after mailing. All other forms of service are deemed received on the date of receipt unless the Owner and Tenant agree otherwise. If a notice is served by more than one method, the notice is deemed received on the earliest receipt date.

D. Retaliation Prohibited. Retaliation against a Tenant because of the Tenant's exercise of rights under the Tenant Move Out Agreement Ordinance is prohibited and constitutes a violation of this Ordinance. Retaliation claims may only be brought in court and may not be addressed administratively.

E. Rules and Regulations. The Rent Board is authorized to create and amend rules and regulations consistent with this Ordinance.

F. Forms and Informational Materials. The City Administrator is authorized to develop forms, informational, and instructional materials to assist Owners and Tenants in complying with this Chapter.

\*\*\*\*

**SECTION 2. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. 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 3. Effective Date.** This Ordinance shall become effective on May 1, 2018. City Administration may extend this effective date if forms are not available within this time-frame.

**SECTION 4. Grandparented Move Out Negotiations and Agreements.** This Ordinance's requirements shall not apply to any Move Out Negotiations that were

initiated or written Move Out Agreements that were fully executed by all parties and effective prior to the effective date of this Ordinance.

**SECTION 5. CEQA Compliance.** This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to sections of the CEQA Guidelines, taken together and each as a separate and independent basis, including but not limited to: Section 15378 (regulatory actions), Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), Section 15061(b)(3) (no significant environmental impact), and Section 15183 (consistent with the general plan or zoning).

**SECTION 6. Public Database Feasibility.** The City Administrator shall consider the feasibility of creating a public, searchable database with information based on filings under O.M.C. Chapter 8.22.700. If the City creates such a database, the required disclosures shall contain a provision referring to the database and how to access it.

IN COUNCIL, OAKLAND, CALIFORNIA,  
PASSED BY THE FOLLOWING VOTE:

APR 17 2018

AYES - ~~Brooks~~, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN AND  
PRESIDENT ~~APR~~ - ~~6~~

NOES - ~~1~~

ABSENT - ~~0~~

ABSTENTION - ~~0~~

Excused - Brooks, Reid

Introduction Date  
MAR 20 2018

ATTEST:



LATONDA SIMMONS

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

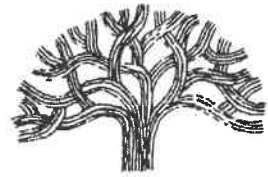
Date of Attestation: April 18, 2018

## **NOTICE AND DIGEST**

**AN ORDINANCE ADDING A NEW ARTICLE TO O.M.C. CHAPTER 8.22 TO (1) REGULATE TENANT MOVE OUT AGREEMENTS AND NEGOTIATIONS, (2) CREATE DISCLOSURE AND REPORTING REQUIREMENTS FOR SUCH AGREEMENTS AND NEGOTIATIONS, AND (3) PROVIDE REMEDIES FOR VIOLATIONS**

The Ordinance enacts the Tenant Move Out Agreement Ordinance to regulate tenant move out agreements and negotiations; create disclosure and reporting requirements for such agreements and negotiations; and provide remedies for violations.

# CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

REBECCA KAPLAN  
Councilmember At-Large  
atlarge@oaklandnet.com

(510) 238-7008  
FAX: (510) 238-6910  
TDD: (510) 839-6451

December 18, 2017

I'd like to address the feedback that was received regarding the Uniform Relocation Ordinance.

This evening, the City Council will consider the Uniform Relocation Ordinance which would provide for relocation payments for tenants displaced due to owner move-ins and condominium conversions, and creates a uniform schedule of payments for all relocation payments. The Council will also consider my most recent Amendment, which clarifies that owners are NOT required to provide relocation payments to tenants if:

- The owner of record seeks in good faith 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.

Thank you for your thoughtful feedback, and for helping to strengthen this law for tenants and property owners alike.

Sincerely,

A handwritten signature in black ink, appearing to read "Rebecca Kaplan".

Rebecca Kaplan  
Councilmember At-Large

From Councilmember Rebecca Kaplan

**Supplemental amendment to proposed Uniform Relocation Ordinance**

(Deleting reference to O.M.C. 8.22.360(A)(8) to clarify that relocation payments do not need to be paid when owner previously resided in unit and has agreement with tenant that owner will move back in ("sabbatical" exception to owner-occupancy))

**Article VIII – Relocation Payments for Owner or Relative Move-Ins**

**8.22.850 – Relocation Payments for Owner or Relative Move-Ins**

- A. Applicability. An Owner who evicts a Tenant pursuant to O.M.C. Section 8.22.360(A) ~~(8)-(9)~~ or where a Tenant vacates following a notice or other communication stating the Owner's intent to seek recovery of possession of the unit under any of these this O.M.C. Sections must provide relocation payment under this Section. Relocation payment procedures pursuant to code compliance or Ellis Act evictions will be governed by the Code Compliance Relocation Ordinance and the Ellis Act Ordinance.
- B. The property Owner shall be responsible for providing relocation payments, in the amounts specified in Section 8.22.820, to an eligible Tenant Household in the form and manner prescribed under this article and any rules and regulations adopted under this article.
- C. Time for payment
  1. The Owner must pay the Tenant half of the relocation payment provided for in Section 8.22.820(A) when the termination notice is given to the household and the remaining half when the Tenant vacates the unit provided that the Tenant agrees, in writing, not to contest an unlawful detainer based on the notice to terminate tenancy for the Owner or relative moving in to the Tenant's Rental Unit. If the Tenant does not so agree, then the entirety of the relocation payment is not due unless the Owner prevails in the unlawful detainer. If the Owner prevails in the unlawful detainer, the relocation payment must be paid to the Tenant prior to the Owner seeking a writ of possession for the Tenant to vacate the unit.
  2. The Owner must pay the Tenant the additional payment provided for in Section 8.22.820(B) within fifteen (15) days of the Tenant's notice of eligibility or the Tenant supplying documentation of the Tenant's eligibility.
- D. Failure to make the relocation payments in the manner and within such times as prescribed in this Section is not a defense to an unlawful detainer action. However, if an Owner fails to make the relocation payment as prescribed, the Tenant may file an action against the Owner and, if the Tenant is found eligible for the relocation payments, the Tenant will be entitled to recover the amount of the relocation payments plus an equal amount as damages and the Tenant's attorney's fees. Should the Owner's failure to make the payments as prescribed be found to be in bad faith, the Tenant shall be entitled to the relocation payments plus an additional amount of three times the amount of the relocation payments and the Tenant's attorney's fees.

## Owner Move In (OMI) Laws for Oakland

### Oakland Municipal Code, Section 8.22.360

- 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:
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 in to 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.~~<sup>[5]</sup>
  - 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 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 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]:
  - 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.

## **Rent Adjustment Program Regulations Concerning OMI Evictions**

### **Section 8.22.360.A.9 [revised 1/25/18]**

- a. A notice terminating tenancy under this section must contain, in addition to the provisions required under O.M.C. 8.22.360 B 6: i. A listing of all real 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. iii. The lawful rent applicable for the unit on the date of the notice. iv. A statement informing tenant(s) as to their right to relocation payments (O.M.C. 8.22.850) and the amount of those relocation payments.

b. For the purpose of subdivision (a), real property means a parcel of real estate located in Oakland or elsewhere.

#### **8.22.360.A.9.g.**

This regulation addresses a Tenant's claim of "protected status" as elderly, disabled, or catastrophically ill pursuant to Section 8.22.360 A.9.e. and how it may be contested by a Landlord.

i. Statement with Supporting Evidence of Protected Status. In order to present a claim for protected status, a Tenant must give the Landlord a statement claiming protected status along with evidence supporting the claim. The evidence must include a statement that the Tenant has resided in the unit for more than five years. The supporting evidence must be of the Tenant's age, or that the Tenant has a disability that limits a major life activity, or that he or she has a catastrophic illness. If the Tenant produces evidence of protected status sufficient to establish a facial claim of protected status, the Landlord has the burden of producing evidence to contradict the Tenant's evidence. Below are examples of types of evidence concerning protected status that may be used to present a claim that a Tenant is entitled to protected status:

(a) Elderly Status: driver's license, DMV identity card, birth certificate, or other document in which the age or date of birth must be submitted under oath.

(b) Disabled status: Evidence that a Tenant has a disability that limits a major life activity may be in the form of a statement from a treating physician or other appropriate health care provider authorized to provide treatment, such as a psychologist. A Tenant may also submit evidence of a medical determination from another forum, such as Social Security or workers' compensation, so long as it includes the fact of that the Tenant has a disability and its probable duration.

(c) Catastrophically Ill Status. Evidence of disabled status plus a statement from the Tenant's primary care physician or other appropriate health care provider that the Tenant has a life threatening illness. The evidence need not provide any information on the nature of the disability or catastrophic illness.

ii. Jurisdiction over Challenges to Protected Status. Courts have concurrent jurisdiction with the Rent Program over Landlord challenges to a Tenant's claim to protected status.

(a) Court. A Tenant may defend against an eviction by claiming protected status claim where the Landlord seeks recovery of the unit for occupancy by the owner or the Landlord's eligible relative.

(b) Rent Program.

1. A Landlord and a Tenant may agree at any time to have the Rent Program address a Tenant's claim for protected status. Either the Landlord or the Tenant may petition the Rent Program at any time to seek resolution of the claim for protected status,

but the Rent Program will not assume jurisdiction over the petition unless the other party agrees to Rent Program jurisdiction.

2. A Landlord who is selling a property may request that a Tenant state whether the Tenant will claim protected status if the Landlord's successor seeks to evict the Tenant for occupancy by the owner or the owner's close relative.

(a) The owner may make this request under the conditions and procedures:

- i. The building contains 6 or fewer rental units.
- ii. The building contains more than 6 rental units and the unit the Tenant occupies is unique. Unique means that no more than 5 percent of the units in the building are similar in size, location, and/or amenities.
- iii. The Landlord has an accepted offer from a purchaser and the offer is contingent upon the availability of a unit to owner-occupy.
- iv. The Landlord makes the request to the Tenant on a form provided by the Rent Program verifying the appropriate information under penalty of perjury.

(b) The Tenant must respond within 15 calendar days of service of the request. A Tenant who fails to respond within the 15 calendar days is deemed to have waived any claim of entitlement to protected status as of the last date the response was due.

### iii. Rent Program Hearings Contesting Protected Status.

(a) Procedure. Rent Program hearings contesting a Tenant's disability or catastrophic illness are conducted in accordance with the procedures set forth in Rent Adjustment Program Regulation 8.22.090. Rent Program staff may establish any additional specialized procedures necessary for hearings under this section.

(b) Confidential Nature of Hearings. Evidence of a Tenant's disability or illness is deemed confidential. Hearings, records of hearings, and decisions (except for whether the Tenant has protected status) based on disability, or catastrophic illness will not be open to the public. Records of the decision will not be considered public records for purposes of the California Public Records Act (Cal. Government Code § 6250, et seq.). The Landlord or his/her representative, agent, or attorney may not release any evidence or records or information contained in such evidence or records pertaining to the Tenant's disability or illness to a person other than the parties or their representatives for the hearing. Rent Program staff may adopt supplementary rules to conduct hearings so as to protect the medical privacy of Tenants while permitting parties to obtain necessary evidence.

(c) Tenant's Burden. The Tenant has the burden of proving protected status.

(d) Health Care Examination.

1. Landlord's Request. If the Landlord reasonably determines that in order to respond to the Tenant's evidence of disability or illness a medical examination is necessary, the Landlord may request the Rent Program order the Tenant to obtain the opinion of a second health care provider, designated or approved by the Landlord, concerning any information on which the Tenant bases her/his claim for protected status. The examination will be at the Landlord's own expense.

2. Independent Examination. The Landlord and Tenant may agree to have an independent examination conducted by a health care provider agreed to by the parties or appointed by the Hearing Officer. The parties must agree that the results of the independent examination will be binding on the parties as to the Tenant's status as disabled or catastrophically ill. The independent examination will be at the Landlord's expense unless the parties agree otherwise.

3. Limitation on Examination. Any health care examination under this subsection must be limited to the health related condition that the Tenant claims is the basis for the disability or catastrophically ill status. The Hearing Officer may issue such orders or place such conditions on the examination as may be necessary to limit the examination to the Tenant's condition at issue.

4. Tenant Refusal to be Examined. At Tenant's refusal to be examined at the Landlord's request or to cooperate with such examination will defeat the Tenant's claim of protected status, unless the Tenant can prove her/his claim by clear and convincing evidence and the Landlord's request for an examination is unreasonable.

iv. No Appeal to Rent Board for Disability or Catastrophically Ill Claims Unless Tenant Waives Privacy in Medical Records. Neither party may appeal the Hearing Officer's decision to the Rent Board unless the Tenant is willing to waive any privacy or confidentiality to medical records or other confidential records pertaining to the Tenant's disability or illness. Without such a waiver, a decision of the Hearing Officer is final as to the administrative processes of the City of Oakland and any party wishing to further contest the Hearing Officer's decision must seek judicial review.

v. Landlord or Landlord's Relative or Other Tenant for Claims Protected Status. A Landlord may still evict a Tenant with protected status where the Landlord or the Landlord's relative who will be occupying the unit has protected status, or where every other unit of the Landlord is occupied by a Tenant claiming protected status. In either of the aforementioned circumstances, any challenge to the Landlord's right to evict a Tenant with protected status would be addressed in an unlawful detainer or other court proceeding.

END

# What you need to know about Oakland's Tenant Move Out Agreement Ordinance

The Oakland City Council has passed the Tenant Move Out Agreement Ordinance (“Ordinance”). This new law significantly changes the way landlords can approach and buy out tenants residing in their rental units.

It is important to note that the Ordinance applies to all rental units in Oakland, including units otherwise exempt from rent or eviction controls, like single family homes and new construction. The only exemption is for publicly-owned and operated housing units, which typically operate under different tenancy laws anyways. The law will also not be applicable to situations where there is no “tenancy”, such as giving money to a family member to move out, or paying a “squatter” to vacate property they have taken over. The Ordinance is effective May 1, 2018.

## Before Buyout

### Disclosure Form

Landlords may no longer offer buyouts to tenants informally or on the spot. Landlords must undertake a robust disclosure process and register with Oakland’s Rent Adjustment Program (RAP) before making any buyout offer. Even accidentally violating the Ordinance can incur penalties of at least \$500 per violation, in addition to any violations of the overlapping Tenant Protection Ordinance.

Compliance with the Ordinance requires service on the tenant of a form developed by the RAP. **The Disclosure Form is currently available on the [RAP website](#).** This Disclosure Form enumerates an extensive list of tenants’ rights in buyout negotiations, such as:

1. The tenant can refuse to negotiate a buyout.
2. The tenant may rescind the buyout (change their mind) up to 25 days after signing the agreement (but cannot rescind once they actually move out.)
3. The tenant may be entitled to the relocation payments.

The landlord is required to keep careful records of the Disclosure Form. Once executed by the landlord, the form must be provided to the tenant within 3 days, with proof of service. Copies of each form and the corresponding proof of service must be retained in the landlord’s records for at least 5 years. It will be convenient for many landlords to issue this form upon the commencement of a tenancy, as part of the rental agreement.

Please note that although the form prepared by the RAP contains a space for the tenant to sign to confirm receipt, this signature appears to be for record keeping purposes only. The landlord’s obligation to disclose is complete when this form is delivered to the tenant, regardless if it is accepted – hence the landlord’s obligation to keep a record of service for 5 years.

### Certification Form

In addition to disclosure to the tenant prior to negotiations, the landlord must also register with the RAP by filing a Certification Form. This form includes the owner’s name and contact information, the unit which may be subject to buyout negotiations, the date that the tenant in the unit received the Disclosure Form, and the dates of any other move out agreements “with any current or prior tenants at the property” “completed to the best of the owner’s recollection and knowledge.” **The Certification Form is also available on the [RAP website](#).**

There appears to be no limit to how far back in time landlords must go when reporting prior buyout negotiations. It is also unclear what the penalty might be if the landlord incorrectly identifies or omits a buyout negotiation with a current or prior tenant, but the Ordinance does authorize the City Attorney to file civil actions against landlords who violate any provision of the Ordinance.

Landlords should note that the registration information collected pursuant to the Ordinance may be released, published, or otherwise made publicly available, which may or may not have personal information redacted. The City explicitly does not guarantee that personal or private information will not be released, including information contained within the buyout agreements themselves. Landlords should consider carefully what personal or business information they

disclose on any papers filed with the City.

## **During Buyout**

### **Formation**

The Ordinance provides several steps to standardize buyout agreements.

First, the Ordinance requires all agreements be in writing, and in Spanish or Chinese if the tenant is proficient in those languages rather than English. In the case of a rental agreement not in English, the buyout agreement would be in the language of the rental agreement. If the buyout agreement is in multiple languages, all copies should be presented to the tenant at the same time, rather than a belated translation afterward.

When signed, a copy of the agreement is to be given to “each” tenant “immediately” following execution. It is unclear what giving a copy “immediately” means, especially when there may be multiple tenants involved in the buyout, but landlords may wish to arrange the signing of the agreement in a place where a copy machine is available, with all tenants present, so that there is minimal delay. Landlords are required to create and retain a proof of service of this executed copy of the agreement for an unspecified period of time.

Second, the Ordinance requires certain recitals of tenants’ rights verbatim from the Ordinance, which generally correspond to the disclosures required before the buyout negotiations. This language is to be in 14 point font above the tenant’s signature, although it would likely fill at least an entire page all by itself. See Sections 8.22.740.B.1-6 of the Oakland Municipal Code, available at the [RAP website](#), for the precise language to use.

Third, the Ordinance requires that agreements “must be for **greater** than the amount of the relocation payments to which the tenant may be entitled under Oakland, state, or federal law.” This appears to impose some kind of floor on the value paid under the Ordinance, but this vague language is unclear on what the floor would be.

As of the date of this article, relocation payments are required for landlords who evict tenants to move into the unit (owner move-in), when tenants are displaced to remediate code violations, following condo conversions, or when the property is being removed from the rental market under the Ellis Act. However, because a buyout may occur without (or instead of) any of those circumstances, it is uncertain if those require payments are implicated by this Ordinance. Landlords are therefore recommended to pay at least 1 cent more than the amounts enumerated in the Uniform Relocation Ordinance to avoid a potential violation.

### **Rescission**

Under the Ordinance, tenants have an absolute right to rescind an agreement after they sign it. By default, tenants may rescind up to 25 days after signing. However, they can agree to reduce the rescission period to 15 days.

To rescind, the tenant must notify the landlord in writing, and if there are multiple tenants, all tenants must agree. Mailed rescissions are effective if they are postmarked on or before the last day of the rescission period, and all money paid under the buyout must be refunded to the landlord.

If the tenant determines that the buyout agreement is defective in some way under the Ordinance, the rescission period is extended to six months. In the written notice of rescission, the tenant must explain the defects in the agreement. After receiving notice, the landlord has 5 days to “offer the unit back to the tenant or respond with reasons why the Move Out Agreement may not be rescinded.” However, the Ordinance also states that a tenant may not rescind a buyout after they move out, even if the buyout was defective.

The contradiction between the landlord’s stated obligation to offer the unit back to the tenant after rescission, and the tenant’s inability to claim rescission after vacating has no clear answer and may have to be resolved through further regulations or litigation. Since tenants still have civil remedies available in the case of vacating following a defective buyout agreement, landlords should consult with an attorney before allowing a tenant back into the unit following vacancy and rescission.

## **After Buyout**

After an agreement is negotiated and completed, the landlord must file the buyout agreement with the RAP between 25-45 days. This means the landlord must wait the full statutory rescission period (25 days), and then has 20 days to file

the agreement (45 days total). Landlords should mark their calendars and set a reminder to avoid missing this deadline, and remember that the information contained in the agreements may become public at a future date. Rescinded agreements are not filed with the RAP and may be discarded. However, the fact that buyout negotiations occurred in that unit must be disclosed on any certification form filed with the RAP.

## **Enforcement**

Penalties for violating the Ordinance are steep. The City is empowered to levy fines and file civil suits against landlords who violate the Ordinance, even if no tenant complains. If a tenant does have a complaint for a landlord violating the Ordinance, the landlord is liable for any actual damages to the tenant, or \$500, whichever is greater. If the landlord “willfully” violated the Ordinance, then the penalty is triple actual damages, or \$1,000, whichever is greater.

Elderly or disabled tenants may always claim triple actual damages, or \$1,000 or \$1,500 minimum damages for each non-willful or willful violation, respectively. Catastrophically ill tenants are entitled to even more, with triple actual damages, or \$1,500 or \$2,000 for each non-willful or willful violation, whichever is greater.

If the landlord wishes to challenge a tenant’s claim of protected status and enhanced penalties, the landlord can challenge that status using the same procedure as for just cause evictions, and may also raise the issue in a resulting civil proceeding.

## **Other Provisions**

As stated in the disclosure form provided to tenants, landlords should be aware that offering more than one buyout to the same tenant within six months is considered harassment under the Tenant Protection Ordinance, with concordant penalties.

Landlords are prohibited from retaliating against tenants who refuse a buyout. If a landlord is considering offering a buyout before issuing a termination notice, expect a retaliation defense if the tenant refuses to vacate following the notice.

The Ordinance is somewhat flexible when it comes to landlord/tenant communications and forms of notice. In particular, use of email is acceptable, but only if both sides agree. Landlords who favor electronic communications should consider consent to email as a term to include in rental agreements. Without any agreement, notices served under the ordinance must be registered, first class mail.

## **Conclusion**

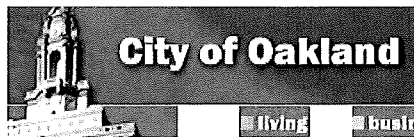
As of May 1, 2018, buyout negotiations in Oakland are now nearly as heavily regulated as rent increases or evictions. The RAP is involved both before and after each and every buyout, and all buyouts are now a matter of public record, including any buyouts which preceded the ordinance. All landlords in the city should immediately create a record of their past buyouts, and create an organized file for all the necessary proofs of service.

It is clear from the content of the Ordinance that the City and the RAP do not want landlords negotiating buyouts with their tenants. All of the responsibilities for deadlines and disclosures rest on landlords, who risk stiff penalties for even accidental violations. Landlords should consult with an attorney prior to any buyout negotiations to evaluate whether the landlord has fully disclosed, certified, and complied with the Ordinance.

Best Regards,  
Fried & Williams LLP  
[www.friedwilliams.com](http://www.friedwilliams.com)

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*Finance and Management Agency*

**REVENUE**



## Regulations That May Affect You!

Provided below is a list of Oakland's major regulations that relate to property ownership. These regulations, as well as the taxes and fees that are based on the regulations, may not apply to your particular property, but are provided as a convenient reference. You may obtain copies of the codes and ordinances enacting these regulations from Oakland's Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1<sup>st</sup> Floor, Oakland, CA 94612, (510)238-3611, between 8:30 a.m. – 5:00 p.m., Monday through Friday, or by downloading them from the Municipal Code link on the City's website: [www.oaklandnet.com](http://www.oaklandnet.com).

Each section of the following document can be reached by following it's link below.

- [Business Tax](#)
- [Garbage Collection](#)
- [Real Property Transfer Tax](#)
- [Landscaping and Lighting Assessment District](#)
- [Mello-Roos Community Facilities District](#)
- [Emergency Medical Services Assessment District](#)
- [Excess Litter Fee Program](#)
- [Paramedic Services Assessment District](#)
- [Library Services Retention Assessment District](#)
- [Fire Utility Underground Assessment District](#)
- [Medical Hill Parking Assessment District](#)
- [Lakeshore Ornamental Lighting Special Assessment District Phase I & IV](#)
- [LaSalle Utility Undergrounding Assessment District](#)
- [Harbord Utility Undergrounding Assessment District](#)
- [Grizzly Peak Utility Undergrounding Assessment District](#)
- [Skyline Sewer Assessment District](#)
- [Rockridge Area Water Improvement Assessment District](#)
- [Lakeshore/Lake Park Business Improvement Management District](#)
- [Fruitvale Business Improvement District](#)
- [Residential Rent Arbitration Section](#)



- [Tree Ordinance](#)
- [Hazardous Tree Ordinance](#)
- [View Ordinance](#)
- [Earthquake Safety](#)

## **BUSINESS TAX**

Title 5, Chapter 5.04 of the Oakland Municipal Code (OMC) requires all persons conducting any business to first obtain a Business Tax Certificate and pay an annual business tax. The term business includes all commercial and residential rental activities, including single-family residences that are rented. Failure to comply with the business tax requirements may result in the imposition of penalties and interest, as well as a lien and special assessment placed against your property.

*For more information, contact the Business Tax Section in the Financial Services Agency, 250 Frank Ogawa Plaza, Suite 1320, Oakland, CA 94612; or call (510)238-3704, Monday through Friday, between 8:30 a.m. and 5:00 p.m.*

## **GARBAGE COLLECTION**

Title 8, Chapter 8.28 of the Oakland Municipal Code (OMC) requires all property owners to use only city-authorized trash collectors, and to pay city-established fees for that service. The City may record a lien with the County Recorder's Office and/or impose a special property tax assessment if fees are not paid on a timely basis. A property owner may not shift this obligation to pay for trash collection by requiring a tenant to pay such fees directly to the City. Monthly rates for residential service are \$14.96 for a 20-gallon cart, \$20.08 for a 32-gallon cart, \$43.76 for a 64-gallon cart and \$76.43 for a 96-gallon cart.

*For more information, contact the Citywide Lien Section in the Financial Services Agency, 150 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA 94612; or call (510) 238-3287, Monday through Friday, between 8:30 a.m. and 5:00 p.m.*

## **REAL PROPERTY TRANSFER TAX**

Title 4, Chapter 4.20 of the Oakland Municipal Code (OMC) requires that whenever you change ownership of real property, and record that change with the County of Alameda, you must pay a City of Oakland REAL PROPERTY TRANSFER TAX (RPTT). (Note: Alameda County has its own transfer tax.) The City's tax rate is 1.5% of the consideration received (for example, money exchanged or debt forgiven).

Alameda County collects this tax on the City's behalf, but will still record the document if the recording party or its agent, e.g., a title company, fails to pay the tax. However, if the tax remains unpaid 24 hours after recordation, the tax becomes delinquent and is subject to penalties and interest.

*For more information, contact the Central Collections Section in the Financial Services Agency, 150 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA 94612; or call (510) 238-7480, Monday through Friday, between 8:30 a.m. and 5:00 p.m.*

## **LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT**

Resolution 66354 C.M.S. created the Landscape and Lighting Assessment District (LLAD) to fund landscaping and lighting activities throughout the city. All real property in Oakland is subject to this annual assessment, which, depending on location, is \$76.98 or \$83.66 for a condominium unit, \$102.64 or \$111.54 for single family parcels, and higher for larger residential property and for commercial property.

## **MELLO-ROOS COMMUNITY FACILITIES DISTRICT**

Resolution 67202 C.M.S. provides funding for the Rockridge Library, in part, by levying a special tax on real property within the Rockridge Community Facilities District #1. The cost is \$25 annually.

## **EMERGENCY MEDICAL SERVICES ASSESSMENT DISTRICT(Measure M)**

Ordinance No. 12419 C.M.S. established this measure, which was originally approved by Oakland voters in 1997, to provide a dispatch service and a limited City provided emergency medical services. All real property in Oakland is subject to this annual assessment, which ranges from \$10.29 to \$51.44 for residential parcels, and \$10.29 to \$41.15 for non-residential parcels.

## **PARAMEDIC SERVICES ASSESSMENT DISTRICT**

Ordinance No. 12420 C.M.S. established this measure, which was originally approved by Oakland voters in 1997, to hire and train new firefighters/paramedics and provide funding for equipment. American Medical Response will continue to provide ambulance services. All real property in Oakland is subject to this annual assessment, which ranges from \$8.20 to \$41.03 for residential parcels, and \$8.20 to \$32.83 for non-residential parcels.

## **LIBRARY SERVICES RETENTION ASSESSMENT DISTRICT**

Ordinance No. 12428 C.M.S. established this measure, which was originally approved by Oakland voters in 1994 and is in effect for 15 years, to: 1) keep neighborhood libraries open a minimum of 5 days per week; 2) to retain availability of library services at the main library 7 days per week; 3) to enhance and expand library collections; 4)

to provide educational and cultural programs for youth; 5) to expand library-based programs in support of literacy, lifelong learning and information technology; and 6) to operate an African-American museum and library program. All real property in Oakland in subject to this annual assessment, which is \$35.49 for a single family parcel, \$24.24 for a multiple unit residential parcel, and \$18.18 for a non-residential parcel.

*For more information, contact the Revenue Audit Section in the Financial Services Agency, 150 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA 94612; or call (510) 238-3084, Monday through Friday, between 8:30 a.m. and 5:00 p.m.*

#### **FIRE UTILITY UNDERGROUND ASSESSMENT DISTRICT**

Resolution 69877 C.M.S. created the Fire Area Utility Underground Assessment District to fund the installation of underground utility lines (electric, telephone and cable TV) in certain sections of the city known as the "fire area". All real property within the area is subject to this assessment. The cost for the owner of a single-family dwelling is approximately \$280 per year.

#### **MEDICAL HILL PARKING ASSESSMENT DISTRICT**

Resolution 62276 C.M.S. created the Medical Hill Parking Assessment District to finance the construction of a parking garage to serve facilities in the Medical Hill area.

#### **LAKESHORE ORNAMENTAL LIGHTING SPECIAL ASSESSMENT DISTRICT PHASE I & IV**

Resolutions 69647, 72103 & 73612 C.M.S. created the Lakeshore Ornamental Lighting Special Assessments to install ornamental streetlights, instead of standard street lights, in areas east and southeast of the eastern tip of Lake Merritt, in conjunction with the undergrounding of the utility lines in these areas. The cost for the owner of a single-family dwelling is \$80 (Phase I) or \$205 (Phase IV) per year.

**LASALLE UTILITY UNDERGROUNDING ASSESSMENT DISTRICT** Resolution 73613 created the La Salle Utility Undergrounding Assessment District to install ornamental street lights in an area including Liggett Drive, sections of La Salle Avenue and of Estates, Pershing and Wood Drives and adjacent streets, in conjunction with utility undergrounding. The cost for the owner of a single-family dwelling is approximately \$430 per year.

**HARBORD UTILITY UNDERGROUNDING ASSESSMENT DISTRICT** Resolution 73614 C.M.S. created the Harbord Utility Undergrounding Assessment District to underground the utility lines and install ornamental streetlights in an area including sections of Harbord Estates, McAndrew and Wood Drives and adjacent streets, in conjunction with utility undergrounding. The cost for the owner of a single-family dwelling is approximately \$440 per year.

**GRIZZLY PEAK UTILITY UNDERGROUNDING ASSESSMENT DISTRICT** Resolution 73824 C.M.S. created the Grizzly Peak Utility Undergrounding Assessment District to underground the utility lines and install ornamental streetlights, instead of standard streetlights, along the portion of Grizzly Peak Boulevard and adjacent streets that were not included in the Fire Area Utility Underground Special Assessment District. The cost for the owner of a single-family dwelling is approximately \$465 per year.

**SKYLINE SEWER ASSESSMENT DISTRICT** Resolution 71095 C.M.S. created the Skyline Sewer Special Assessment District to construct sewer lines along a section of Skyline Boulevard. The cost for the owner of a single-family dwelling is approximately \$670 per year.

**ROCKRIDGE AREA WATER IMPROVEMENT ASSESSMENT DISTRICT** Resolution 71255 C.M.S. created the Rockridge Area Water Improvement Special Assessment District to upgrade water pipelines and fire hydrants in the upper Rockridge area. The cost for the owner of a single-family dwelling is approximately \$140 per year.

**LAKESHORE/LAKE PARK BUSINESS IMPROVEMENT MANAGEMENT DISTRICT** Resolution 77280 C.M.S. established the Lakeshore/Lake Park Business Improvement Management District to fund improved security, maintenance, economic development and marketing activities for the businesses located on Lakeshore Avenue in the Grand Lake area. Assessment fees range from \$1,388 to \$14,901 per year, depending on frontage and square footage.

**FRUITVALE BUSINESS IMPROVEMENT DISTRICT** Resolution 76205 C.M.S. established the Lakeshore/Lake Park Business Improvement Management District to fund security, maintenance, marketing and business promotion activities for the businesses located on Fruitvale Avenue and International Boulevard in the Fruitvale District. Assessment fees range from \$115 to \$11,679 per year, depending on the location and square footage.

*For more information, contact the Treasury Division in the Financial Services Agency, 150 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA 94612; or call (510) 238-3201, Monday through Friday, between 8:30 a.m. and 5:00 p.m.*

#### **RESIDENTIAL RENT ARBITRATION SECTION**

Ordinance 9980 C.M.S. establishes a Residential Rent Arbitration Section to resolve disputes regarding rent increases. This ordinance applies to all residential rental units, except the following: 1) units owned by a governmental entity; 2) certain care facilities; 3) religious homes; 4) dormitories owned and operated by educational institutions; 5) transient accommodations; 6) non-profit cooperatives; 7) buildings that were constructed after January 1, 1983; and 8) buildings in which the owner has incurred substantial rehabilitation costs. Landlords must

notify all tenants in writing of the Residential Rent Arbitration Section and must post a notice of same in all vacant units. That notice must include the unit's previous rental amount.

*For more information, contact the Residential Rent Arbitration Section in the Community & Economic Development Agency, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA 94612; or call (510) 238-3721, Monday through Friday, between 8:30 a.m. and 5:00 p.m.*

#### **TREE ORDINANCE**

Title 12, Chapter 12.36 of the Oakland Municipal Code (OMC) requires that property owners obtain a permit prior to removing *protected trees* from their property. *Protected trees* are defined within the code. Removing or damaging any protected tree without the proper permit constitutes an infraction. In addition to the cost of the infraction, violators are liable for damages for an amount up to the value of the removed tree. The City may place a lien on the property if the infraction is not paid on a timely basis. That lien may subsequently be added to the county property tax bill.

#### **HAZARDOUS TREE ORDINANCE**

Title 12, Chapter 12.40 of the Oakland Municipal Code (OMC) defines hazardous tree conditions and addresses ways of mitigating those conditions on both private and public property. There are stringent time frames for responding to hazardous tree claims. If hazardous tree claims are not resolved privately, a claimant may, as a last resort, take the claim through the court system.

#### **VIEW ORDINANCE**

Title 15, Chapter 15.52 of the Oakland Municipal Code (OMC) provides a claim procedure to compel the removal of trees that may obstruct private views and which existed at the time the claimant acquired his or her property. Certain trees that are part of the natural habitat are exempt from this code. The City does not take an active role in these issues; rather, it encourages the private resolution of such disputes. If a view dispute cannot be resolved privately, and if a claimant prevails through court trial or judicial arbitration, a civil penalty of \$1,000 may be imposed upon the defendant. The claimant generally bears the cost of tree removal, but splits the cost with the tree owner if the tree was planted after August 5, 1990. The tree owner bears all costs if he or she fails to cooperate in a non-judicial resolution of the view dispute and if he or she receives an adverse judicial decision.

*For more information, contact the Tree Services Section in the Parks, Recreation & Cultural Arts Division of the Life Enrichment Agency, 7101 Edgewater Dr., Room 405, Oakland, CA 94621; or call (510) 615-5850, Monday through Friday, between 7:00 a.m. and 3:00 p.m.*

#### **EARTHQUAKE SAFETY**

Title 15, Chapter 15.20 of the Oakland Municipal Code (OMC) requires that a geologic report be submitted to the City where a new structure (or remodeling in excess of 50% of the replacement value of the building) is proposed to be constructed wholly or partly within a *special studies zone*. The California Public Resources Code 2621-2630 defines a *special studies zone*, which contains active earthquake fault traces. The City may require an additional geologic report where geologic conditions or proposed site usage change, or in certain other instances. The code describes in detail the items required to be shown, both in the text of the geologic report and in the accompanying maps.

*For more information, contact the Engineering Information Services in the Public Works Agency, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612, (510) 238-4777, Monday through Friday, between 8:00 a.m. and 4:00 p.m.*