

Measure RC
Burbank Just Cause Eviction and Rent Regulation Measure
Frequently Asked Questions

Background and Term Definitions

1) What is rent control and how does it work?

Rent control is a governmental action that limits the amount of rent increases allowable for a particular type of housing. Often, rent control measures only apply to units built within a certain time frame. The rent cap in the California Civil Code that was effective January 1, 2020, applies only to units more than 15 years old. However, locally enacted rent measures may only legally apply to residential units built before February 1, 1995. The amount of rent increases can vary and is often tied to an economic indicator index. Limitations of increases are usually provided on an annual basis and sometimes, limit the number of increases that can occur in any given time period. For example: A rent increase can be only a certain percentage of the current rental rate and an increase can be given once or twice a year.

If a tenant moves out of a rent-controlled unit, the landlord sets the new rent without regulation by local ordinance or state law.

2) What is just cause eviction and how does it work?

Just cause relates to evictions. If just cause is in place, landlords can only evict residents for identified ‘just cause’ reasons such as having to do with the fault of the tenant or fault of the Landlord, which is called “no-fault.” A landlord may only evict for a reason specifically listed as a just cause reason. If a landlord evicts a tenant for a no-fault reason, the landlord is required to pay a relocation fee. This is an amount of money paid to the tenant, when they are asked to leave. The amounts may vary.

3) Does Burbank currently have rent control?

Burbank does not have rent control. However, in 2019, California’s State Governor signed into law AB 1482 amending the Civil Code effective January 1, 2020. The law sets limits on rental increases through January 1, 2030 and applies in Burbank.

4) What is AB 1482?

[AB 1482](#), known as the Tenant Protection Act of 2019, placed statewide rent caps along with just cause eviction standards for specific multifamily and rental properties.

This state law applies to all multi-family housing, and single homes or condos that are owned by a:

- Real Estate Investment Trust (REIT);
- Corporation; and
- Limited Liability Company where one member is a corporation.

The just cause and rent cap provisions of the law do not apply to units with an affordability covenant.

AB 1482 limits evictions. Landlords need just cause for evicting a tenant with continuous or lawful tenancy of at least 12 months or 24 months in certain instances. Detailed at fault or no fault reasons for eviction are included in the [Bill](#). Under the no fault provisions a tenant being evicted may be entitled to a relocation fee equivalent to one month's rent.

AB 1482 states that in any 12-month period, a property owner can only increase rent by 5% plus the cost of living increase, which in Los Angeles and most metro areas has historically been 2-3% a year. However, rents cannot be raised more than 10%. Units built in the last 15 years are exempt; this is a rolling period. Currently, the law applies to units with a Certificate of Occupancy issued (meaning built) through August 2005.

More detailed information on AB 1482 along with a tool to see if this law applies to you can be found [here](#).

5) What happens now if a tenant or landlord has a question or a dispute? Is there a resource?

The City of Burbank has an established [Landlord-Tenant Commission](#). The Commission has five commissioners appointed by the City Council and meets the first Monday of each month at 6:15 p.m. (unless otherwise noted and posted). At the meetings, tenants and/or landlords can discuss situations with the Landlord-Tenant Commission and ask questions particular to their case. With agreement of the tenant and landlord, the Commission will attempt to mediate any disputes. Additionally, the State of California has provided a [Tenant Rights Handbook](#) and the [Housing Rights Center](#) currently provides [virtual educational workshops](#). Lastly, questions can be directed to the City's Housing Authority Office at 818-238-5160 or burbankhousingauthority@burbankca.gov.

6) What is the City Charter and how does it work?

The City of Burbank is governed by the City Charter pursuant to the California Constitution, which was originally adopted by Burbank voters in 1911 and has been amended over the years by the voters. The City Council can recommend amendments to the Charter; however, the voters of the City must approve any such amendments. The Charter may also be amended by initiative, but unlike an initiative measure enacting an ordinance, a charter amendment requires 15% of registered voters' signatures to qualify for the ballot. A measure only needs 10%.

The City's adopted Charter prescribes the powers of the City Council, the City Manager, and the City Attorney.

Under the Charter, the City Council may provide for City Commissions as may be deemed necessary and prescribe their respective powers and duties. City Commissions are advisory to the Council. Pursuant to its Charter authority, the City Council established a Landlord-Tenant Commission.

7) What is a 9212 Report?

Elections Code Section 9212 provides the City Council may refer the proposed Measure to staff for a report on a laundry list of items. Topics relevant to Measure RC may include the Measure's: fiscal impact; effect on the use of land; impact on the availability and location of housing, and the ability of the City to meet its regional housing needs; impact on the community's ability to attract and retain business and employment; impact on the uses of vacant parcels of land; or on any other matters the City Council requests. The City Council received a preliminary 9212 report during their August 7th meeting. The Council requested a more in-depth report and requested staff to engage the services of a consultant to assist in the report's preparation.

The final 9212 report is under development and is planned to be presented to City Council at the October 6th meeting.

Measure RC Burbank Just Cause Eviction and Rent Regulation Measure on the November 3, 2020 Ballot

8) What would Measure RC do?

Measure RC is also known as the Burbank Just Cause Eviction and Rent Regulation Measure. It is an initiative measure. This means that the proponents of the Measure met the legal requirements to place the Measure on the ballot. The Measure proposes changes to the Burbank Municipal Code adding just cause eviction provisions, rent regulations and an independent Landlord-Tenant Commission with expansive authority.

9) Which units are exempt from just cause eviction and rent stabilization provisions?

Certain types of housing are exempt such as units restricted as affordable, or owned by a government entity or non-profit, or subsidized by government including Section 8, or units where the owner shares a bathroom or kitchen with a renter.

10) Which units are exempt from Rent Stabilization?

Residential units, such as those that received a certificate of occupancy (built) after February 1, 1995, single-family homes or condominiums, are exempt from rent regulations. However, these units are subject to just cause eviction provisions.

11) How many Burbank rental units are subject to the rent stabilization provisions of the Measure?

Approximately 22,292 units. This number may be lower based on the exemptions listed in the Measure.

12) How many rental units are subject to the just cause eviction provisions of the Measure?

Approximately 24,285 units. This number may be lower based on the exemptions listed in the Measure.

13) Who administers the provisions?

The Measure is to be implemented and administered by an independent 5-member Landlord-Tenant Commission appointed by City Council with expansive and autonomous authority including:

- Adopting rules and regulations
- Setting rents
- Setting the annual per unit fee Landlords must pay to fund the administration of the Measure
- Determining the annual rent adjustment
- Adjudicating disputes and issue decisions
- Establishing penalties
- Holding hearings
- Conducting studies, surveys and investigations
- Producing informational materials and publicizing the provisions of the Measure
- Reporting annually to City Council

The Commission would be comprised of no fewer than two tenants and no more than two residential rental property owners. An alternate would also be appointed by the City Council. All current members of the Commission would remain through their existing terms. Besides being appointed by the Council, Commission members may be removed by the City Council.

14) What would be the established rent under the Measure?

Units that are affected by the Measure would be reset to a base rent from which all increases would then be based. For tenancies commencing on or before September 30, 2019, the base rent would be set to the rent in effect on September 30, 2019. For tenancies after September 30, 2019, the base rent would be the rent charged upon initial occupancy.

15) How much could the rent increase?

The annual increase will equal the Consumer Price Index (CPI) for the 12-month period ending in March of the current year, rounded to the nearest ¼ percent. It will not be less than zero or more than 7 percent. The Landlord-Tenant Commission shall announce the amount of the adjustment by June 30th of that year. No more than one rent increase per year can be imposed on a tenant. The first rent increase allowed under the Measure is September 1, 2021, based on the CPI from May 2019 through May 2021.

16) What is the amount of base rent if a new tenancy occurs after implementation of the Measure?

A Landlord sets initial rents for new tenants under the Measure and state law. The Measure provides, if state law changes, then Landlord-Tenant Commission will set initial rents.

17) What is just cause under the Measure?

Landlords may only evict a tenant based on stated reason.

Fault evictions include non-payment of rent, violation of lease and failure to cure, tenant creates nuisance or illegal activity in unit or rental complex or within 1000' or refusing Landlord reasonable access to the unit.

No-fault evictions include evicting the tenant to demolish or substantially rehabilitate unit, recovering the unit for occupancy by a resident manager or family member or permanent removal of unit from rental market.

If the eviction is based on a no-fault reason, then the tenant is entitled to receive a relocation payment.

18) What is the amount of the relocation fee?

For tenants who have lived in the unit for less than three years, the amount is \$8,050 or \$16,950 for Qualified Tenants. If the tenant has lived in the unit more than three years, the amount is \$10,550 or \$20,050 for Qualified Tenants. For tenants whose income is less than 80% of the Area Median Income (AMI), the amount is \$10,550 or \$20,050 for Qualified Tenants.

If the owner requires the unit vacant for use by identified family members listed in the Measure and the following is true:

- Within the past three years, the landlord has not paid a relocation fee
- The landlord owns six or less rental units in Burbank
- The relative moving into the unit doesn't own another residential property in the City of Burbank

The amount of relocation fee will be \$7,750 or \$15,550 for Qualified Tenants.

A Qualified Tenant is one that is 62 years of age or older, handicapped, disabled or resides with legally dependent or one or more minor children.

If more than one fee applies, the highest fee will apply.

The Landlord-Tenant Commission has the authority to change the amount of the relocation fees.

19) What is the cost to administer the Measure?

Below is a table comparison of the cost for Santa Monica, Berkley and estimates for Burbank to administer the provisions of the Measure. This table shows the cost to run similar programs is more than \$5.5 Million dollars a year with a per unit cost of over \$200 to \$300 range. For further comparison, the City currently expends approximately \$325,000 a year to administer its affordable housing monitoring program which includes monitoring 1,600 units at a per unit cost of \$203 a year. These units have rent affordability restrictions that City staff monitors (e.g. Burbank Housing Corporation affordable units) to ensure compliance with City agreements.

Based on these cost comparison a per unit cost for a program in Burbank will realistically be more than \$200.

City	# of Units Monitored	Annual Budget	Cost per Unit to the Organization	Annual Per Unit Program Fee	# of Staff	Annual Allowable Rent Increase
Santa Monica *	26,425	\$5,525,245	\$209	\$198	25	1.4% (maximum \$32 for rent \$2,250 and up)
Berkeley **	19,548	\$5,960,000	\$304	\$250	24.85	2.1% (CPI Formula)
Proposed Burbank***	22,292	\$5,717,898	\$257	\$257	25	100% of CPI rounded to the next one-quarter of a percent; not less than 0% or more than 7%
* Santa Monica Adopted Budget FY 20/21; Rent increase effective September 1, 2020						
** Berkeley Adopted Budget FY 19/20; Rent increase effective January 1, 2020						
*** Burbank has 22,292**** rental units built prior to 1995; Cost per unit based on an average cost (Santa Monica and Berkley); Assumes 100% cost recovery						
****This is an estimate of the number of rental units, the number may be lower based on the allowed exemptions.						

20) How will the Commission initially be funded?

During the initial implementation period, the Measure requires the City to advance all necessary funds to ensure the effective implementation of the Measure, until the Commission has collected Rental Housing Fees sufficient to support the implementation. This means the City’s General Fund is obligated to fund this period, which will likely be a good portion of the first year’s operations.

Given the cost to administer the Measure based on the information in the above Table, the City’s general fund may have to advance anywhere from two to five million dollars during the initial implementation period including startup costs such as office space, equipment, office furniture, and supplies. In the future, the City may seek reimbursement from the Commission for any advanced funds once the Rental Housing Fee has been collected. There is no requirement that the Commission repay the City.

21) How will re-occurring funding of the Commission be provided?

The Measure provides the Commission shall finance its reasonable and necessary expenses, including engaging any staff as necessary to ensure implementation, by charging Landlords an annual Rental Housing Fee. Based on the table above, the fee could be approximately \$257 per unit.

22) If Measure RC were to be approved by the voters, how would this affect AB 1482?

There would be two rent control laws in effect in Burbank. Regarding rent control, multifamily units that received a certificate of occupancy (built) before February 1, 1995, and aren't in an exempted category, would fall legally under Measure RC regulations.

Units built on or after February 1st, and less than 15 years old including single homes/condos that are owned by a Real Estate Investment Trust (REIT), corporation and Limited Liability Company, would be included under AB 1482.

All units fall under Measure RC just cause eviction regulations except certain exempted units such as those listed below:

- restricted as affordable
- owned by government entity or non-profit
- subsidized by government including Section 8
- owner shares bathroom or kitchen with renter

23) If passed, when would Measure RC take effect?

If Measure RC passes, the Ordinance provides the current Landlord Tenant Commission shall assume the powers and duties listed under the ordinance effective January 1, 2021. According to the Elections Code Section 9217, if it passes the ordinance takes effect 10 days after the Council certifies the election result. So if Measure passes, it would take effect sometime in December and the Landlord Tenant Commission would start acting in January 2021.

Charter Conflicts

24) Does this Measure conflict with Burbank's Charter?

The Measure has many conflicts with the City's Charter. These could have been avoided if the Measure was brought forward as a Charter Amendment. An initiative proposing a charter amendment, however, requires signatures of 15% to qualify for the ballot, rather than 10% for an initiative ordinance. For example, both Berkley and Santa Monica's rent regulation programs were created through their respective charters. There are a number of aspects of the Measure that contradict the City Charter. They are listed below.

A. The Commissioners' powers exceed advisory Roles: The Measure establishes and empowers a new Commission with duties that are well beyond an advisory role.

B. Creates an autonomous Commission without oversight: The Measure provides in part in Section 9-5-13 (N) (emphasis added except for section titles):

"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.”

The numerous powers granted to the Commission to be exercised independent of the Council’s authority and the express language that the Commission is “autonomous” of the Council, City Manager and City Attorney is a breach of the Charter and the balance of power granted in the Charter to the City Council, City Manager, and to the City Attorney.

- C. Develops an independent budget without City oversight:** The City Council has plenary power over the City’s budget. The City Manager is responsible for preparing and submitting a proposed annual budget to the City Council, as well as responsible for its administration. The Measure, however, empowers the Commission to set its own budget, as well as establish fees for its own revenues. Since the Charter vests budget authority in the City Council, this Measure cannot grant such powers to the Commission without violating the Charter. The Measure’s budget provisions also violate the duties prescribed to the City Manager.
- D. Requires advancement of funds:** The Measure requires the City to advance City funds, in some unspecified amount, for the initial funding of the Commission’s implementation of the programs called for by the Measure. This requirement is also a direct infringement of the Budget Section of the Charter by mandating the City Council expend funds for this purpose. Further, there is no guarantee the advance be repaid to the City.
- E. Provides unregulated legal authority:** The City Council—and only the City Council— has the power to direct and control the prosecution and defense of all suits and proceedings to which the City is a party, or in which it is interested. The City Council is authorized to retain outside legal representation upon the recommendation of the City Attorney to assist the City Attorney’s prosecution or defense of suits to which the City is a party, or in which it is interested. Furthermore, per the City’s Charter, the City Attorney shall direct and oversee any special counsel the City Council employs to assist the City Attorney’s representation.

The Measure purports to grant the Commission the power to initiate lawsuits, intervene in pending suits, hire their own in-house attorneys or outside attorneys, all without the City Council’s approval or benefit of the City Attorney’s oversight. As written, , any action brought by the Commission is a lawsuit in the name of the City – this Commission is not a

separate legal entity from the City; as such any litigation involving the Commission is subject to Section 320 (b) of the Charter.

The Measure as written brings itself outside of this subsection of the Charter, and consequently is in violation of the Charter.

- F. Compels the City Attorney to assist in lawsuits; thereby responsible to the Commission:** The Measure provides the Commission may request the services of the City Attorney, who shall provide the duties pursuant to Charter §320. This Charter section is broad and outlines the duties and obligation of the City Attorney, as well as the subsection discussed above on litigation.

By the Measure giving authority to the Commission to require the City Attorney to provide legal services to the Commission, puts the Commission in the middle of the City Attorney's relationship to the City Council. The City Attorney is appointed by the City Council and accountable to the City Council; not some lesser body. This causes another inherent conflict with the Charter.

- G. Breaches the authority of the City Manager:** The City Manager is the executive head of the City and is responsible to the City Council for the proper administration of all affairs of the City. As the administrator of the City, the City Manager may appoint and remove City employees, except as otherwise provided by the Charter. Creating a separate bureaucracy in the Commission with the ability to hire and fire independent of the City Manager is in contravention of the City Manager's powers granted by the Charter.

- H. Creates contradictory accountability:** On the one hand, the Measure states the Commission is an integral part of the City and on the other hand, it states the Commission is autonomous. As written, it can't be both.

It is correct that the Commission would be part of the City since a separate legal entity was not created. Like Burbank Water and Power and Burbank Police Department are part of the City so too would be the Commission. Neither of these departments operates independently of the City Council. And, more importantly no part of the City operates independent of the City Manager except for the appointed City Attorney and elected City Clerk and City Treasurer as explicitly provided in the Charter. The City of Burbank operates under the City Council - City Manager form of government. To insert a Commission not accountable to anyone in the City's hierarchy and operating outside the purview of the City Manager is the antithesis to the City's basic form of government established in the Charter.

25) Is it true that the City challenged the validity of the Measure in court due to its conflicts with the City Charter?

The answer is yes. The City brought what is called a pre-election challenge to test the validity of the Measure due to the numerous conflicts with the City Charter, as outlined, above. The City asked the Court to rule that the Measure as proposed violates the City Charter and a Charter Amendment should have been proposed. The court did not make a final determination on the merits of the City's contention that a charter amendment should have been brought. Instead, the court ruled the City's legal challenge may be made post-election. If the Measure passes in November, it will be up to the then City Council to decide if it wishes to pursue the matter.