

Burbank Tenants' Rights Committee
Ordinance language

The following initiative ordinance of the city of Burbank is hereby proposed to be submitted for approval by a majority of the qualified voters for the city of Burbank at the next municipal election, or at a Special Election to be called and consolidated with the State General Election on November 3, 2020, if the Burbank City Council so decides:

SECTION 1. Title 9 of the Burbank Municipal Code is amended to add Chapter 5 which is to read as follows:

Chapter 5

BURBANK RENT STABILIZATION AND TENANT PROTECTION ACT

SECTION 2. Section 9-5-1 is added to the Burbank Municipal Code to read as follows:

9-5-1 Title and Purpose.

This Chapter shall be known as the Burbank Rent Stabilization and Tenant Protection Act. The purpose of this Chapter is to promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Burbank by regulating excessive rent increases to the maximum extent permitted under California law, while ensuring Landlords a fair return on their investment and guaranteeing fair protections for renters, homeowners, and businesses.

SECTION 3: Section 9-5-2 is added to the Burbank Municipal Code to read as follows:

9-5-2 Findings.

The People of Burbank find and declare as follows:

A. There is a shortage of decent, safe, affordable, and sanitary housing in the City of Burbank resulting in an increasingly overpriced city that is pushing out valuable, long-term residents. As a result of this shortage of moderately priced rental space, freedom of contract and the ability of tenants to bargain in the setting of rents have become illusory.

B. Tenants desire to be free from the fear of eviction motivated by a rental property owner's desire to dramatically increase rents in a hot housing market, and to live in a stable and healthy community.

C. According to a May 2019 report by California Housing Partnership Corporation, renters in Los Angeles County, which includes the city of Burbank, need to earn more than three times the local minimum wage in order to afford the median monthly rent.

D. According to the Burbank 2017 Housing Strategy, when applying for Federal Housing Authority (FHA) and conventional loans, typical underwriting guidelines allow for monthly housing expense to be between 30 to 35 percent of income. Using the average number of 33% as a guide for affordability and the Burbank median household income (\$69,410), to provide housing for the majority mid-range of Burbank residents (that is the middle 68 percent of current Burbank residents), monthly rents should range between \$1,182 and \$2,558. Additionally, the 2017 American Community Survey shows that about 30% of Burbank households pay more than 50% of their income on rent, making them at risk of homelessness with changes/reductions in income. A recent study by Zillow, the real estate website, found that communities where people spend more than 32% of their income on rent also experience a more rapid increase in the homeless population.

E. According to the city of Burbank Community Development Department's Staff Report of December 19, 2017, approximately 59 percent of Burbank residents are renters. Thus, residents are vulnerable to soaring rental prices and are in danger of being displaced from their homes.

F. The rental housing situation has a detrimental effect on the health, safety, and welfare of substantial numbers of renters in the City, creating particular hardship for senior citizens, persons with disabilities, persons on fixed incomes and other vulnerable tenants.

G. Evictions and displacement impose an especially high burden on school-aged children and their families, including increased absences from school and other educational disruption that can have long-lasting effects.

H. High rental costs also make it increasingly difficult, if not impossible, for rental households to become first time homeowners, a fact recognized by the California Legislature. According to national studies, Los Angeles County has the second lowest homeowner rates in the country. According to the Southern California Association of Governments' 2017 Profile of Burbank, the city has a homeownership rate of just under forty-four percent (44%), compared to a homeownership rate of over fifty-four percent (54%) percent in Los Angeles County generally in 2016.

I. Coupled with high student debt and a lack of new affordable housing construction, potential new homeowners are being priced out of the homeowners' market in Burbank altogether. Instead of welcoming back young professionals and new families into the Burbank community, they are increasingly priced out of the community from which they came and to which they hope to contribute again.

J. Landlords have greater incentives to induce tenants in rent-stabilized units to move out. In jurisdictions with rent stabilization ordinances, many landlords offer cash buyouts in exchange for tenants vacating rental units. Many of these buyout negotiations are not conducted at arms-length and landlords sometimes employ high-pressure tactics or intimidation to induce tenants to sign agreements. Legislation is needed to promote fairness in buyout negotiations and agreements by requiring landlords to provide tenants with a statement of rights and allowing tenants to rescind a buyout agreement within 30 days to provide tenants sufficient time to seek advice.

K. Burbank City Council has been debating rent control since the December 19, 2017 city council meeting presentation on the subject as noted by the Burbank Leader, and residents have expressed an interest in rent control legislation since before that time. In addition, on November 6, 2018, Burbank voters, with 52% of the vote, supported Proposition 10, a repeal of the Costa-Hawkins Rental Housing Act which would have expanded local governments' authority to enact rent control on residential property. It is reasonable to assume that, faced with the likelihood that this or a similar rent control ordinance would pass during the next election cycle, local property managers would increase rents to levels they otherwise would not have in anticipation of imminent regulation.

L. The City of Burbank currently does not regulate rental amounts, rent increases, or evictions from residential housing.

M. This Chapter is more protective than the provisions of Civil Code Section 1946.2 and shall apply to Rental Units as defined herein.

SECTION 4. Section 9-5-3 is added to the Burbank Municipal Code to read as follows:

9-5-3 Definitions.

Unless further defined elsewhere in this Chapter, the following words or phrases as used in this Chapter shall have the following meanings:

A. Annual General Adjustment. The Annual General Adjustment is the percentage by which the Rent for existing tenancies in Rental Units may be increased each year, subject to the limitations of this Chapter.

B. Base Rent. The Base Rent is the reference point from which the lawful Rent shall be determined and adjusted in accordance with this Chapter.

1. **Tenancies commencing on or before September 30, 2019.** The Base Rent for tenancies that commenced on or before September 30, 2019 shall be the Rent in effect on September 30, 2019.

2. **Tenancies commencing after September 30, 2019.** The Base Rent for tenancies that commenced after September 30, 2019 shall be the initial rental rate charged upon initial occupancy, provided that amount is not a violation of this Chapter or any provision of state law. The term "initial rental rate" means only the amount of Rent actually paid by the Tenant for the initial term of the tenancy.

C. Buyout Agreement. A written agreement where a Landlord pays a Tenant money or offers other consideration to voluntarily vacate a Rental Unit covered by this Chapter.

D. Buyout Offer. An offer, written or oral, by a Landlord to a Tenant to pay money or other consideration to vacate a Rental Unit covered by this Chapter.

E. City Council. The term “City Council” refers to the City Council of the City of Burbank.

F. Disabled. A person with a disability. The term “disability” is defined in California Government Code Section 12955.3.

G. Fair Return. A Fair Return shall be determined by using the maintenance of net operating income (MNOI) standard as outlined in Section 9-5-14 herein.

H. Hearing Officer. An official appointed by the Landlord-Tenant Commission to conduct an investigation or administrative hearing pursuant to this Chapter.

I. Housing Services. Housing Services include, but are not limited to, repairs, maintenance, painting, providing light, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, Utility Charges that are paid by the Landlord, refuse removal, furnishings, telephone, parking, the right to have a specified number of occupants, and any other benefit, privilege, arrangement or facility provided or contracted for in connection with the use or occupancy of any Rental Unit. Housing Services to a Rental Unit shall include a proportionate part of services provided to common facilities of the building in which the Rental Unit is contained.

J. Individual Rent Adjustment. An adjustment to the otherwise lawful Rent that is authorized by a Hearing Officer or the Landlord-Tenant Commission pursuant to this Chapter.

K. Landlord. An owner, lessor, sublessor or any other person, partnership, corporation, family trust or other business entity entitled to receive Rent for the use and occupancy of any Rental Unit within the city of Burbank, or an agent, representative, predecessor, or successor of any of the foregoing.

L. Landlord-Tenant Commission. The term “Landlord-Tenant Commission” refers to the Burbank Landlord-Tenant Commission as referenced in Section 2-1-417 of the Burbank Municipal Code and expanded by this Chapter.

M. Petition. A petition for an Individual Rent Adjustment pursuant to this Chapter.

N. Primary Residence. The occupant's usual place of return. To classify a unit as an occupant's Primary Residence does not require that the occupant be physically present in the unit at all times or continuously, but does require that the unit be the occupant's usual place of return. Factors that are indicative of Primary Residence include but are not limited to:

1. The occupant carries on basic living activities at the subject premises for extended periods;
2. The subject premises are listed with public agencies, including but not limited to federal, state and local taxing authorities, as the occupant's primary residence;
3. Utility Charges and other charges and fees associated with usage of the

structure are billed to and paid by the occupant at the subject premises;

4. The occupant does not file for a homeowner's tax exemption for any different property;

5. The occupant is not registered to vote at any other location; and

6. Ownership is held in the name of the occupant claiming Primary Residence and not held by a Limited Liability Corporation or other corporate or business entity structure.

O. Property. All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.

P. Qualified Tenant. Any tenant who satisfies any of the following criteria on the date of service of the written notice of termination described in California Civil Code Section 1946: has attained age 62; is handicapped as defined in Section 50072 of the California Health and Safety Code; is disabled as defined in Title 42 United States Code § 423; or is a person residing with and on whom is legally dependent (as determined for federal income tax purposes) one or more minor children.

Q. Recognized Tenant Organization. Any group of Tenants residing in Rental Units in the same building or in different buildings operated by the same management company, agent or Landlord, who choose to be so designated. This shall also include any other at-large organization that represents the interest of Tenants.

R. Relocation Fee. Financial assistance in the amounts set forth in Section 9-5-7(A)(1) or amounts set forth by the Landlord-Tenant Commission pursuant to Section 9-5-7(B).

S. Rent. All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord under a Rental Housing Agreement concerning the use or occupancy of a Rental Unit and premises and attendant Housing Services, including all payment and consideration demanded or paid for parking, Utility Charges, pets, furniture, and/or subletting.

T. Rental Housing Agreement. An agreement, oral, written, or implied, between a Landlord and Tenant for use or occupancy of a Rental Unit and for Housing Services. For the purpose of this Chapter, the terms "Rental Housing Agreement" and "Lease" are interchangeable.

U. Rental Unit. Any dwelling unit, building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, whether or not such units possess a valid Certificate of Occupancy for use as rental housing, together with all Housing Services connected with use or occupancy of such Property, such as common areas and recreational facilities held out for use by the Tenant; which is not specifically exempted under Section 9-5-4 or Section 9-5-5 herein.

V. Security Deposit. Any payment, fee, deposit, or charge as defined in Section

1950.5 of the California Civil Code.

W. Single-Family Home. A detached building containing a single residential dwelling unit separately alienable from any other dwelling unit.

X. Tenant. A Tenant, subtenant, lessee, sublessee, or any other person entitled under the terms of a Rental Housing Agreement or this Chapter, including by sufferance, to the use or occupancy of any Rental Unit.

Y. Utility Charges. Any charges for gas, electricity, water, garbage, sewer, telephone, cable, internet, or other service relating to the use and occupancy of a Rental Unit.

Z. Written Notice to Cease. A written notice provided by a Landlord that gives a Tenant an opportunity to cure an alleged violation or problem prior to initiating legal proceedings to terminate tenancy. Any Written Notice to Cease must:

1. Provide the Tenant a reasonable period to cure the alleged violation or problem;
2. Inform the Tenant that failure to cure may result in the initiation of eviction proceedings;
3. Inform the Tenant of the right to request a reasonable accommodation;
4. Inform the Tenant of the contact number for the Landlord-Tenant Commission; and
5. Include a specific statement of the reasons for the Written Notice to Cease with specific facts to permit a determination of the date, place, witnesses and circumstances concerning the reason for the eviction.

SECTION 5. Section 9-5-4 is added to the Burbank Municipal Code to read as follows:

9-5-4 Exemptions.

A. Fully Exempt (Exempt from Both Rent Stabilization and Just Cause for Eviction). The following Rental Units are exempt from all provisions of this Article:

1. Units in hotels, motels, inns, and rooming and boarding houses which are rented primarily to transient guests for a period of fewer than thirty (30) days;
2. Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an accredited institution of higher education, or a secondary school;
3. Rental Units owned or operated or managed by a not-for-profit, non-profit, or tax credit program as qualified by the City of Burbank.
4. Rental Units owned or operated by any government agency or whose rent is

subsidized by any government agency, including, but not limited to, subsidies under the federal government's Housing Choice Voucher Program (Section 8);

5. Rental Units that require intake, case management or counseling as part of the occupation, and an occupancy agreement;
6. Rental Units subject to a covenant, agreement, or deed restriction, including but not limited to a density bonus housing agreement, inclusionary housing agreement, or an affordable housing agreement, with a government agency, including the city, the Burbank Housing Authority, the state of California, or the federal government, restricting the rental rate that may be charged for that unit;
7. Rental Units additionally exempted pursuant to Section 9-5-5 (Additional Homeowner Protections).

B. Partially Exempt (Just Cause for Eviction Applies). The following Rental Units are exempt from Sections 9-5-9, 9-5-10, and 9-5-11 of this Chapter (regarding Stabilization of Rents) and from Sections 9-5-14 and 9-5-15 (regarding Petitions for Individual Rent adjustment), but are not exempt from Sections 9-5-6 and 9-5-7 (Just Cause for Evictions Protections) and Section 9-5-12 (Tenant Buyout Notification Program):

1. Any Rental Unit exempt from regulation of rental rates pursuant to state law, including the Costa-Hawkins Rental Housing Act (California Civil Code 1954.52) so long as it is effective and applicable, or any other applicable housing law currently in effect. Where rent restrictions are permitted by state law, the Landlord-Tenant Commission shall issue rules and regulations to govern the restrictions on Rental Units identified in this paragraph.

SECTION 6. Section 9-5-5 is added to the Burbank Municipal Code to read as follows:

9-5-5 Additional homeowner protections.

Homeownership is of great importance to the residents of the City of Burbank. In addition to the Rental Units exempted in Section 9-5-4 of this Chapter, the following Rental Units are also exempt from all provisions of this Chapter:

A. Temporary Rentals Allowed. A homeowner who is the Primary Resident of a Single-Family Home may create a temporary tenancy. The temporary Tenant must be provided, in writing at the inception of the tenancy, the length of the tenancy and a statement that the tenancy may be terminated at the end of the temporary tenancy and relocation shall not be provided. This subsection only applies to tenancies that last no more than twelve consecutive months.

B. Renting of a Room Unregulated. The tenancy where the Tenant shares a bathroom or kitchen with the homeowner shall be exempt from this Chapter if the home is the Primary Residence of the homeowner.

SECTION 7. Section 9-5-6 is added to the Burbank Municipal Code to read as follows:

9-5-6 Just cause for eviction protections.

No Landlord shall take action to terminate any tenancy, or endeavor to recover possession of a Rental Unit, including but not limited to making a demand for possession of a Rental Unit, threatening to terminate a tenancy orally or in writing, serving any Written Notice to Cease or other eviction notice, or bringing any action to recover possession, or be granted recovery of possession of a Rental Unit unless at least one of the following conditions exists:

- A.** The Tenant has failed to pay the rent to which the Landlord is entitled.
- B.** The Tenant has violated a lawful obligation or covenant of the tenancy and has failed to cure such violation after having received written notice thereof from the Landlord, other than a violation based on:
 - 1. The obligation to surrender possession upon proper notice; or
 - 2. The obligation to limit occupancy when the additional Tenant who joins the occupants is a dependent child who joins the existing tenancy of a Tenant of record or the sole additional adult Tenant. The Landlord has the right to approve or disapprove the prospective additional Tenant, who is not a minor dependent child, provided that the approval is not unreasonably withheld.
- C.** The Tenant is permitting to exist a nuisance in, or is causing damage to, the Rental Unit, or the appurtenances thereof, or to the common areas of the rental complex, or creating an unreasonable interference with the comfort, safety or enjoyment of any other residents of the rental complex within a one thousand (1,000) foot radius extended from the boundary line of the rental complex.

The term “nuisance” as used in this subsection includes, but is not limited to, any gang-related crime, violent crime, unlawful weapon or ammunition crime or threat of violent crime, illegal drug activity, any documented activity commonly associated with illegal drug dealing, such as complaints of noise, steady traffic day and night to a particular unit, barricaded units, possession of weapons, or drug loitering as defined in California Health and Safety Code Section 11532. For purposes of this subsection, gang-related crime is any crime motivated by gang membership in which the perpetrator, victim or intended victim is a known member of a gang. Violent crime is any crime which involves use of a gun, a deadly weapon or serious bodily injury and for which a police report has been completed. A violent crime under this subsection shall not include a crime that is committed against a person residing in the same Rental Unit as the person committing the crime. Unlawful weapon or ammunition crime is the illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale, sale, furnishing, or giving away of ammunition or any weapon listed in subsection (c)(1)-(5) of Section 3485 of the California Civil Code.
- D.** The Tenant is using, or permitting a Rental Unit, the common areas of the Rental Unit or rental complex containing the Rental Unit, or an area within a one thousand (1,000) foot radius from the boundary line of the rental complex, to be used for any illegal purpose.

The term “illegal purpose” as used herein, includes, but is not limited to violations of the provisions of Divisions 10 through 10.7 of the California Health and Safety Code.

E. A person in possession of the Rental Unit at the end of a lease term is a subtenant not approved by the Landlord.

F. The Tenant has refused the Landlord reasonable access to the Rental Unit for the purposes of making repairs or improvements, or for any reasonable purpose as permitted or required by the lease or by law, or for the purpose of showing the Rental Unit to any prospective purchaser or mortgagee.

G. The Landlord seeks in good faith to recover possession so as to:

1. Demolish the Rental Unit; or
2. Perform work on the building or buildings housing the Rental Unit or Units;

and:

a. Such work costs not less than the product of eight (8) times the amount of the monthly rent times the number of Rental Units upon which such work is performed. For purposes of this section, the monthly rent shall be the average of the preceding twelve (12) month period; and

b. The work necessitates the eviction of the tenant because such work will render the rentable unit uninhabitable for a period of not less than thirty (30) calendar days, except that if the landlord seeks to recover possession for the purposes of converting the rental unit into a condominium, cooperative or community apartment, the landlord must comply with the notice requirements of Government Code Section 66427.1.

c. The Landlord gives advance notice to the Tenant of the right to elect between:

- i. The right of first refusal to any comparable vacant Rental Unit owned by the Landlord at the same Rent, if such comparable vacant unit exists; or
- ii. The first right of return to reoccupy the Rental Unit upon completion of the repairs at the same Rent charged to the Tenant before the Tenant temporarily vacated the Rental Unit.
- iii. In the event that the Tenant elects to accept an offer to move to a comparable vacant Rental Unit at the same Rent, the Tenant is not eligible for any Relocation Fee pursuant to Section 9-5-7 herein.

H. The Landlord seeks in good faith to recover possession of the Rental Unit for use and occupancy by:

1. A resident manager, provided that no alternative vacant Rental Unit is available for occupancy by a resident manager; except that where a building has an existing resident manager, the owner may only evict the existing resident manager in order to replace him or her with a new manager.

2. The Landlord or the Landlord's spouse, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, children, or parents provided the Landlord is a natural person. However, a Landlord may use this ground to recover possession for use and occupancy by the Landlord, Landlord's spouse, child, parent, in-laws or grandparents only once for that person.

- a. As used in subsection (H)(2) herein, Landlord shall only include a Landlord that is a natural person and has at least a fifty percent (50%) recorded ownership interest in the Property.
- b. No eviction may take place under this subsection if the same Landlord or enumerated relative already occupies a unit on the Property, or if a vacancy already exists on the Property. If a comparable unit does become vacant and available before the recovery of possession, the Landlord shall rescind the notice to vacate and dismiss any action filed to recover possession of the premises.
- c. Any notice terminating tenancy pursuant to this subsection shall contain the name, address and relationship to the Landlord of the person intended to occupy the Rental Unit and the rights pursuant to Subparagraph (e) herein.
- d. The Landlord or enumerated relative must intend in good faith to move into the Rental Unit within sixty (60) days after the Tenant vacates and to occupy the Rental Unit as a Primary Residence for at least twenty-four (24) consecutive months. The Landlord-Tenant Commission may adopt regulations governing the determination of good faith.
- e. If the Landlord or relative specified on the notice terminating tenancy fails to occupy the Rental Unit within sixty (60) days after the Tenant vacates, the Landlord shall:
 - i. Offer the Rental Unit to the Tenant who vacated it at the same Rent in effect when the Tenant vacated; and
 - ii. Pay to said Tenant all reasonable expenses incurred in moving to and from the Rental Unit.

3. Tenants that require an occupancy agreement and intake, case management, or counseling as part of the tenancy. Rental Housing must be used in accordance with

subsection (A)(5) of Section 9-5-4 for at least sixty (60) consecutive months. The Landlord-Tenant Commission may adopt regulations governing the penalties if a Landlord is in violation of this subsection.

I. The Landlord seeks in good faith to recover possession in order to remove the Rental Unit permanently from rental housing use pursuant to state law. Within 180 days of the first meeting of the Landlord-Tenant Commission, it shall adopt regulations, in the manner specified by California Government Code Section 7060.5, that implement all of the provisions set forth in California Government Code Section 7060 *et seq.* Such regulations shall be updated from time to time to ensure consistency with California Government Code Section 7060 *et seq.* and to ensure that the maximum protections authorized by law are afforded to tenants of Rental Units.

J. The Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a government agency's order to vacate, or any other order that necessitates the vacating of the building, housing, or Rental Unit as a result of a violation of this code or the Burbank building and safety code, or any other provision of law.

K. The Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a contractual agreement relating to the qualifications of tenancy with a governmental entity, where the Tenant is no longer qualified.

L. The Tenant has continued to smoke, as defined in Section 4-1-702 of this code, in any one (1) or more of the following places, after the Landlord's verbal or written warning to stop smoking:

1. In a Rental Unit that the Landlord had designated as a non-smoking unit; or
2. In a common area, as defined in Section 4-1-702 of this code, where smoking is prohibited under Sections 4-1-703, 4-1-704, and 4-1-705 of this code.

N. Retaliation Prohibited. No Landlord may threaten to bring, or bring, an action to recover possession, cause the Tenant to quit a Rental Unit involuntarily, serve any notice to quit or notice of termination of tenancy, decrease any services or increase the Rent where the Landlord's intent is to retaliate against the Tenant for the Tenant's assertion or exercise of rights under this chapter or under state or federal law; for the Tenant's request or demand for, or participation in mediation or arbitration under any public or private mediation program including, but not limited to a program mandated by law or offered by the Landlord-Tenant Commission; or for the Tenant's participation in litigation. Such retaliation shall be a defense to an action to recover possession of the Rental Unit, or it may serve as the basis for an affirmative action by the Tenant for actual and punitive damages and/or injunctive relief.

1. In an action against the Tenant, evidence of the assertion or exercise by the Tenant of rights under this chapter or under state or federal law within one hundred eighty (180) days prior to the alleged act of retaliation shall create a rebuttable presumption that the Landlord's act was retaliatory. "Presumption" means that the court must find the existence of the facts presumed unless and until its nonexistence is proven by a preponderance of the evidence. A Tenant may assert retaliation affirmatively or as a defense to the Landlord's action without the presumption regardless of the period of time

which has elapsed between the Tenant's assertion or exercise of rights under this chapter and the alleged act of retaliation.

SECTION 8. Section 9-5-7 is added to the Burbank Municipal Code to read as follows:

9-5-7 Required payment of relocation fee.

A. A Landlord seeking to recover possession under Subsections G, H, I, or J of Section 9-5-6 shall provide a Relocation Fee to affected Tenant households. As a result, Relocation Assistance shall initially be set at the amounts pursuant to the Los Angeles Rent Stabilization Ordinance as follows:

1. \$16,950 to Qualified Tenants and \$8,050 to all other Tenants who have lived in their Rental Unit for fewer than three years; \$20,050 to Qualified Tenants and \$10,550 to all other Tenants who have lived in their Rental Unit for three years or longer; or \$20,050 to Qualified Tenants and \$10,550 to all other Tenants whose household income is 80% or below Area Median Income (AMI), as adjusted for household size, as defined by the U.S. Department of Housing and Urban Development, regardless of length of tenancy.

2. A Landlord who terminates a tenancy pursuant to the provisions of subsection (H)(2) of Section 9-5-6 shall pay a Relocation Fee pursuant to the provisions of subsection (A)(1) herein, except in the following circumstance: If the termination of tenancy is based on subsection (H)(2) of Section 9-5-6 and all of the following conditions exist: (1) within the previous three (3) years the Landlord has not paid the Relocation Fee authorized by this subsection to any Tenant who resided in the building; (2) the Landlord owns, in the City of Burbank, no more than six (6) units Rental Units; and (3) any eligible relative for whom the Landlord is recovering possession of the Rental Unit does not own any residential Property in the city of Burbank; then the Landlord shall pay a Relocation Fee of \$15,550 to Qualified Tenants and a fee of \$7,750 to all other Tenants. If more than one fee applies to a Rental Unit, the Landlord shall pay the highest of the applicable fees.

B. The Landlord-Tenant Commission shall issue rules and regulations to effectuate this section including but not limited to rules and regulations setting forth the procedures for establishing the amount of Relocation Fee applicable to any given Tenant household, and for the reasonably timely payment of any applicable Relocation Fee. In no event shall the amount of Relocation Fee be less than the amount provided for in California Health and Safety Code Section 17975.2. The Landlord-Tenant Commission shall not issue rules and regulations to amend the Relocation Fee until the Commission meets the composition requirements outlined in subsection A of Section 9-5-13.

C. The Relocation Fee shall be paid as follows:

1. The entire Relocation Fee shall be paid to a Tenant who is the only Tenant in a Rental Unit; or

2. If a Rental Unit is occupied by two (2) or more Tenants, then each Tenant of the Rental Unit shall be paid a pro-rata share of the Relocation Fee.

D. This section shall not apply in any of the following circumstances:

1. The Tenant received written notice, prior to entering into a written or oral tenancy agreement, that an application to subdivide the property for condominium, stock cooperative or community apartment purposes was on file with the city or had already been approved, whichever the case may be, and that the existing building would be demolished or relocated in connection with the proposed new subdivision, and the termination of tenancy is based on the grounds set forth in subsections G or I of Section 9-5-6.

2. The Tenant received written notice, prior to entering into a written or oral agreement to become a Tenant, that an application to convert the building to a condominium, stock cooperative or community apartment project was on file with the city or had already been approved, whichever the case may be, and the termination of tenancy is based on the grounds set forth in subsection G or I of Section 9-5-6.

3. The Tenant receives, as part of the eviction, relocation assistance from another government agency, and such amount is equal to or greater than the amount provided for herein.

E. The Landlord shall perform the acts described in this section within fifteen (15) days of service of a written notice of termination described in California Civil Code Section 1946; provided, however, the Landlord may in its sole discretion, elect to pay the Relocation Fee pursuant to this section to the Landlord's attorney or to an escrow account to be disbursed to the Tenant upon certification of vacation of the Rental Unit. The escrow account shall provide for the payment prior to vacation of all or a portion of the monetary relocation benefits for actual relocation expenses incurred or to be incurred by the Tenant prior to vacation, including but not limited to security deposits, moving expense deposits and utility connection charges.

F. The requirement to pay the Relocation Fee is applicable to all Rental Units, regardless of whether the Rental Unit was created or established in violation of any provision of law.

G. Nothing in this subsection relieves the Landlord from the obligation to provide the Relocation Fee pursuant to any other provision of local, state, or federal law. If a Tenant is entitled to monetary relocation benefits pursuant to any other provision, of local, state, or federal law, then such monetary benefits shall operate as a credit against monetary benefits required to be paid to the Tenant under this subsection.

SECTION 9. Section 9-5-8 is added to the Burbank Municipal Code to read as follows:

9-5-8 Required information on notice to quit or other written notice of termination.

Prior to or at the same time as the written notice of termination set forth in Civil Code Section 1946, or a three (3) days' notice described in Code of Civil Procedure Sections 1161 and 1161(a), is served on the tenant of the rental unit:

A. The landlord shall serve on the tenant a written notice setting forth the reasons for the termination with specific facts to permit a determination of the date, place, and circumstances concerning the reason. This notice shall be given in the manner prescribed by California Code of Civil Procedure Section 1162 and may be combined with a written notice of termination of tenancy or as a separate written notice.

B. The landlord shall serve on the tenant a written notice setting forth Tenant's right to the Relocation Fee as described in Section 9-5-7, where the termination of tenancy is based on the grounds set forth in subsection G, H, I or J of Section 9-5-6.

SECTION 10. Section 9-5-9 is added to the Burbank Municipal Code to read as follows:

9-5-9 Stabilization of rents.

A. Rents Stabilized. Upon the effective date of this Chapter, no Landlord shall charge Rent for a Rental Unit in an amount that exceeds the sum of the Base Rent plus any lawful Rent increases actually implemented pursuant to this Chapter.

B. Rent Increases Regulated. No Landlord shall increase Rent for a Rental Unit except as authorized by this Chapter. Rent increases shall be limited to those permitted by Section 9-5-10 (Rent Increases Pursuant to Annual General Adjustment) and Section 9-5-14 (Petition for Individual Rent Adjustment - Bases). A Landlord may set the initial Rent for a new tenancy pursuant to Section 9-5-11 (Initial Rents for New Tenancies).

C. Notice of the Existence of this Chapter Required at Commencement of Tenancy. The Landlord of any Rental Units is required to comply with the following notice requirements at the commencement of any tenancy:

1. On or before the date of commencement of a tenancy, the Landlord must give the Tenant a written notice in a form prescribed by the Landlord-Tenant Commission which must include the following information:

a. The existence and scope of this Chapter; and

b. The Tenant's right to Petition against certain Rent increases.

2. The Landlord must give the initial notice to the Tenant in the language that was used to negotiate the terms of the tenancy.

D. Posting of Notice. For every Property containing Rental Units subject to this Chapter, the Landlord shall post a notice on a form prepared and authorized by the Landlord-Tenant Commission, providing information about the existence of this Chapter. Notice must be posted in a conspicuous location in the lobby of the Property, near a mailbox used by all Tenants, or in or near a public entrance to the Property. The notice shall be written in English, Spanish, Armenian, and in any other languages as required by the Landlord-Tenant Commission.

SECTION 11. Section 9-5-10 is added to the Burbank Municipal Code to read as follows:

9-5-10 Rent increases pursuant to annual general adjustment.

A. Annual General Adjustment. No later than June 30th each year, the Landlord-Tenant Commission shall announce the amount of the Annual General Adjustment, which shall be effective as of September 1st of that year. The Annual General Adjustment is the percentage by which the Rent for existing tenancies in Rental Units may be increased each year, subject to the limitations of this Chapter.

1. The Annual General Adjustment shall be equal to one hundred percent (100%) of the percentage increase in the Consumer Price Index (CPI) (All Items, All Urban Consumers, Los Angeles – Riverside – Orange County region, or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending as of March of the current year. The Annual General Adjustment shall be rounded to the nearest one-quarter of a percent. The first Annual General Adjustment shall be in accordance with Subparagraph 3 of this subsection.

2. Subparagraph 1 of this subsection notwithstanding, in no event shall the Annual General Adjustment be less than zero percent (0%) or more than seven percent (7%).

3. Pursuant to Subsection A herein, the Landlord-Tenant Commission's first announcement of an Annual General Adjustment shall be made no later than June 30, 2021. Accordingly, the first Rent increase that a Landlord may impose pursuant to this Chapter shall not take effect prior to September 1, 2021. The amount of the first Annual General Adjustment, which shall be effective on September 1, 2021, shall be equal to the percentage increase in the CPI from May 2019 through May 2021.

B. One Rent Increase Per Year. No more than one Rent increase per twelve-month period may be imposed on a Tenant.

C. Notice of Rent Increase Required. Allowable Rent increases pursuant to the Annual General Adjustment shall become effective only after the Landlord provides written notice to the Tenant in the manner prescribed by law, with at least thirty (30) days advance written notice.

D. Notice Required to Increase Rent or Change Other Terms of Tenancy. As part of any notice to increase Rent or change any terms of tenancy, a Landlord must include:

1. Notice of the existence of this Chapter; and
2. The right to Petition against any Rent increase in excess of the Annual Rent Adjustment unless such Rent increase is pursuant to an approved Petition.
3. No Rent Increase shall take effect until the requirements of this subsection have been met.

E. Conditions Under Which Rent Increase Not Permitted. No Rent increase shall be effective if the Landlord:

1. Has failed to substantially comply with all provisions of this Chapter and all rules and regulations promulgated by the Landlord-Tenant Commission; or
2. Has failed to maintain the Rental Unit in compliance with California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10; or
3. Has failed to make repairs ordered by an Officer of the Court, the Landlord-Tenant Commission, or the City of Burbank.

SECTION 12. Section 9-5-11 is added to the Burbank Municipal Code to read as follows:

9-5-11 Initial rents for new tenancies.

A. Setting of Initial Rents Without Restriction. To the extent required by state law, Landlords may set the initial Rent for new Tenants without regulation by this Chapter.

B. Restrictions on Initial Rent for New Tenancies. To the maximum extent permitted by state law, the initial Rent for new tenancies shall be subject to the restrictions of this Chapter. The Landlord-Tenant Commission shall issue rules and regulations to govern the restrictions on the initial Rent for new tenancies where such restrictions are permitted by state law.

C. Rent Increases After Setting an Initial Rent. After the Landlord sets an initial Rent pursuant to this section, the Landlord may only increase the Rent in accordance with this Chapter. The Landlord may not increase Rent based on cost increases, capital improvements, or other circumstances that arose before the new tenancy began.

SECTION 13. Section 9-5-12 is added to the Burbank Municipal Code to read as follows:

9-5-12 Tenant buyout notification program.

A. Purpose. The Tenant Buyout Notification Program provides for regulation, monitoring and enforcement of voluntary vacancies of Rental Units subject to this Chapter occurring pursuant to a Buyout Agreement. To promote fairness during buyout negotiations and agreements, this section requires Tenants be informed of their rights under this Chapter before executing a Buyout Agreement. The Landlord-Tenant Commission may promulgate regulations to implement this section.

B. Disclosure Notice. Before making a Buyout Offer, the Landlord shall provide the Tenant(s) with a notice, which shall be written in the primary language of the Tenant on a form prepared and authorized by the Landlord-Tenant Commission; and which shall be dated and

signed by the Landlord and the Tenant(s).

C. Buyout Agreement Requirements.

1. Every Buyout Agreement shall be written in the primary language of the Tenant and state in a minimum of 12-point bold type above the Tenant signature line as follows:

“You, (Tenant name), may cancel this Buyout Agreement any time up to 30 days after all parties have signed this Agreement without any obligation or penalty.”

2. Every Buyout Agreement shall advise the Tenant that he/she/they have the right:

a. Not to enter into a Buyout Agreement;

b. To consult an attorney and/or the Landlord-Tenant Commission before signing the Buyout Agreement; and

c. To cancel the Buyout Agreement at any time up to 30 days after all parties have signed it.

3. Every Buyout Agreement shall be signed and dated by the Landlord and Tenant.

4. A copy of the fully executed Buyout Agreement shall be given to the Tenant.

D. Cancellation of Buyout Agreement.

1. A Tenant shall have the right to cancel a Buyout Agreement for any reason for up to 30 days after execution by the Landlord and the Tenant without any financial obligation or penalty.

2. Whenever the notice required pursuant to this section and/or the Buyout Agreement does not conform to the requirements of this section or Landlord-Tenant Commission Regulations, the Tenant shall have the right to cancel the Buyout Agreement through the applicable statute of limitations period.

E. Filing Executed Disclosure Notice and Buyout Agreement. The Landlord shall file with the Landlord-Tenant Commission copies of the notice required pursuant to this section signed by the Tenant and the Landlord and the Buyout Agreement within 60 days of the Buyout Agreement execution.

F. Affirmative Defense. A violation of this section may be asserted as an affirmative defense in an unlawful detainer action.

G. Private Right of Action. A Tenant may bring a private right of action against a Landlord who violates a provision of this section and recover damages and a penalty of \$1,000.

SECTION 14. Section 9-5-13 will replace Section 2-1-417 of the Burbank Municipal Code, to read as follows:

9-5-13 Burbank Landlord-Tenant Commission.

A. Composition. There shall be in the City of Burbank an appointed commission comprised of Burbank residents as set forth in this section. The Landlord-Tenant Commission shall consist of five (5) members, appointed by the City Council, and an alternate Commission member. The alternate Commission member shall be permitted to attend all Commission meetings and to speak, but not be authorized to vote unless a regular member of the Commission is absent at that meeting or is recused from voting on an agenda item. The Commission will be comprised of no fewer than two (2) Tenants and no more than two (2) residential rental Property owners. Of the members who represent residential rental Property owners, no more than one (1) member may be a Property manager or developer of market rate housing. Of the members who represent Tenants, at least one must occupy a unit whose rent is below the median for the city of Burbank. Anyone nominated to this Landlord-Tenant Commission must be in compliance with this Chapter and all other local, state and federal laws regulating the provision of housing. Annually, the Landlord-Tenant Commission shall elect one of its members to serve as chairperson.

B. Secretary of the Commission. The Housing and Grants Administrator shall serve as Secretary to the Commission. The Secretary of the Commission shall not be a member of the Commission nor vote on any matters coming before it, but such Secretary may be present during the Commission's deliberations and may participate in all debates and discussions.

C. Full Disclosure of Holdings. When filing application papers, candidates for the position of Commissioner shall submit a verified statement under penalty of perjury on a form provided by the City Manager or designee listing all of their interests and dealings in real Property, including but not limited to its ownership, sale or management, during the previous three (3) years. This documentation shall be made available to the public.

D. Term of Office. Members of the Commission shall be appointed to serve terms of four years. Members shall serve a maximum of three full terms.

E. Removal of Members. Whenever, in the sole discretion of the City Council, the City Council believes that the best interests of the city shall be served, any member of the Landlord-Tenant Commission may be removed by a majority vote of the City Council.

F. Powers and Duties. The Landlord-Tenant Commission shall have the following powers and duties:

1. Set rents at fair and equitable levels to achieve the purposes of this Chapter. Notwithstanding any other provision of this Chapter, the Landlord-Tenant Commission shall have the authority to adopt regulations authorizing Rent increases or adjustments

required by state or federal law.

2. Establish rules and regulations for administration and enforcement of this Chapter.
3. Determine and publicize the Annual General Adjustment pursuant to this Chapter.
4. Maintain a list of no less than three (3) and no more than eight (8) Hearing Officers.
5. Select Hearing Officers as needed from an approved list created by the Landlord-Tenant Commission to conduct hearings on Petitions for Individual Rent Adjustment pursuant to this Chapter.
6. Adjudicate Petitions pursuant to this Chapter and issue decisions with orders for appropriate relief pursuant to this Chapter.
7. Establish procedures and timelines for hearings on Petitions, including determining the timelines and procedures for appeals to the Landlord-Tenant Commission.
8. Administer oaths and affirmations and subpoena witnesses and relevant documents.
9. Establish a budget for the reasonable and necessary implementation of the provisions of this Chapter, including without limitation the hiring of necessary staff. The budget may include expenditures to advance the policies herein.
10. Administer the withdrawal process for the removal of Rental Units from the rental housing market.
11. Hold public hearings.
12. Conduct studies, surveys, investigations, and hearings, and obtain information to further the purposes of this Chapter.
13. Report annually to the City Council on the status of Rental Units subject to this Chapter. Reports shall be made available to the public and include, but not be limited to: (a) a summary of the numbers of Written Notices to Cease served pursuant to this Chapter, including the bases upon which they were served, (b) a summary of any and all Petitions submitted to and/or decided by a Hearing Officer and/or the Landlord-Tenant Commission pursuant to this Chapter, including the bases on which the Petitions were submitted and the determinations on the Petitions and (c) Buyout Agreements pursuant to Section 9-5-12.
14. Publicize through reasonable and appropriate means the provisions of this Chapter, including without limitation the rights and responsibilities of Landlords and

Tenants.

15. Establish a schedule of penalties that may be imposed for noncompliance with this Chapter or with rules and regulations promulgated under this Chapter.

16. Pursue civil remedies as provided by this Chapter in courts of appropriate jurisdiction.

17. Intervene as an interested party in any litigation brought before a court of appropriate jurisdiction by a Landlord or Tenant with respect to Rental Units subject to this Chapter.

18. To serve as a medium through which landlords and tenants may exchange information, coordinate programs, and engage in joint endeavors concerning landlord-tenant relations.

19. To become familiar with landlord-tenant developments in other communities.

20. Provide tenant referrals to appropriate public and private agencies.

21. Produce written notices and other publications, including know your rights materials, in English, Spanish, and Armenian, and shall make a reasonable effort to accommodate additional languages requested.

22. Any other duties necessary to administer and enforce this Chapter.

G. Rules and Regulations. The Landlord-Tenant Commission shall issue and follow such rules and regulations as will further the purposes of the Chapter.

H. Meetings. The Landlord-Tenant Commission shall hold a regular meeting at least once a month in the City Hall at a time to be designated by the Commission. Special meetings may be called by the Chairperson or three (3) members of the Commission. When the time for any regular meeting of the Commission falls on a holiday, such meeting may be held at the discretion of the Commission or Chairperson thereof at the same hour of the next succeeding day not a holiday or a regular meeting day of the Council or any other board or commission established pursuant to this division. All regular meetings of the Commission shall be held in the Council chamber of the City Hall, 275 East Olive Avenue, Burbank, California, unless otherwise provided in the rules and regulations of the Commission.

I. Quorum. A majority of the members of the Commission shall constitute a quorum for the transaction of business.

J. Voting. The affirmative vote of three (3) Commissioners of the Landlord-Tenant Commission is required for a decision, including on all motions, regulations, and orders of the Landlord-Tenant Commission.

K. Financing. The Landlord-Tenant Commission shall finance its reasonable and

necessary expenses, including without limitation engaging any staff as necessary to ensure implementation of this Chapter, by charging Landlords an annual Rental Housing Fee as set forth herein, in amounts deemed reasonable by the Landlord-Tenant Commission in accordance with applicable law. The Landlord-Tenant Commission is also empowered to request and receive funding when and if necessary from any available source including the City for its reasonable and necessary expenses.

L. Rental Housing Fee. All Landlords shall pay a Rental Housing Fee on an annual basis. The first Landlord-Tenant Commission convened after the effective date of this Chapter shall determine the amount of the Rental Housing Fee. The Landlord-Tenant Commission may adjust the amount of the Rental Housing Fee at its discretion to ensure full funding of its reasonable and necessary expenses, in accordance with all applicable law.

M. City to Advance Initial Funds. During the initial implementation of this Chapter, the City shall advance all necessary funds to ensure the effective implementation of this Chapter, until the Landlord-Tenant Commission has collected Rental Housing Fees sufficient to support the implementation of this Chapter. The City may seek a reimbursement of any advanced funds from the Landlord-Tenant Commission after the Rental Housing Fee has been collected.

N. Integrity and Autonomy of Landlord-Tenant Commission. The Landlord-Tenant Commission shall be an integral part of the government of the City, but shall exercise its powers and duties under this Chapter independent from the City Council, City Manager, and City Attorney, except by request of the Landlord-Tenant Commission. The Landlord-Tenant Commission may request the services of the City Attorney, who shall provide them pursuant to the lawful duties of the office in Section 320 of the Burbank City Charter.

O. Commission Legal Work. The Landlord-Tenant Commission may, in its sole discretion, and without approval of the City Council, retain private attorneys to furnish legal advice or representation in particular matters, actions, or proceedings.

P. Conforming Regulations. If any portion of this Chapter is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by state or federal legislation, the Landlord-Tenant Commission and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Chapter to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to the matters addressed in this Chapter.

Q. Vacancy Due to Change in Qualification. If at any time during the term of a Commissioner, such Commissioner should become a Landlord of residential rental Property and this would result in the greater than allowable number of Landlords on the Landlord-Tenant Commission per this Chapter, the office of that Commissioner shall immediately become vacant and a new appointment be made thereto.

R. Conflict of Interest. The elected Landlord-Tenant Commission Commissioners shall not necessarily be disqualified from exercising any of their powers and duties on the grounds

of a conflict of interest solely on the basis of their status as a Landlord, realtor, developer, or Tenant. However, a Commissioner shall be disqualified from ruling on a Petition if the Commissioner is either the Landlord of the Property or a Tenant residing in the Property that is involved in the Petition. The provisions of the Political Reform Act, California Government Code Sections 87100 *et seq.* shall apply.

S. Interim Authority for Implementation. The members of the prior Landlord-Tenant Commission shall assume the powers and duties of the new Landlord-Tenant Commission as laid out in this Chapter, effective January 1st, 2021. All members shall retain their existing terms, and vacancies shall be filled as prescribed by Article 4 of Burbank Municipal Code.

SECTION 15. Section 9-5-14 is added to the Burbank Municipal Code to read as follows:

9-5-14 Petitions for individual rent adjustment – bases.

A Landlord or a Tenant may file a Petition with the Landlord-Tenant Commission seeking adjustment, either upward or downward, of the Rent for any given tenancy in accordance with the standards set forth in this section, and using the procedures set forth in Section 9-5-15 herein and implementing regulations. A Petition shall be on a form provided by the Landlord-Tenant Commission and, if made by the Landlord, shall include a declaration by the Landlord that the Rental Unit complies with all requirements of this Chapter. An incomplete and/or unverified submission may be deemed qualified by the Landlord-Tenant Commission when necessary in cases of hardship or emergency.

A. Petition for Upward Adjustment – Fair Return. To effectuate the purposes of this Chapter and the requirements of law, a Landlord may file a Petition for an upward adjustment of the Rent to ensure a Fair Return. It is the intent of this Chapter that individual upward adjustments in Rent be granted only when the Landlord demonstrates that such adjustments are necessary to provide the Landlord with a Fair Return. The Landlord-Tenant Commission may promulgate regulations to further govern Petitions filed pursuant to this subsection in accordance with law and the purposes of this Chapter.

1. **Prerequisites.** No upward adjustment of Rent shall be authorized by a Hearing Officer or the Landlord-Tenant Commission under this subsection if the Landlord:

a. Has continued to fail to comply, after order of the Landlord-Tenant Commission or other authority, with any provisions of this Chapter or orders or regulations issued thereunder; or

b. Has failed to maintain the Rental Unit in compliance with California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10.

B. Fair Return Standard.

1. **Presumption of Fair Base Year Net Operating Income.** It shall be

presumed that the net operating income received by the Landlord in the base year provided a fair return.

2. **Fair Return.** A Landlord has the right to obtain a net operating income equal to the base year net operating income adjusted by one hundred percent (100%) of the Consumer Price Index (CPI), as defined in Section 9-5-10A1 herein, since the base year. It shall be presumed this standard provides a fair return. The Base Year CPI shall be the annual CPI for calendar year 2018. The “current year” CPI shall be the annual CPI for calendar year preceding the calendar year application is filed.

3. **Base Year.**

a. For the purposes of making fair return determinations pursuant to this section, the base year means the 2018 calendar year.

b. In the event that a determination of the allowable Rent is made pursuant to this section, if a subsequent petition is filed the base year shall be the year that was considered as the "current year" in the prior petition.

4. **Adjustment of Base Year Net Operating Income.** The Landlord may present evidence to rebut the presumption of fair return based upon the base year net operating income as set forth in Subsection (B)(1) of this section based on at least one of the following findings:

a. **Exceptional Expenses in the Base Year.** The Landlord’s operating expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses so the base year operating expenses reflect average expenses for the property over a reasonable period of time. The following factors shall be considered in making such a finding:

- i. Extraordinary amounts were expended for necessary maintenance and repairs.
- ii. Maintenance and repair were below accepted standards so as to cause significant deterioration in the quality of services provided.
- iii. Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.

b. **Exceptional Circumstances in the Base Year.** The gross income during the base year was disproportionately low due to exceptional circumstances. In such instances, adjustments may be made in calculating base year gross rental income consistent with the purposes of this Chapter. The following factors shall be considered in making such a finding:

- i. If the gross income during the base year was lower than it might have been because some residents were charged reduced Rent.

- ii. If the gross income during the base year was significantly lower than normal because of the destruction of the premises and/or temporary eviction for construction or repairs.
- iii. The pattern of Rent increases in the years prior to the base year and whether those increases reflected increases in the CPI.
- iv. Base period Rents were disproportionately low in comparison to the base period Rents of other Rental Units in the City.
- v. Other exceptional circumstances.

5. **Calculation of Net Operating Income.**

a. **Net Operating Income.** Net operating income shall be calculated by subtracting operating expenses from gross rental income.

b. **Gross Rental Income.**

i. Gross rental income shall include:

I Gross Rents calculated as gross rental income at one hundred percent (100%) occupancy, adjusted for uncollected Rents due to vacancy and bad debts to the extent such vacancies or bad debt are beyond the control of the Landlord. Uncollected Rents in excess of three percent (3%) of gross Rent shall be presumed to be unreasonable unless established otherwise by the Landlord and shall not be included in computing gross income.

II All other income or consideration received or receivable in connection with the use or occupancy of the Rental Unit, except as provided in Clause (ii) of this section.

ii. Gross rental income shall not include:

I Utility Charges for charges for sub-metered gas, electricity or water.

II Charges for refuse disposal, sewer service, and, or other services which are either provided and solely on a cost pass-through basis and/or are regulated by state or local law or the utility income is not considered because it is collected on a cost pass-through basis.

III Charges for laundry services.

IV Storage charges.

6. **Operating Expenses.**

a. **Included in Operating Expenses.** Operating expenses shall include the following:

i. Reasonable costs of operation and maintenance.

ii. Management Expenses. It shall be presumed that management expenses have increased by the percentage increase in Rents or the CPI, whichever is greater, between the base year and the current year unless the level of management services has either increased or decreased significantly between the base year and the current year.

iii. Utility Costs. Utility Costs except utility where the consideration of the income associated with the provision of the utility service is regulated by state law and consideration of the costs associated with the provision of the utility service is preempted by state law.

iv. Real Property Taxes. Property taxes are an allowable expense, subject to the limitation that property taxes attributable to an assessment in a year other than the base year or current year shall not be considered in calculating base year and/or current year operating expenses.

v. License and registration fees. License and registration fees required by law to the extent these expenses are not otherwise paid or reimbursed by tenants.

vi. Landlord-performed labor. Landlord-performed labor compensated at reasonable hourly rates. However, no Landlord-performed labor shall be included as an operating expense unless the Landlord submits documentation showing the date, time, and nature of the work performed. There shall be a maximum allowed under this provision of five percent (5%) of gross income unless the Landlord shows greater services were performed for the benefit of the residents.

vii. Costs of Capital Replacements. Costs of capital replacements plus an interest allowance to cover the amortization of those costs where all of the following conditions are met:

I The costs, less any insurance proceeds or other

applicable recovery, are averaged on a per unit basis for each Rental Unit actually benefited by the improvement.

II The costs are amortized over a period of not less than thirty-six (36) months.

III The costs do not include any additional costs incurred for property damage or deterioration that result from any unreasonable delay in undertaking or completing any repair or improvement.

IV The costs do not include costs incurred to bring the Rental Unit into compliance with a provision of the Burbank Municipal Code or state law where the original installation of the improvement was not in compliance with code requirements.

V At the end of the amortization period, the allowable monthly Rent is decreased by any amount it was increased because of the application of this provision.

VI The amortization period shall be in conformance with a schedule adopted by the Landlord-Tenant Commission unless it is determined that an alternate period is justified based on the evidence presented in the hearing.

viii. Legal Expenses. Attorneys' fees and costs incurred in connection with successful good faith attempts to recover Rents owing, successful good faith unlawful detainer actions not in derogation of applicable law, and legal expenses necessarily incurred in dealings with respect to the normal operation of the Property. Reasonable fees, expenses, and other costs incurred in the course of successfully pursuing rights under or in relationship to this Chapter and regulations adopted pursuant to the Chapter including costs incurred in the course of pursuing successful Petitions. Said expenses shall be amortized over a five-year period, unless the Landlord-Tenant Commission concludes that a different period is more reasonable. Allowable legal expenses which are of a nature that does not recur annually shall be amortized over a reasonable period of time. At the end of the amortization period, the allowable monthly Rent shall be decreased by any amount it was increased because of the application of this provision.

ix. Interest Allowance for Expenses that Are Amortized. An interest allowance shall be allowed on the cost of amortized expenses; the allowance shall be the interest rate on the cost of the amortized expense equal to the "average rate" for thirty-year fixed

rate on home mortgages plus two percent. The "average rate" shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey (PMMS) as of the date of the initial submission of the petition. In the event that this rate is no longer published, the Landlord-Tenant Commission shall designate by regulations an index which is most comparable to the PMMS index which shall be used.

b. **Exclusions from Operating Expenses.** Operating expenses shall not include the following:

- i. Mortgage principal or interest payments or other debt service costs.
- ii. Any penalties, fees or interest assessed or awarded for violation of any provision of this chapter or of any other provision of law.
- iii. Land lease expenses.
- iv. Political contributions and payments to organizations which are substantially devoted to legislative lobbying purposes.
- v. Depreciation.
- vi. Any expenses for which the Landlord has been reimbursed by any utility rebate or discount, Security Deposit, insurance settlement, judgment for damages, settlement or any other method or device.
- vii. Unreasonable increases in expenses since the base year.
- viii. Expenses associated with the provision of master-metered gas and electricity services.
- ix. Expenses which are attributable to unreasonable delays in performing necessary maintenance or repair work or the failure to complete necessary replacements (e.g., a roof replacement may be a reasonable expense, but if water damage occurred as a result of unreasonable delays in repairing or replacing the roof, it would not be reasonable to pass through the cost of repairing the water damage).

c. **Adjustments to Operating Expenses.** Base year and/or current operating expenses may be averaged with other expense levels for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable

comparison of base year and current year expenses. Grounds for such adjustments include, but are not limited to:

- i. An expense item for a particular year that is not representative.
- ii. The base year expense is not a reasonable projection of average past expenditures for that item in the years immediately preceding or following the base year.
- iii. The current year expense is not a reasonable projection of expenditures for that item in recent years or of future expenditures for that item.
- iv. A particular expense exceeds the normal industry or other comparable standard for the area, the Landlord shall bear the burden of proving the reasonableness of the expense. To the extent that it is found that the expense is unreasonable it may be adjusted to reflect the normal industry standard.
- v. A base year expense is exceptionally low by industry standards and/or on an inflation adjusted basis is exceptionally low relative to current year expenses although the level or type of service has not changed significantly.
- vi. An increase in maintenance or management expenses is disproportionate to the percentage increase in the CPI, while the level of services has not changed significantly and/or is not justified by special circumstances.

7. Rent Increases for Periods Preceding Date that a Landlord Implemented Rent Increases Pursuant to this Section. In the event that the period for determining the allowable Rent increase pursuant to this section exceeds 120 days, the Landlord may recover increases that would have been permitted if the Rent increase decision had been made within 120 days. The allowance for these increases may be amortized or may be factored into the prospective allowable increase in order to avoid undue hardship on the Tenants.

8. Assurance of a Fair Return. It shall be presumed that the maintenance of net operating income (MNOI) standard provides a fair return. Nothing in this Chapter shall preclude the Landlord-Tenant Commission or Hearing Officer from granting an increase that is necessary in order to meet constitutional fair return requirements.

9. Effective Date of Individual Rent Adjustment. Rent increases authorized pursuant to this subsection shall become effective only after the Landlord provides the Tenant written notice of such Rent increase pursuant to state law.

C. Petition for Downward Adjustment – Failure to Maintain Habitable Premises.

1. Failure to maintain a Rental Unit in compliance with governing health and safety and building codes, including but not limited to California Civil Code Sections 1941.1 *et seq.* and California Health and Safety Code Sections 17920.3 and 17920.10, and Burbank Municipal Code Sections 9-1-1 to 9-3-500 constitutes an increase in Rent. A Tenant may file a Petition with the Landlord-Tenant Commission to adjust the Rent downward based on a loss in rental value attributable to the Landlord's failure to maintain the Rental Unit in habitable condition.

2. A Tenant Petition filed pursuant to this subsection must specify the conditions alleged to constitute the failure to maintain the Rental Unit in habitable condition and demonstrate that the Landlord was provided with reasonable notice and opportunity to correct the conditions that form the basis of the petition.

D. Petition for Downward Adjustment – Decrease in Housing Services or Maintenance. A decrease in Housing Services or maintenance, or deterioration of a Rental Unit beyond ordinary wear and tear, without a corresponding reduction in Rent, is considered an increase in Rent. A Tenant may file a Petition to adjust the Rent downward based on a loss in rental value attributable to a decrease in Housing Services or maintenance or deterioration of the Rental Unit. The Petition must specify the circumstances alleged to constitute a decrease in Housing Services or maintenance, and demonstrate that the Landlord was provided with reasonable notice and an opportunity to correct in like manner to Petitions filed pursuant to Subparagraph c.2 herein.

E. Petition for Downward Adjustment – Unlawful Rent. If a Landlord demands or retains Rent in excess of the lawful Rent pursuant to this Chapter, a Tenant may file a Petition to adjust the Rent to its lawful level. If such a Petition is granted, the Landlord shall be ordered to return any excessive Rent charged to the Tenant in violation of this Chapter.

SECTION 16. Section 9-5-15 is added to the Burbank Municipal Code to read as follows:

9-5-15 Petitions for individual rent adjustments – procedures.

The Landlord-Tenant Commission shall promulgate regulations regarding procedures for Petitions filed under this Chapter. Petitions shall be governed by such regulations and by the provisions of this section.

A. Hearing Officer. A Hearing Officer selected by the Landlord-Tenant Commission from among a qualified list shall conduct a hearing to act upon the Petition, and shall have the power to administer oaths and affirmations, and to render a final decision on the merits of the Petition, subject to the provisions of this Chapter.

1. Manner of Appointment: A Hearing Officer shall be appointed to a qualified list by majority vote of all Landlord-Tenant Commissioners.

2. Compensation: Compensation for Hearing Officers shall be set by regulation by the Landlord-Tenant Commission.

3. Prohibited Service: No Hearing Officer shall concurrently serve on a board, commission, or committee described in Burbank Municipal Code Sections 2-1-4 to 2-1-5.

B. Notice of Petition. The Landlord-Tenant Commission shall notify the Landlord, if the Petition was filed by the Tenant, or the Tenant, if the Petition was filed by the Landlord, of the receipt of such a Petition and provide a copy thereof, within thirty (30) days of such receipt.

C. Scheduling a Hearing. The Landlord-Tenant Commission shall schedule a hearing for a qualified Petition within thirty (30) days of Notice of Petition.

D. Notice of Hearing. Each party to a Petition shall receive a minimum of fourteen (14) days' notice of the bases, theories, and relevant documents to be presented by the other party(ies), and of the time, date, and place of any hearing regarding the Petition.

E. Developing the Record. The Hearing Officer may require either party to a Petition to provide any books, records, and papers deemed pertinent. If the Hearing Officer finds good cause to believe that a building or other inspection would assist in resolving the issues raised by the Petition, the Hearing Officer may conduct an inspection and/or request the City to conduct a building inspection. The Tenant may request the Hearing Officer to order such an inspection prior to the date of the hearing. All documents required under this subsection shall be made available to the parties involved prior to the hearing. The parties to the hearing may be present during the inspection.

F. Open Hearings. All hearings conducted pursuant to this section shall be open to the public unless prohibited by state or federal law.

G. Right of Assistance. All parties to a hearing conducted pursuant to this section may have assistance in presenting evidence and developing their position from attorneys, legal workers, Recognized Tenant Organization representatives, or any other persons designated by said parties.

H. Hearing Record. The Landlord-Tenant Commission shall make available for inspection and copying any official record that shall constitute the exclusive record for decision on the issues at the hearing. The record of the hearing, or any part of one, shall be obtainable for the reasonable cost of copying. All hearings shall be audio or video recorded, as ordered by the Hearing Officer, and any party to the Petition may receive a copy of the recording upon payment of a reasonable cost.

I. Quantum of Proof and Notice of Decision. No Petition for Individual Rent Adjustment, whether upward or downward, shall be granted unless supported by the preponderance of the evidence submitted prior to and at the hearing. All parties to a hearing shall be sent a notice within fourteen (14) days of the decision and a copy of the findings of fact and law upon which said decision is based. At the same time, parties to the proceeding shall also be notified within fourteen (14) days of their right to appeal to the Landlord-Tenant Commission and/or to judicial review.

J. Consolidation. Whether submitted by a Landlord or Tenant(s), all Petitions pertaining to Rental Units at the same Property, or Rental Units owned/operated/managed by the same Entity may be consolidated for hearing upon a showing of good cause.

K. Appeal. Any person aggrieved by the decision of the Hearing Officer may appeal to the full Landlord-Tenant Commission for review. On appeal, the Landlord-Tenant Commission shall affirm, reverse, or modify the decision of the Hearing Officer. The decision on appeal shall be based on the hearing record, and the Landlord-Tenant Commission may hear and/or find facts in addition to those presented to the Hearing Officer.

L. Finality of Decision. The decision of the Hearing Officer shall be the final decision of the Landlord-Tenant Commission, unless an aggrieved party has timely sought an appeal to the Landlord-Tenant Commission. The decision of the Landlord-Tenant Commission on appeal shall be final unless an aggrieved party has timely sought judicial review pursuant to law.

M. Time for Decision. A final decision on any Petition shall be made within a reasonable time. Decisions decreasing Rent shall remain in effect until the Landlord has corrected the defect warranting the decrease. The Landlord-Tenant Commission shall, by regulation, establish procedures for making prompt compliance determinations.

N. Fair Return Guaranteed. No provision of this Chapter shall be applied so as to prohibit the Landlord-Tenant Commission from granting an Individual Rent Adjustment that is demonstrated by the Landlord to be necessary to provide the Landlord with a Fair Return.

SECTION 17. Section 9-5-16 is added to the Burbank Municipal Code to read as follows:

9-5-16 Judicial review.

A Landlord or Tenant aggrieved by any action or decision of the Landlord-Tenant Commission may seek judicial review pursuant to state law and this Chapter and its implementing regulations. No action or decision by the Landlord-Tenant Commission shall go into effect until any statutory time period for such review has expired.

SECTION 18. Section 9-5-17 is added to the Burbank Municipal Code to read as follows:

9-5-17 Non-waivability.

Any provision of a Rental Housing Agreement, whether oral or written, which purports to waive any provision of this Chapter established for the benefit of the Tenant, shall be deemed to be against public policy and shall be void.

SECTION 19. Section 9-5-18 is added to the Burbank Municipal Code to read as follows:

9-5-18 Remedies.

In addition to any other remedies provided by law, Landlords and Tenants covered by this Chapter shall have the following remedies for violations of this Chapter.

A. Landlord's Demand for or Retention of Excessive Rent. When a Landlord demands, accepts, receives, or retains any payment or payments in excess of the lawful Rent pursuant to this Chapter and the regulations promulgated hereunder, including in violation of the provisions ensuring compliance with habitability standards and maintenance of Housing Services, the Tenant may file a Petition pursuant to Sections 9-5-14 and 9-5-15 (Petitions for Individual Rent Adjustments) or file a civil suit against the Landlord. A Landlord who demands, accepts, receives, or retains any payment of Rent in excess of the lawful Rent shall be liable to the Tenant in the amount by which the payment or payments have exceeded the lawful Rent. In such a case, the Rent shall be adjusted to reflect the lawful Rent pursuant to this Chapter and its implementing regulations.

B. Civil Remedies. A Tenant may bring a civil suit in the courts of the state alleging that a Landlord has violated any of the provisions of this Chapter or the regulations promulgated hereunder, including that the Landlord has demanded, accepted, received, or retained a payment or payments in excess of the lawful Rent. In a civil suit, a Landlord found to violate this Chapter shall be liable to the Tenant for all actual damages, including but not limited to the damages described in Subsection A herein. A prevailing Tenant in a civil action brought to enforce this Chapter shall be awarded reasonable attorneys fees and costs as determined by the court. Additionally, upon a showing that the Landlord has acted willfully or with oppression, fraud, or malice, the Tenant shall be awarded treble damages. No administrative remedy need be exhausted prior to filing suit pursuant to this subsection.

C. Additional Relief for Landlord's Violation of Eviction Rules. If it is shown that the event which the Landlord claims as grounds to recover possession under Section 6(a)(8)-(11) is not initiated within two (2) months after the Tenant vacates the Rental Unit, or it is shown that the Landlord's claim was false or in bad faith, the Tenant shall be entitled to regain possession of the Rental Unit at same Rent that was lawfully in effect when the Tenant vacated, in addition to the relief described in Subsection (b) herein.

D. Defense to Action to Recover Possession. A Landlord's failure to comply with any of the provisions of this Chapter or regulations promulgated hereunder may be raised as an affirmative defense in an unlawful detainer or other action brought by the Landlord to recover possession of the Rental Unit. Any and all violations of this Chapter by the Landlord shall constitute such an affirmative defense, including but not limited to the demand or retention of payment in excess of the lawful Rent, failure to serve any of the notices required pursuant to this Chapter on the Tenant or the Landlord-Tenant Commission, or failure to conform such notices to the requirements of this Chapter, failure to pay the Rental Housing Fee, failure to pay any required Relocation Fee, or a decrease in Housing Services or maintenance without a corresponding reduction in Rent. It is the intent of this Chapter to construe this subsection to the broadest extent permissible under the law to ensure maximum compliance with this Chapter.

1. **Eviction Protection for Victims of Domestic Violence or Sexual Assault or Stalking.** It shall be a defense to an action for possession of a unit under Section 9-5-6(c)-(d) if the trier of fact determines that:

- a. The Tenant or the Tenant's household member is a victim of an act or acts that constitute domestic violence or sexual assault or stalking; and
- b. The notice to vacate is substantially based upon the act or acts constituting domestic violence or sexual assault or stalking against the Tenant or a Tenant's household member, including but not limited to an action for possession based on complaints of noise, disturbances, or repeated presence of police.

E. Penalty for violations. In addition to the affirmative defense or any other rights of a tenant under law, a violation of the provisions of Section 9-5-6(M), which deals with retaliatory eviction, shall be punishable as an infraction as follows:

1. A fine not exceeding two hundred fifty dollars (\$250.00) for the first violation;
2. A fine not exceeding five hundred dollars (\$500.00) for a second, third, and fourth violation within one (1) year;
3. Notwithstanding any provision to the contrary, a fifth violation of Section 9-5-6(M) in any one (1) year period shall constitute a misdemeanor punishable as set forth under Section 1-1-105(A) of the Burbank Municipal Code.

F. Landlord-Tenant Commission or City Attorney Enforcement Action. If the Tenant fails to bring a civil or administrative action to enforce the Tenant's rights under this Chapter, the Landlord-Tenant Commission or the City Attorney may bring such an action or settle the claim on the Tenant's behalf. If the Landlord-Tenant Commission or City Attorney brings such an action, the Tenant shall be provided the right to opt in or out of the action. In the case of an opt-in, the Tenant on whose behalf the Landlord-Tenant Commission acted is barred from bringing a separate action against the Landlord in regard to the same violation, and the Landlord-Tenant Commission or City Attorney shall be entitled to recuperate the costs it incurred from any monetary recovery from the Landlord, with the remainder to go to the Tenant against whom the violation has been committed. In the case of an opt-out, the Tenant shall retain all rights relating to his or her right to private action. The Landlord-Tenant Commission or City Attorney may take other such enforcement action as necessary to ensure compliance with this Chapter.

G. Remedies Not Exclusive. The remedies available in this Chapter are not exclusive and may be used cumulatively with any other remedies in this Chapter or otherwise available at law.

H. Jurisdiction. The appropriate court in the jurisdiction in which the Rental Unit is located shall have jurisdiction over all actions brought under this Chapter.

SECTION 20. Section 9-5-19 is added to the Burbank Municipal Code to read as follows:

9-5-19 Injunctive and other civil relief.

The Landlord-Tenant Commission, Tenants, and Landlords may seek relief from the appropriate court in the jurisdiction where the affected Rental Unit is located to enforce any provision of this Chapter or its implementing regulations or to restrain or enjoin any violation of this Chapter and of the rules, regulations, orders, and decisions of the Landlord-Tenant Commission.

SECTION 21. Section 9-5-20 is added to the Burbank Municipal Code to read as follows:

9-5-20 Partial invalidity.

If any provision of this Chapter or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable. This Chapter shall be liberally construed to achieve the purposes of this Chapter and to preserve its validity.

SECTION 22. Section 9-5-21 is added to the Burbank Municipal Code to read as follows:

9-5-21 Supersedes.

A. This Chapter supersedes any conflicting provisions of a municipal ordinance covering the area of rents, evictions, relocation assistance, or other matters addressed herein. Nothing in this subsection shall be construed to restrict the authority of the City Council to enact complementary or non-conflicting ordinances or take other such actions within its powers, where such ordinances or actions are designed to comply with or further the terms and purposes of this Chapter.

B. In the event any other ballot initiative addressing in whole or in part the same subject matter as this Chapter is approved by a majority of the voters voting thereon at the same election, the following provisions shall apply:

1. If this ordinance receives a greater number of affirmative votes than any other such proposed ordinance, including one that would provide that property owners have the right to set the price at which they rent residential property, then this Chapter shall control in its entirety and the other proposed ordinance shall be rendered void and without any legal effect; and

2. If this ordinance receives fewer affirmative votes than any other such proposed ordinance, including one that would provide that property owners have the right to set the prices at which they rent residential property, all provisions of this Chapter which are not directly contradicted by the initiative receiving a greater number of affirmative

votes will apply to the extent permitted by law.

SECTION 23. Section 9-5-22 is added to the Burbank Municipal Code to read as follows:

9-5-22 Codification

The City Clerk and the City Attorney shall take all steps necessary to ensure the proper and efficient codification of this Chapter into the Burbank Municipal Code. This authority shall include making any necessary revisions to numbering, revising or substituting any references herein to other provisions of Burbank or State law, and similar non-substantive items. In exercising this authority, the City Clerk and City Attorney shall not alter the substantive provisions of this Chapter nor take any action that contradicts express terms and purpose of this Chapter.

SECTION 24. Section 9-5-23 is added to the Burbank Municipal Code to read as follows:

9-5-23 Duty to defend.

The City Attorney shall take all steps necessary to zealously defend against any legal challenges to the validity of this Chapter. If the City Attorney is unable or unwilling to defend, an interested third party may intervene to defend. Any third party that defends this Chapter shall be entitled to court awarded attorney's fees and costs.