

510. Definition of New Construction for Units that Lack a Certificate of Occupancy.

(A) Scope and Authority.

Since 1980, the Rent Ordinance has distinguished between newly-constructed rental units and those created through conversion or substantial rehabilitation. Effective December 18, 2016, the new construction exemption was amended. See Berkeley Municipal Code Section 13.76.050. Consistent with California Civil Code Section 1954.50 et seq., certain newly-constructed rental units for which a Certificate of Occupancy has not been issued are exempt from Chapter 8 (Rent Registration), Chapter 10 (Establishment of Base Rent Ceiling and Posting), Chapter 11 (Annual Adjustment of Rent Ceilings), and Chapter 12 (Individual Adjustment of Rent Ceilings) of the Ordinance. This Regulation sets forth the criteria for exemption of such rental units.

(B) Conversion.

A rental unit that is created as the result of conversion or substantial rehabilitation of an existing structure shall not be exempt unless a Certificate of Occupancy has been issued for that unit after June 30, 1980.

(C) Units constructed before February 1, 1995.

A detached rental unit constructed from the ground up after June 30, 1980 but before February 1, 1995 shall be exempt from the Chapters detailed in Subsection A.

(D) Units constructed after February 1, 1995.

A detached rental unit constructed from the ground up after February 1, 1995 shall be exempt from the Chapters detailed in Subsection A only where all applicable building permits have been issued and finally approved by the City.

(E) Definition of “ground up” construction.

For the purposes of this regulation, construction from the ground up is defined as the construction of an entirely new structure, not attached to any other structure and not created by the partial demolition of an existing structure.

(F) Units with a formal determination of exemption.

Notwithstanding the foregoing, where a formal determination of exemption was made before February 1, 1995, the subject rental unit shall remain exempt consistent with California Civil Code Section 1954.50 et seq.

[Adopted April 24, 2017.]