



Rent Stabilization Board

# Berkeley's Rent Ordinance Before & After Measure BB

To help landlords and tenants put Measure BB amendments into context, the chart below compares Ordinance provisions before and after Measure BB.

Subject	Rent Ordinance Before Measure BB	Measure BB Change
Shared Kitchen/Bath Exemption	Previously, any unit where the tenant shared a kitchen or bathroom with the landlord was fully exempt from the Rent Ordinance regardless of whether the landlord lived on property when the tenancy started.	Where the tenant shares a kitchen or bath facilities with the landlord, the unit will be exempt from the Rent Ordinance only if the landlord lived in a unit on the same property at the start of the tenancy.
Government-owned or -subsidized units, like Section 8 or Shelter Plus Care	Previously, most landlords of government-owned or -subsidized units were not required to register those units with the Rent Board and pay registration fees, and the Rent Board did not control the rent for any type of government-owned or -subsidized units.	Landlords of government-owned or -subsidized units must register them with the Rent Board as either fully or partially covered, and pay an annual registration fee. Units that are fully covered will have a rent ceiling, meaning rent increases will be limited by the Annual General Adjustment set by the Rent Board each year. Whether a unit is fully or partially covered depends on unit type and if Federal law, State law, or administrative regulation exempts the unit from the rent control provisions of Berkeley's Rent Ordinance. Section 8 and Shelter Plus Care units are the most common types of government subsidies in Berkeley. There are, however, other types of subsidies. See our <a href="#">Measure BB webpage</a> for a table of subsidies and level of coverage.
Eviction for nonpayment of rent	Previously, the Rent Ordinance did not set a threshold on the amount of rent owed prior to allowing a landlord to start an eviction for non-payment of rent.	For a landlord to evict a tenant for nonpayment of rent, the tenant must owe an amount of rental debt equal to or greater than one month of the fair market rent (FMR) value for a unit of equivalent size in the metro area Oakland-Fremont, CA HUD Metro FMR as determined by the US Department of Housing and

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		Urban Development for the fiscal year in which the rent is demanded. See our <a href="#">Good Cause &amp; Other Local Requirements webpage</a> for a table showing current FMRs.
Tenant failure to sign a substantially similar lease	Previously, if a tenant was asked to sign a substantially similar lease upon the expiration of a fixed-term lease and did not, the landlord had just cause to evict the tenant.	This just cause has been eliminated. A landlord cannot evict a tenant for failing to sign a substantially similar lease upon expiration of a fixed-term lease.
Material violation of a lease term	Previously, the Ordinance did not define material lease terms, did not require an alleged breach of lease to cause actual harm, and did not specify standards for describing the alleged violation and harm.	<ul style="list-style-type: none"> <li>• Material lease terms only include mutually agreed upon lease terms.</li> <li>• The alleged violation must cause substantial, actual damage to the landlord.</li> <li>• The landlord must demonstrate that the tenant’s behavior was unreasonable.</li> <li>• The landlord’s notice to the tenant to stop the violation (which is required before the landlord can serve an eviction notice) must specify the lease term, and describe the violation and resulting harm in enough detail for a reasonable person to understand.</li> </ul>
Requirements related to eviction notices and lawsuits	Previously, eviction notices did not have to direct tenants to the Rent Board for advice, and landlords had to file a copy of any notice to terminate a tenancy, notice to quit, and summons and complaint within 10 days after the tenant was served.	<ul style="list-style-type: none"> <li>• All eviction notices must contain a statement that advice about the notice is available from the Rent Board, the current phone number for the Rent Board’s Housing counseling services, and the current address of the Rent Board’s website.</li> <li>• The landlord must file with the Rent Board a copy of any notice to terminate a tenancy, notice to quit, and summons and complaint no later than 3 business days after the tenant was served with the document.</li> </ul>

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Requirement to provide Notice of Tenant Rights	Previously, the Ordinance did not require that the landlord provide a Notice of Tenant Rights.	<ul style="list-style-type: none"> <li>• Landlords must, within 15 days of the start of a tenancy, give the tenant written notice containing the following information: The existence of and scope of the Rent Ordinance; the tenant’s right to petition against certain rent increases, if applicable; whether the unit is exempt from rent control; and any other partial exemptions which may exist.. The Rent Board has <a href="#">forms</a> landlords can use for this purpose.</li> <li>• If the property has an interior common area that all tenants have access to, the landlord must post the notice/s in the common area.</li> <li>• Landlords must sign the affidavit included on all tenancy registration forms confirming that the tenant was provided the notice.</li> </ul>
New utility rules	Previously, the Ordinance did not prohibit the landlord from charging tenants utility amounts that varied monthly even if the property was not separately metered.	Starting February 6, 2024, a landlord may only charge a tenant in a fully covered unit for utilities if either: the cost of the utilities are part of the base rent, or the utility service is separately-metered, and the lease requires the tenant to place the utility in the tenant’s name.
Tenant right to organize	Previously, the Rent Ordinance did not provide a formal right for tenants to organize.	Tenants who live on certain properties now have an enforceable right to create tenant associations and engage in organizing activities. Landlords are required to confer in good faith with tenant associations in an attempt to address any issues such as: landlord-tenant relations, rent increases, habitability concerns, and other matters of common interest. Please see our <a href="#">Tenant Right to Organize page</a> for details.
Planned capital improvements	Previously, landlords could file a petition to have rent increases preliminarily authorized for planned capital improvements (the increases could only be implemented after the improvements were complete).	Landlords can only file a petition for rent increases for completed capital improvements.

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Change to tenancy reporting requirements for partially covered units	Previously, owners only had to make the annual report (they were not required to report every new tenancy to the Rent Board).	Owners of partially covered units must now report new tenancies to the Rent Board within 15 days of the tenancy's start date. Owners must also update tenancy information annually during the registration cycle.
Annual General Adjustment cap	Previously, the AGA was capped at 7%.	The maximum AGA is 5%.
Owner Move-In Eviction Relocation Payment Inflationary Adjustments	Previously, the Ordinance gave the Board permission to make inflationary adjustments to owner move-in eviction relocation assistance amounts each year, but did not require the adjustments.	The Rent Board must make inflationary adjustments to owner move-in eviction relocation assistance amounts each year.
Rent Board power to implement penalties for the failure to report tenancy information within fifteen days	Previously, the Rent Board only had the power to collect penalties for failing to pay the registration fee on time.	Measure BB gives the Rent Board the power to impose fines for failing to report new tenancies within fifteen days of the tenancy start date. <b>IMPORTANT: While</b> Measure BB gives the Board the power to impose these fines, it does not create a fine system. The elected Board must take further action to adopt regulations to establish any sort of fines.