

ORDINANCE NO. XXXX–N.S.

AMENDING THE BERKELEY MUNICIPAL CODE TO PROTECT RENTERS DURING THE COVID-19 CRISIS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 13.110.020 D is amended to read as follows:

13.110.020 Prohibited Conduct

A. During the local State of Emergency, no landlord or other entity shall evict or attempt to evict an occupant of real property unless necessary for the health and safety of residents. For purposes of this Ordinance, the basis for an exception to this Ordinance cannot be the Resident’s COVID-19 illness or exposure to COVID-19, whether actual or suspected.

B. Residential Eviction Moratorium. It shall be a complete defense to any action for unlawful detainer that the notice upon which the action is based was served or expired, or that the complaint was filed or served during the local State of Emergency.

C. No landlord of an Impacted Business or Nonprofit may upon expiration of a lease increase rent for an Impacted Business or Nonprofit in an amount greater than ten (10) percent over the rent in effect at the commencement of the local state of emergency declared by the Director of Emergency Services. For purposes of this section, rent means all consideration for the use and enjoyment of the rented premises, including base rent and any additional rent or other charges for costs such as utilities, maintenance, cleaning, trash removal, repairs and any other charges to the tenant required under the rental agreement. This section 13.110.020 C. shall expire on May 31, 2020, concurrent with Executive Order N-28-20; provided, however, that this section shall be automatically extended if Executive Order N-28-20 is extended or the tenant protections therein are extended pursuant to another Governor’s Executive Order.

D. For the duration of the local State of Emergency, if a tenant has a Covered reason for delayed payment the tenant may terminate a lease or rental agreement with 30 days’ notice without penalty. A tenant may also exercise rights under this subsection if the tenants or roommates of the tenants are or were registered at an educational institution that cancelled or limited in-person classes due to the COVID-19 pandemic.

Section 2. That Berkeley Municipal Code Section 13.78.017 is amended to read as follows:

13.78.017 Prohibition of Lease Termination Fees

It is unlawful for an owner of residential property, or the owner's agent, to charge any fee for the termination of their tenancy prior to the expiration of a lease. Nothing in this section shall prohibit a landlord from recovering any charges, fees or damages associated with termination of tenancies that are authorized under California Civil Code Section 1951.2. Negotiations between the parties, occurring when the tenants notified the landlord to their intention to exit the lease, in order to terminate a tenant's liabilities are not precluded by the ordinance.

Section 3. Vote Required, Immediately Effective

Based on the findings and evidence in Section 13.110.010 of the Urgency Ordinance, the Council determines that this Ordinance is necessary for the immediate preservation of the public health, peace and safety in accordance with Article XIV Section 93 of the Charter of the City of Berkeley and must therefore go into effect immediately. This Ordinance shall go into effect immediately upon a seven-ninths vote of the City Council, in satisfaction of the Charter of the City of Berkeley.