

The People of the City of Berkeley do ordain as follows:

Section 1. Section 13.76.020 of the Berkeley Municipal Code is amended to read as follows:

13.76.020 Findings.

A. On June 5, 1973, the City Council (hereinafter, "Council") declared the existence of a housing emergency in the City of Berkeley (hereinafter, "the City"), based upon Council's finding of a pattern of steadily rising rents, a shortage of decent housing and an increased deterioration of the existing housing stock in the City.

B. On November 27, 1979, the Council passed an ordinance establishing a temporary rent stabilization program, effective until June 30, 1980.

C. In 1980, the People of Berkeley passed the Rent Stabilization and Eviction for Good Cause Ordinance, establishing the registration of rental units, the regulation of rental increase amounts, and the requirement for a landlord to provide good cause prior to terminating a tenancy.

D. In 1995, the California Legislature enacted the Costa-Hawkins Rental Housing Act, which prohibited the ability of local governments to control the rental amount on a rental unit at the commencement of a new tenancy and to control the rental amount in single family homes or rental units with an initial Certificate of Occupancy issued after February 1, 1995. As a result of the Costa-Hawkins Rental Housing Act, many rental units became unaffordable to Berkeley residents.

E. The City continues to experience a severe housing shortage and an unprecedented increase in the number of residents experiencing housing hardships. According to data from the United States Census Bureau, in 2019, 53% of Berkeley renter households were "rent burdened," paying more than 30% of their household income towards rent.

F. Due to the continuance of the housing emergency which existed when the voters of Berkeley first enacted this Chapter, the Berkeley Rent Stabilization Board (hereinafter, "Board") finds that reasonable regulation of aspects of the landlord-tenant relationship is necessary to foster constructive communication, maintain an adequate supply of a variety of rental housing options, and protect the health, safety, and general welfare of the public.

G. Because the People of Berkeley have periodically updated this Chapter through various updates, the Board finds a need to enact non-substantive changes to this Chapter in 2024 in order to make the provisions of this Chapter more consistent with modern usage and clarity.

H. Pursuant to California Civil Code Section 1946.2(g)(1)(B), the Board finds that this Chapter is more protective than the provisions of California Civil Code Section 1946.2. The just cause for termination of a residential tenancy under this Chapter is consistent with California Civil Code Section 1946.2; however, this Chapter further limits the reasons for termination of a residential tenancy, and provides for higher relocation assistance amounts in the event of a termination.

Section 2. Section 13.76.050 of the Berkeley Municipal Code is amended to read as follows:

13.76.050 Applicability.

A. All sections of this Chapter shall apply to all real property that is being rented or is available for rent for residential use in whole or in part, except for the following as provided in this section.

B. The following rental units are Partially-covered units:

1. *Newly Constructed Rental Units.*

(a) A rental unit created after June 30, 1980. For purposes of this partial exemption, the date a unit was created is based upon the date of the first certificate of occupancy issued for the subject unit.

However, in the event of the repeal or amendment of Civil Code Section 1954.52 such that "certificate of occupancy" is no longer the operative standard set forth under state law, the date a unit was created shall be determined by the final inspection approval by the City. A rental unit shall only be deemed newly constructed for fifteen years after the date of final inspection approval by the City.

(b) The following units are not partially-covered as "newly constructed rental units" and, unless otherwise exempt, shall be covered by all provisions of this Chapter to the extent that state or local law permits:

~~(i) Notwithstanding any provision in this Chapter and to the extent that state or local law permits, a~~Any residential rental units created as a result of demolition or replacement to replace units that were demolished due to where such demolition or replacement is affected via the creation of designated as replacement units in a "housing development project" as defined in the Housing Crisis Act of 2019 (Senate Bill 330), shall not be exempt as "newly constructed rental units" and, unless otherwise exempt, shall be covered by all provisions of this Chapter.

(ii) As set forth in California Civil Code section 1954.52(b), any residential rental units where the owner has otherwise agreed to be subject to Sections 13.76.100 through 13.76.120 of this Chapter by contract with a public entity in consideration for a direct financial contribution or other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

2. *Separately Alienable Rental Units.* Rental units in a residential property containing only a Single Family Dwelling (as defined in Subtitle 23F.04 of the Zoning Ordinance), unless the tenancy commenced before January 1, 1996. This partial exemption shall apply only as long as the pertinent provisions of California Civil Code Section 1954.50 et. seq. ("Costa-Hawkins") remain in effect and require such an exemption.

As set forth in California Civil Code section 1954.52(b), any residential rental units where the owner has otherwise agreed to be subject to Sections 13.76.100 through 13.76.120 of this Chapter by contract with a public entity in consideration for a direct financial contribution or other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code are not partially-covered as “separately alienable rental units” and, unless otherwise exempt, shall be covered by all provisions of this Chapter to the extent that state or local law permits.

3. *Government-Owned or Government-Subsidized Rental Units.* Rental units which a government agency or authority owns, operates, manages, or in which governmentally subsidized tenants reside to the extent that applicable Federal law, State law, or administrative regulation specifically exempts such units from local or municipal price control. Such rental units shall be subject to all provisions of this Chapter except those from which applicable Federal law, State law, or administrative regulation specifically exempts the rental units.

C. The following rental units are Fully-exempt units:

1. *Short-Term Transient Rentals.* Rental units which are rented primarily to transient guests for use or occupancy less than fourteen consecutive days in establishments such as hotels, motels, inns, tourist homes, and rooming and boarding houses. However, the payment of rent every fourteen days or less shall not by itself exempt any unit from coverage by this Chapter.

2. *Co-op Rental Units.* Rental units in nonprofit cooperatives owned and controlled by a majority of the residents.

3. *Rental Units in Health Facilities.* Rental units in any hospital, skilled nursing facility, health facility, asylum, or non-profit home for older persons.

For the purposes of this Subsection, the following definitions apply:

"Skilled nursing facility" means a health facility or a distinct part of a hospital which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. It provides 24-hour inpatient care and, as a minimum, includes medical, nursing, dietary, pharmaceutical services and an activity program. The facility shall have effective arrangements, confirmed in writing, through which services required by the patients, but not regularly provided within the facility, can be obtained promptly when needed.

"Health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer.

4. *Owner-Occupied Shared Rental Units.* A rental unit in a residential property where the landlord shares kitchen or bath facilities with the tenant(s) of such rental unit and

where the landlord occupied a unit in the same property as his/her principal residence at the inception of the tenancy.

For the purposes of this subsection, the term landlord shall be defined only as the owner of record holding at least 50% interest in the property.

5. *Fraternities and Sororities.* A rental unit or room which is rented by an active member of a fraternity or sorority recognized by the University of California Berkeley, or a rental unit or room which is rented by an active member of a fraternity or sorority identified by Rent Board Resolution. To qualify for the exemption, the rental unit must be owned by the fraternity or sorority or by an entity whose sole purpose is the maintenance and operation of the fraternity or sorority's rental units for the benefit of the members in order to provide housing to said members at cost.

6. *Accessory Dwelling Units.* Rental units in a residential property containing only a Single Family Dwelling (as defined in Subtitle 23F.04 of the Zoning Ordinance) and one lawfully established and fully permitted Accessory Dwelling Unit where the landlord also occupies a unit in the same property as his/her principal residence. This subsection (13.76.050) shall only apply to properties containing a single Accessory Dwelling Unit, shall only apply to units compliant with all applicable requirements of Chapter 23C.24 ("Accessory Dwelling Units"), and shall only apply to tenancies created after November 7, 2018.

7. *Shelters and Transitional Housing.* Rental units in a facility owned or leased by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code that has the primary purpose of operating a treatment, recovery, therapy, sanctuary or shelter program for qualified clients, where such rental units are provided incident to the client's participation in the primary program and where the client has been informed in writing of the temporary or transitional nature of the housing at the inception of his or her participation in the program.

However, except as may be preempted by the Transitional Housing Participant Misconduct Act (California Health and Safety Code Sections 50580 et. seq.) or other state or federal law, such rental units shall not be exempted from the requirements of Section 13.76.130, Good Cause Required for Eviction. For purposes of Section 13.76.130(A)(2), the client's continued eligibility for participation in the treatment, recovery, therapy, sanctuary or shelter program shall be deemed a material term of the client's rental agreement with the program's operator.

8. *"Sabbatical Exemption" for Single-Family Homes.* A rental unit in a residential property containing only a Single Family Dwelling (as defined in Subtitle 23F.04 of the Zoning Ordinance) and owned by a property owner who:

- (a) owns only one residential unit in the City;
- (b) occupied that residential unit for at least 365 consecutive days as their principal residence immediately prior to renting the unit;
- (c) is absent from the unit for a period not to exceed 24 months;
- and (d) such period is specified in the lease.

9. *Golden Duplex Exemption.* ~~A Rental unit~~ in a residential property which is divided into two units where one of the units was owner-occupied on December 31, 1979, and is currently occupied by the landlord as their principal residence.

Rental units which become non-exempt under this provision shall have the provisions of Subsections 13.76.080J and 13.76.100C. applied to them.

For the purposes of this subsection, the term landlord shall be defined only as the owner of record holding at least 50% interest in the property.

D. No Removal of Rights Previously Established. No exemption articulated in subsection C shall apply when the current tenancy commenced prior to the date the unit met all elements of the exemption. This subsection shall not apply to any rental unit deemed exempt prior to November 3, 2026.

Section 3. Section 13.76.080 of the Berkeley Municipal Code is amended to read as follows:

13.76.080 Rent registration.

A. The Board shall require all landlords to file a rent registration statement with the Board by September 1, 1980 for each rental unit covered by this Chapter, except for Fully-Exempt Units as set forth in Section 13.76.050(C).

B. Landlords shall provide in their initial rent registration statement the following information:

- ~~(1) The address of each rental unit;~~
- ~~(2) The name and address of the landlord(s) and the managing agent, if any;~~
- ~~(3) The date on which the landlord received legal title to or equitable interest in the rental unit;~~
- ~~(4) The housing services provided for the rental unit;~~
- ~~(5) The rent in effect on June 6, 1978;~~
- ~~(6) The rent in effect on December 30, 1979;~~
- ~~(7) The base rent ceiling;~~
- ~~(8) The lowest rent in effect between June 6, 1978, and the date of the adoption of this Chapter;~~
- ~~(9) The amount of any deposits or other monies in addition to periodic rent demanded or received by the landlord in connection with the use or occupancy of the rental unit;~~
- ~~(10) Whether the rental unit was vacant or occupied on May 31, 1980;~~
- ~~(11) Rent in effect on December 31, 1981. on a form provided by the Board.~~

C. All rent registration statements provided by landlords in accordance with this Chapter shall include an affidavit signed by the landlord declaring under penalty of perjury that the information provided in the rent registration statement is true and correct.

D. *Notice at Commencement of Tenancy.* The landlord of any rental unit subject to this section must give the tenant a written notice on a form prescribed by the Board within 15 days of the commencement of the tenancy. The form shall include the following information:

1. The existence and scope of this Chapter;
2. The tenant's rights to petition against certain rent increases, if applicable;
3. Whether the landlord is permitted to set the initial rent and subsequent rents during the tenancy without limitation (such as pursuant to California Civil Code Sections 1947.12 and 1954.52); and
4. Any provisions of this Chapter which the landlord claims the rental unit to be exempt from.

If rental units subject to this Chapter are located in a property with an interior common area that all of the building's tenants have access to, the landlord must post a notice containing the information in subparagraph (1) and, if applicable to all units at the property, the information in subparagraphs (2) through (4).

All registration statements under this section shall include an affidavit signed by the landlord declaring under penalty of perjury that the landlord has provided this notice at the commencement of the current tenancy. A landlord that has failed to provide a notice pursuant to this subsection shall not be in compliance with this section.

E. *Vacancy Registration.* Any landlord who rents a fully-covered unit to a new tenant after January 1, 1996, shall re-register the rental unit with the Board within fifteen (15) days of the commencement of a new tenancy on a form prescribed by the Board. Re-registering the unit shall include providing all current tenancy information as established by the Board's Regulations.

F. The Board shall provide forms for the registration information required by this section and shall make other reasonable efforts to facilitate the fulfillment of the requirements set forth in this section.

G. Starting in 2027, annual registration fees required by this Chapter shall be due and payable on or before September 30 of each year.

Every annual registration fee required by this Chapter which is not paid on or before ~~July 1~~ the due date is declared delinquent, and the Board shall add to said registration fee and collect a penalty of one hundred percent of the fee so delinquent in addition to the fee. Every six months that the fee and penalty remain delinquent, the penalty shall be increased by one hundred percent of the original fee. The Board may waive the penalty if payment is made within thirty days of the original due date.

A landlord may request the Board to waive all or part of the penalty if the landlord can show good cause for the delinquent payment.

H. The amount of any registration fee, penalty, and fine imposed by the provisions of this Chapter shall be deemed a debt to the Board.

I. Within thirty days after the filing of a rent registration statement, the Board shall provide a true and correct copy of said statement to the occupant of the respective unit.

J. Landlords of formerly exempt units shall register within 60 days of coming under coverage of this Chapter. The registration fee for this first-time registration shall be pro-rated based upon the number of months remaining to the next ~~July 4~~ annual registration deadline.

K. No landlord shall be deemed to be in compliance with this Section with respect to a given unit until the landlord has completed registration for all covered units in the same property. Registration shall be deemed complete when all required information has been provided, any notice required by subsection 13.76.080(D) has been provided to the Board, and all outstanding fees and penalties have been paid.

L. Registration fees shall not be passed along to the tenants without the express, prior approval of the Board. Under no circumstances shall penalties be passed along to tenants.

M. Landlords of Partially-Covered Units (set forth above in Sections 13.76.050(B)) shall register within 60 days of coming under coverage of this Chapter. The registration fee for this first-time registration shall be pro-rated based upon the number of months remaining to the next ~~July 4~~ annual registration deadline.

N. *Paperless Billing Requirement.* The Board may, by regulation, require that registration fees and penalties due under this Section be paid through the Board's online rent registry. A landlord subject to this requirement must provide the Board a current email address in order to receive billing statements.

O. Notwithstanding any other provision of this Chapter, the Board shall have the authority to adopt regulations to waive or reduce fees owing under this Section for a residential property owned, leased or controlled by an organization exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code that contains rental units that are subject to a regulatory agreement with a governmental agency that controls the units' rent levels.

Section 4. Section 13.76.110 of the Berkeley Municipal Code is amended to read as follows:

13.76.110 Annual general adjustment of rent ceilings.

A. Effective January 1 of each year, the rent ceiling for all rental units covered by this Chapter for which the landlord did not establish an initial rent during the prior calendar year shall be adjusted by 65% of the percentage increase in the Consumer Price Index

for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30. In determining the allowable percentage rent increase, numbers of .04 and below shall be rounded down to the nearest tenth decimal place and numbers of .05 and above shall be rounded up to the nearest tenth decimal place. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than five percent (5%). The Board shall publish and publicize the annual general adjustment on or about October 31st of each year.

B. An upward general adjustment in rent ceilings does not automatically provide for a rent increase. Allowable rent increases pursuant to a general upward adjustment shall become effective only after the landlord gives the tenant at least a 30 days written notice of such rent increase and the notice period expires.

C. If the maximum allowable rent specified under this Chapter for a rental unit is greater than the rent specified for such unit in the rental agreement, the lower rent specified in the rental agreement shall be the maximum allowable rent until the rental agreement expires. If the maximum allowable rent specified under this Chapter for a rental unit is less than the rent specified for such unit in the rental agreement, the lower rent specified under this Chapter shall be the maximum allowable rent.

D. No rent increase pursuant to an upward general adjustment of a rent ceiling shall be effective if the landlord:

1. Has continued to fail to comply, after order of the Board, with any provisions of this Chapter and/or orders or regulations issued thereunder;
2. Has failed to bring the rental unit into compliance with the implied warranty of habitability;
3. Has failed to make repairs as ordered by the housing inspection services of the; or
4. Has failed to completely register by ~~July 1, except as provided in Subsection E below~~ the annual deadline.

~~E. The amount of an upward general adjustment for which a landlord shall be eligible shall decrease by ten percent (10%) per month for each month beyond October 1 for which the landlord fails to register.~~

~~EE.~~ An owner who has previously been out of compliance with the ordinance, regulations, or applicable housing, health and safety codes, and has been denied Annual General Adjustments, may be granted them prospectively as set forth in Board regulations.

F. Notwithstanding Subsection A above, which establishes the rules associated with rent ceiling increases, a landlord shall not increase the lawful periodic rent charged for any unit in a 12-month period by more than ten percent (10%) for rent increases based on the Annual General Adjustment.

Section 5. Section 13.76.130 of the Berkeley Municipal Code is amended to read as follows:

13.76.130 Just cause required for eviction.

A. No landlord shall be entitled to recover possession of a rental unit covered by the terms of this Chapter unless said landlord shows the existence of one of the following grounds:

1. *Non-payment of Rent.* The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under the provisions of state or local law, unless the tenant has withheld rent pursuant to applicable law; and said failure has continued after service on the tenant of a written notice setting forth the amount of rent then due and requiring it to be paid, within a period, specified in the notice, of not less than three days. Rent that is lawfully withheld pursuant to emergency legislation that authorizes rent withholding during the effective period of a state of emergency applicable in the City shall not constitute grounds for recovery of possession except as expressly provided in the applicable emergency legislation. Emergency legislation adopted during the emergency may prohibit recovery of possession for lawfully withheld rent even after the expiration of a state or local emergency. This subsection shall not constitute grounds where the amount of rent demanded is less than one month of fair market rent for a unit of equivalent size in the metro area Oakland-Fremont, CA HUD Metro FMR as determined by the U.S. Department of Housing and Urban Development for the fiscal year in which the rent is demanded.

2. *Substantial Violation of Material Lease Causing Actual Injury.* The tenant has continued, after written notice to cease, to substantially violate any of the material terms of the rental agreement, except the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the tenant or made part of the rental agreement; and provided further that, where such terms have been accepted by the tenant or made part of the rental agreement subsequent to the initial creation of the tenancy, the landlord shall have first notified the tenant in writing that he or she need not accept such terms or agree to their being made part of the rental agreement.

Material terms of the rental agreement only include those terms of the rental agreement which both parties have expressly agreed upon and do not include any changes of the terms of tenancy, other than the amount of rent owing for the premises, which the landlord has attempted to impose unilaterally under Civil Code Section 827.

In order to assert this ground for eviction, the landlord must demonstrate all of the following: that the tenant's lease violation caused substantial actual damage to the landlord; and that the tenant's behavior was unreasonable.

Actual injury must be a direct result of the tenant's breach of lease and is not limited to physical or personal injury. Substantial actual injury includes but is

not limited to the harm caused by a tenant's failure to comply with income recertification mandated by state or federal statute or regulation for deed-restricted affordable housing units.

Notwithstanding any contrary provision in this Chapter or in the rental agreement, a landlord is not entitled to recover possession of a rental unit under this Subsection where a tenant permits his or her rental unit to be occupied by a subtenant, provided:

- (a) The landlord has unreasonably withheld consent to the subtenancy; and (b) The tenant remains an actual occupant of the rental unit; and
- (c) The number of tenants and subtenants actually occupying the rental unit does not exceed the number of occupants originally allowed by the rental agreement or the Board's regulations, whichever is greater.
- (d) Withholding of consent by the landlord shall be deemed to be unreasonable where:
 - i. The tenant's written request for consent was given at least two weeks prior to commencement of the subtenancy;
 - ii. The proposed new subtenant has, upon the landlord's written request, completed the landlord's standard form application or provided sufficient information to allow the landlord to conduct a standard background check, including references and credit, income and other reasonable background information; and
 - iii. The proposed new subtenant meets the landlord's customary occupancy qualifications and has not refused the landlord's request to be bound by the terms of the current rental agreement between the landlord and the tenant; and
 - iv. The landlord has not articulated in writing a well-founded reason for refusing consent.

Any notice to cease given pursuant to this Subsection must state allegations in sufficient detail so that a reasonable person would understand the alleged violation and resulting injury, including the specific term of the lease allegedly violated, the date of the alleged violation, and the injury that occurred as a result of the alleged violation.

3. *Substantial Damage to Premises.* The tenant has willfully caused or allowed substantial damage to the premises beyond normal wear and tear and has refused, after written notice, to pay the reasonable costs of repairing such damage and cease damaging said premises.

4. *Destruction of Peace.* The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants or occupants of the premises or the tenant is otherwise subject to eviction pursuant to subdivision 4 of Code of Civil Procedure Section 1161.

5. *Refusal of Lawful Access to Unit.* The tenant has, after written notice to cease, refused the landlord access to the unit as required by state or local law.

6. *Substantial and Necessary Repairs.*

(a) The landlord, after having obtained all necessary permits from the City, seeks in good faith to undertake substantial repairs which are necessary to bring the property into compliance with applicable codes and laws affecting the health and safety of tenants of the building or where necessary under an outstanding notice of code violations affecting the health and safety of tenants of the building, and where such repairs cannot be completed while the tenant resides on the premises.

(b) Where such repairs can be completed in a period of 60 or fewer days, and the tenant, within 30 days after the service of a notice of termination of his or her tenancy, agrees in writing to vacate the premises during the period required to complete the repairs at no charge to the landlord, other than abatement of the obligation to pay rent for the premises during the period required to complete the repairs, the landlord may not recover possession pursuant to this Subsection 13.76.130(A)(6) unless the tenant shall fail or refuse to vacate the premises in accordance with such agreement.

(c) Where the landlord owns any other residential rental units in the City, and any such unit is vacant and available at the time of premises or the entry of a judgment by a court of competent jurisdiction awarding possession of the premises to the landlord, the landlord shall, as a condition of obtaining possession pursuant to this Subsection (13.76.130(A)(6)), notify tenant in writing of the existence and address of each such vacant rental unit and offer tenant the right, at the tenant's option:

- i. To enter into a rental agreement (to be designated as a "temporary rental agreement") on any available rental unit which the tenant may choose, at a rent not to exceed the lesser of the lawful rent which may be charged for such available rental unit or the lawful rent in effect, at the time of the notice of termination of tenancy, on the unit being vacated, said rental agreement to be for a term of the lesser of ninety days or until completion of repairs on the rental unit being vacated by tenant; or
- ii. To enter into a new rental agreement or lease for such an available rental unit at a rent not to exceed the lawful rent which may be charged for such available rental unit.

(d) Where the landlord recovers possession under this subsection 13.76.130(A)(6)), the tenant must be given the right of first refusal to re-occupy the unit upon completion of the required work. In the event the landlord files an application for an individual rent adjustment within six months following the completion of the work, the tenant shall be a party to such proceeding the same as if he or she were still in possession, unless the landlord shall submit, with such application, a written waiver by the tenant of his or her right to re-occupy the premises pursuant to this Subsection.

7. *Demolition Permit Issued by the City.* The landlord, after having obtained all necessary permits from the City of Berkeley, seeks in good faith to recover possession of the rental unit, in order to remove the rental unit from the market by demolition.

8. *Owner Move-in Evictions.*

(a) The landlord seeks in good faith with honest intent and without ulterior motive to recover possession for his/her own use and occupancy as his/her principal residence for a period of at least 36 consecutive months; or

(b) For the use and occupancy as the principal residence by the landlord's spouse or by the landlord's child, or parent for a period of at least 36 consecutive months.

(c) For the purposes of this Subsection (13.76.130(A)(8)), the term landlord shall be defined as the owner of record, as of the time of giving of a notice terminating tenancy, and at all times thereafter to and including the earlier of the tenant's surrender of possession of the premises or the entry of a judgment of a court of competent jurisdiction awarding possession of the premises to the landlord, holding at least a 50% interest in the property and shall not include a lessor, sublessor, or agent of the owner of record.

(d) All notices terminating tenancy pursuant to subsection 13.76.130(A)(7) shall include the following: the existence and potential availability of relocation assistance under subsection 13.76.130(A)(8)(g); the existence of tenant protections for families with minor children as defined in Subsection 13.76.130(A)(8)(k); the name and relationship of any qualified relative for purposes of Subsection 13.76.130(A)(8)(b); and the landlord's ownership interest in any residential properties in the City where such interest, in any form whatsoever, is ten percent (10%) or greater. The landlord shall, within ten days of giving notice, file a copy of the notice terminating tenancy with the Board.

(e) The landlord may not recover possession under this Subsection (13.76.130(A)(8)) if a comparable unit, owned by the landlord in the City, was, at the time of the landlord's decision to seek to recover possession of the rental unit, already vacant and available, or if a comparable unit, owned by the landlord in the City, thereafter becomes vacant at any time until the earlier of the tenant's surrender of possession of the premises or the entry of a judgment of a court of competent jurisdiction awarding possession of the premises to the landlord. In an action by or against the tenant, evidence that a comparable unit was vacant and available within ninety days prior to the date of a notice terminating the tenant's tenancy shall create a presumption that such unit was vacant and available at the time of the landlord's decision to seek to recover possession of the premises. "Presumption" means that the court must find the existence of the presumed fact unless and until the contrary is proven by a preponderance of the evidence.

(f) The landlord shall offer any non-comparable unit owned by the landlord to

the tenant if a non-comparable unit becomes available before the recovery of possession of the tenant's unit at a rate based on the rent the tenant is paying with an upward or downward adjustment based on the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Board.

(g) Where a landlord recovers possession of a unit under Subsection 13.76.130(A)(8), the landlord is required to provide standard relocation assistance to tenant households where at least one occupant has resided in the unit for one year or more in the amount of \$15,000. The landlord is required to provide an additional \$5,000 relocation assistance to tenant households that qualify as low-income; or include disabled or elderly tenants; minor children; or tenancies which began prior to January 1, 1999. The relocation fees set forth above shall be increased in accordance with the rules set forth in Subsection 13.76.130(A)(7) below. The procedures for payment of this relocation assistance are set forth below in Subsection 13.76.130(A)(8)(p)(i) through 13.76.130(A)(8)(p)(iv). The following definitions apply for any tenant households evicted for owner move-in under Subsection 13.76.130(A)(8):

- i. "Low-income tenants" means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, or as otherwise defined in Health and Safety Code Section 50079.5.
- ii. A person is "disabled" if that person has a physical or mental impairment that limits one or more of a person's major life activities within the meaning of the California Fair Housing and Employment Act (Government Code § 12926).
- iii. "Elderly" is defined as sixty (60) years of age or older.
- iv. "Minor child" means a person who is under 18 years of age.
- v. "Tenancy began prior to January 1, 1999" is a tenancy where an "original occupant" (as defined by Board regulation) still permanently resides in the rental unit.

(h) Effective January 1 of each year beginning in 2018, the fees set forth above in Subsection 13.76.130(A)(8)(g), shall be increased in an amount based on the Consumer Price Index - All Urban Consumers in the San Francisco-Oakland-San Jose Region averaged for the 12-month period ending June 30, of each year, as determined and published by United States Department of Labor. Any increase shall be published by the Board on or before October 31st of each year.

(i) It shall be evidence that the landlord has acted in bad faith if the landlord or the landlord's qualified relative for whom the tenant was evicted does not move into the rental unit within three months from the date of the tenant's surrender of possession of the premises or occupy said unit as his/her principal residence for

a period of at least 36 consecutive months.

(j) Once a landlord has successfully recovered possession of a rental unit pursuant to Subsection 13.76.130(A)(8)(a), then no other current or future landlords may recover possession of any other rental unit on the property

pursuant to Subsection 13.76.130(A)(8)(a). It is the intention of this subsection that only one specific unit per property may be used for such occupancy under Subsection 13.76.130(A)(8)(a) and that once a unit is used for such occupancy, all future occupancies under Subsection 13.76.130(A)(8)(a) must be of that same unit.

(k) A landlord may not recover possession of a unit from a tenant under Subsection 13.76.130(A)(8) if any tenant in the rental unit has a custodial or family relationship with a minor child who is residing in the unit, the tenant with the custodial or family relationship has resided in the unit for 12 months or more, and the effective date of the notice of termination of tenancy falls during the school year. The term "school year" as used in this subsection means the first day of instruction for the Fall Semester through the first day of the month following the last day of instruction for the Spring Semester, as posted on the Berkeley Unified School District website for each year.

i. For purposes of Subsection 13.76.130(A)(8)(k), the term "custodial relationship" means that the person is a legal guardian of the child, or has a caregiver's authorization affidavit for the child as defined by Section 6550 of the California Family Code, or that the person has provided full-time custodial care of the child pursuant to an agreement with the child's legal guardian or court-recognized caregiver and has been providing that care for at least one year or half of the child's lifetime, whichever is less. The term "family relationship" means that the person is the biological or adoptive parent, grandparent, brother, sister, aunt or uncle of the child, or the spouse or domestic partner of such relations.

(l) A landlord may not recover possession of a unit from a tenant under Subsection 13.76.130(A)(8) if any tenant in the rental unit:

i. Is 60 years of age or older and has been residing on the property for five years or more; or

ii. Is disabled and has been residing on the property for five years or more; or

iii. Has resided on the property for five years or more and the landlord has a ten percent (10%) or greater ownership interest, in any form whatsoever, in five or more residential rental units in the City.

(m) A tenant who claims to be a member of one of the classes protected by Subsection 13.76.130(A)(8)(l) must submit a statement, with supporting evidence, to the landlord. A tenant's failure to submit a statement at any point

prior to the trial date of an unlawful detainer action for possession of the tenant's unit shall be deemed an admission that the tenant is not protected by Subsection 13.76.130(A)(8)(I) landlord may challenge a tenant's claim of protected status by raising it as an issue at trial in an unlawful detainer action for possession of the tenant's unit.

(n) The provisions of Subsection 13.76.130(A)(8)(I) shall not apply to the following situations:

i. Where a person is the owner of three or fewer residential units in the City and has no greater than a nine percent (9%) ownership interest in any other residential unit in the City; or

ii. Where each residential rental unit in the City in which the landlord holds an ownership interest of ten percent (10%) or greater is occupied by a tenant otherwise protected from eviction by Subsection

13.76.130(A)(8)(I) and the landlord's qualified relative who is seeking possession of a unit subject to Subsection 13.76.130(A)(8)(b) is 60 years of age or older or is disabled as defined in Subsection 13.76.130(A)(8)(I) above; or

iii. Where each residential rental unit in the City in which the landlord holds an ownership interest of ten percent (10%) or greater is occupied by a tenant otherwise protected from eviction by Subsection

13.76.130(A)(8)(I), the landlord has owned the unit for which possession is being sought subject to Subsection 13.76.130(A)(8)(a) for five years or more and is 60 years of age or older or is disabled as defined in Subsection 13.76.130(A)(8)(I).

(o) Where a landlord recovers possession under Subsection 13.76.130(A)(8), the tenant must be given the right of first refusal to re-occupy the unit upon its next vacancy.

(p) When a landlord is required to provide a relocation assistance payment subject to Subsection 13.76.130(A)(8)(g), the payment shall be divided among the tenants occupying the rental unit at the time of service of the notice to terminate tenancy.

i. Within ten days of service of a notice terminating tenancy under Subsection 13.76.130(A)(8), the landlord shall deposit the standard relocation assistance (for households where an occupant has resided one year or more) with the City Board or its designated agent to be held in escrow. ~~Within ten days after the funds are deposited into escrow, the~~ City Board shall release the standard relocation assistance to the tenant household, unless the landlord notifies the Rent Stabilization Program Board in writing that the landlord disputes the tenant's eligibility to receive such assistance.

ii. In order to claim entitlement to additional relocation assistance

under Subsection 13.76.130(A)(8)(g), a tenant must notify the landlord and the ~~Rent Stabilization Program Board~~ in writing that the tenant is claiming low-income, disabled, elderly, tenant with minor child status, or a claim that the tenancy began prior to January 1, 1999 (hereinafter "entitlement to additional relocation assistance") per Subsection 13.76.130(A)(8)(g) within 30 days of filing of notice of termination of tenancy with the ~~Rent Stabilization Program Board~~. The landlord shall deposit the additional relocation payment with the ~~Rent Stabilization Program Board~~ or its designated agent to be held in escrow for any tenant household who claims entitlement to additional relocation assistance within ten days after such notice claiming entitlement to additional relocation assistance is mailed. ~~Within ten days after the funds are deposited into escrow,~~ the Rent Stabilization Program Board shall authorize release of the relocation assistance to the tenant household that claims entitlement to additional relocation assistance, unless the landlord notifies the ~~Rent Stabilization Program Board~~ in writing that the landlord disputes the tenant's eligibility to receive such assistance.

iii. When a tenant household's eligibility to receive standard or additional relocation assistance as described in Subsection 13.76.130(A)(8)(g) is disputed, either party may file a petition with the Board requesting a determination of eligibility or file a claim in a court of competent jurisdiction. The Board shall release disputed relocation assistance funds to either the tenant or the landlord upon receipt of either a written agreement by both the landlord and the affected tenant, an order of a court of competent jurisdiction, or an order of a City or Board hearing examiner issued pursuant to a petition process conducted in accordance with applicable Board regulations.

iv. The landlord may rescind the notice of termination of tenancy prior to any release of relocation payment to the tenants by serving written notice stating such rescission on the tenants. In such instances, the relocation payment shall be released to the landlord. Subsequent to the release of any relocation payment to the tenants, the landlord may rescind the notice of termination of tenancy only upon the written agreement of the tenants to remain in possession of the rental unit. If the tenants remain in possession of the rental units after service of a landlord's written notice of rescission of the eviction, the tenants shall provide an accounting to the landlord of the amount of the relocation payment expended for moving costs, return to the landlord that portion of the relocation payment not expended for moving costs, and assign to the landlord all rights to recover the amount of relocation payment paid to third parties. If a rescission occurs under this Subsection, the tenant(s) shall continue the tenancy on the same terms as before the notice was served.

v. Where a landlord has served a notice of termination of tenancy on a tenant prior to the date that this amendment takes effect and the notice of termination of tenancy has not expired, the landlord shall deposit the full

relocation payment with the City or its designated agent to be held in escrow for the tenants if the tenants have not vacated the rental unit as of the effective date of this amendment, and the landlord shall pay the full relocation payment to the tenants if the tenants have vacated the rental unit as of the effective date of this amendment. Said deposit in escrow or payment to the tenants shall be made within ten days of the effective date of this amendment.

vi. Failure of the landlord to make any payment specified herein shall be a defense to any action to recover possession of a rental unit based upon the landlord's termination of tenancy notice pursuant to this Subsection (13.76.130(A)(8)). In addition, if the tenants of a rental unit have vacated the unit as a result of a notice of termination of tenancy pursuant to this subsection (13.76.130(A)(8)), and the landlord fails to make any payment specified herein, the landlord shall be liable to the tenants for three times the amount of the payment as well as reasonable attorney fees.

(q) A tenant who prevails in an action brought under this Subsection (13.76.130(A)(8)), in addition to any damages and/or costs awarded by the court, shall be entitled to recover all reasonable attorney's fees incurred in bringing or defending the action.

(r) At least twice annually, Board staff shall report to the Board regarding the occupancy status of units possession of which has been recovered pursuant to this Subsection (13.76.130(A)(8)) within the prior 36 months.

(s) If any provision or clause of this Subsection (13.76.130(A)(8)) or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses, and to this end the provisions and applications of this Subsection are severable.

9. ~~Exemption~~Expiration *of Temporary Lease of Owner's Principal Residence.* A landlord or lessor seeks in good faith to recover possession of the rental unit for their occupancy as a principal residence, where the landlord or lessor has previously occupied the rental unit as their principal residence and has the right to recover possession of the unit for their occupancy as a principal residence under an existing rental agreement with the current tenants.

10. *Expiration of Temporary Rental Agreement for Replacement Housing During Substantial Repairs.* The tenant fails to vacate a rental unit occupied under the terms of a temporary rental agreement entered into pursuant to the provisions of Subsection 13.76.130(A)(6)(c), following expiration of the term of said temporary rental agreement, and following written notice of the availability of tenant's previous rental unit for re-occupancy by tenant (if the term of the rental agreement has expired by reason of the completion of repairs on the old rental unit), or of written notice to quit (if the term of the rental agreement has expired by reason of the expiration of a period of 90 days).

B. *Contents of Notice to Terminate Tenancy.* A landlord's failure to specify just cause

as listed above in subsections 1 through 10 of Section 13.76.130(A) in the notice of termination or the notice to quit and in the complaint for possession shall be a defense to any action for possession of a rental unit covered by the terms of this chapter. Any notice terminating tenancy must additionally include a statement that advice regarding the notice terminating tenancy is available from the Rent Board, the current phone number for the Rent Board's housing counseling services, and the current address to the Rent Board's website.

C. *Allegation of Notice to Terminate Tenancy.* In any action to recover possession of a rental unit covered by the terms of this chapter, except an action to recover possession under Subsection 13.76.130(A)(6), 13.76.130(A)(7), or 13.76.130(A)(10), a landlord shall allege, as to each rental unit on the property, substantial compliance as of the date of the notice of termination or notice to quit and as of the date of the commencement of the action for possession with the implied warranty of habitability and compliance as of the date of the notice of termination or notice to quit and as of the date of the commencement of the action for possession with Sections 13.76.100 (Rent Ceiling) and 13.76.080 (Rent Registration) of this Chapter.

D. *Filing of Termination Notices and Unlawful Detainer Summons and Complaints.* The landlord shall file with the Board a copy of any notice of termination, notice to quit, and summons and complaint, no later than three business days after the tenant has been served with such notice or summons and complaint. The Board may provide an email address to which the landlord may send any notice of termination, notice to quit, and summons and complaint.

Section 6. Section 13.76.135 of the Berkeley Municipal Code is amended to read as follows:

13.76.135 Right to organize.

A. *Tenant Association.* This section shall be limited to 1) parcels that contain ~~ten~~ five or more rental units; and 2) parcels that contain between one and ~~nine~~ four rental units, so long as the rental units are managed by a property management company as defined by Board regulation.

Tenants of such a residential rental property may establish a Tenant Association by providing their Landlord a petition signed by Tenants representing at least 50% of the occupied rental units, including Rooming Houses as defined by Board regulation, of the residential rental property certifying their desire to form a Tenant Association, and identifying the Tenant Association. For purposes of this subsection, a petition may include individual written statements signed by said Tenants or some combination of individual and collective written statements.

Once established, a Tenant Association shall remain eligible for the rights conferred by this Section even if a property management company no longer manages the rental units.

B. *Confer in Good Faith.* Landlords and Tenant Associations shall confer with each other in good faith regarding housing services and conditions, community life, landlord-tenant relations, rent increases, and other issues of common interest or

concern. "Confer in good faith" means that the parties shall have the mutual obligation, personally or through their authorized representatives, to meet and confer and continue for a reasonable period of time, in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement. Examples of conferring in good faith include, but are not limited to, maintaining a designated point of contact, engaging in regular communications, responding to reasonable requests for information, allowing participation by non-resident advocates, providing adequate time for limited-English speakers to obtain translation services, providing and adhering to timelines for addressing habitability concerns, and negotiating and putting agreements into writing. In addition, a Landlord may not prohibit a Tenant from allowing a Tenant Association representative to attend meetings involving the Landlord and one or more Tenants. The Board, through regulation, may further define good faith.

C. *Organizing Activities*. "Organizing Activities" means:

1. initiating contact with tenants, including conducting door-to-door surveys, to ascertain interest in and/or seek support for forming a Tenant Association;
2. joining or supporting a Tenant Association;
3. distributing literature, requesting or providing information, offering assistance, convening meetings (which may occur without a landlord or landlord representative present); or
4. otherwise acting on behalf of one or more tenants in the building regarding issues of common interest or concern.

The term "Organizing Activities" shall include, but is not limited to, the operations of a Tenant Association. A person's participation or failure to participate in Organizing Activities shall have no effect on whether that person qualifies as a tenant. The Board, through regulation, may further define Organizing Activities. In addition, a tenant's right to engage in Organizing Activities, to receive assistance from a Tenant Association, and to have Organizing activities occur at the property shall qualify as a housing service, and a landlord's failure to confer in good faith with a Tenant Association may ~~send the Landlord a single standing request to attend meetings for the duration of the calendar year~~ support a petition for a rent reduction.

D. A Landlord must on written request of the Tenant Association attend, either themselves or through their representative, at least one Tenant Association meeting per calendar quarter, though more frequent attendance at the request of the Tenant Association is permitted. Landlord or Landlord's representative must remain in attendance at the meeting until all agenda items are complete, unless the meeting extends for more than two hours, in which case the Landlord or Landlord's representative may withdraw from the meeting and request that the remaining items be continued to a subsequent meeting. These meetings shall occur at a mutually convenient time and place. To request that a landlord or their representative attend a meeting, the Tenant Association shall send the Landlord a written request at least 14 days in advance; alternatively, if the Tenant Association meets at a regularly scheduled time and place, then the Tenant Association may send the Landlord a single standing request to attend meetings for the duration of the calendar year.

E. *Private Right of Action.* In the event of a violation of this section, any Tenant Association, or individual tenant, aggrieved by the violation may institute a civil proceeding for injunctive relief, and actual money actual damages as specified below, and whatever other relief the court deems appropriate. In addition to the above awards of damages in a civil action under this Chapter, a prevailing plaintiff shall be entitled to an award of reasonable attorney's fees.