

RENT ORDINANCE REGULATION 20-05
IMPLEMENTING REGULATIONS CONCERNING
BANKING OF ANNUAL GENERAL ADJUSTMENTS

Whereas, on September 17, 2019, the City Council of the City of Alameda adopted Ordinance 3250 (beginning at Section 6-58.10, Alameda Municipal Code), restating and revising previous Ordinances concerning rent control, limitations on evictions and relocation payments to certain tenants; and

Whereas, Section 6-58.155, Alameda Municipal Code (all further section references are to the Alameda Municipal Code unless stated otherwise) provides the City Manager or the Manager's designee has the authority to promulgate regulations to implement the requirements and fulfill the purposes of Ordinance 3250; and

Whereas, Section 6-58.70 provides that a Landlord may, but is not required to, increase Rent by the Annual General Adjustment and that any unused Rent Increase may be banked as provided in Section 6-58.70; and

Whereas, subsection G of Section 6-58.70 provides that regulations may be promulgated to implement the banking process, including the notices that a Landlord must provide to a Tenant and to the Program Administrator when a Landlord uses banking.

Now, therefore, the following Regulation is adopted to implement provisions of Ordinance 3250 concerning banking.

Section 1. Capitalized terms in this Regulation have the same meaning as capitalized terms in Ordinance 3250.

Section 2. A Landlord may, but is not required to, increase Rent by the Annual General Adjustment as provided in Section 6-58.60. If a Landlord does not increase Rent by the Annual General Adjustment, any portion of such increase may be "banked" and used as set forth in Section 6-58.70 and this Regulation.

Section 3. If a Landlord serves a notice of a Rent Increase that includes a banked Annual General Adjustment, the Landlord shall:

(a) serve the tenant with the attached Form RP-203 (Addendum for Imposing "Banked" Annual General Adjustment);

(b) notify the Tenant in writing what portion of the Rent Increase represents the banked Annual General Adjustment; and

(c) serve such Form and notice with or at the same time as the Landlord's service of a notice of a Rent Increase on the Tenant. The Landlord shall file with the Program Administrator a proof of service concerning such Form and notices within three calendar days of serving the Tenant with the above Form and notices.

Section 4. No Landlord shall:

- (a) accumulate a banked amount of more than 8% at any one time;
- (b) increase Rent by more than the current year's Annual General Adjustment plus 3%; or
- (c) increase Rent by using any banked amount in consecutive years. Banking of Annual General Adjustments is calculated on compound addition.

For example, assume in year 1 the AGA was 2%, in year 2, 3%, and in year 3, 4%, a total of 9.3% as compounded. Assume the AGA for year 4 was 4.5%. Assume the Landlord did not impose a Rent Increase in years 1, 2 and 3 but wanted to increase rent in year 4. First, notwithstanding that the AGA percentage for years 1, 2 and 3 totaled 9.3%, the Ordinance limits the banked amount to no more than 8% at any one time and therefore 1.3% is "lost". Moreover, in year 4, the Landlord could increase Rent only by 7.5%, i.e., the current year AGA—4.5%—+ 3%. The Landlord would, however, continue to have 5% in the bank, i.e., 8% (banked) minus 3%, but that banked amount could not be used in year 5; the Landlord would need to wait until year 6, subject to the same limitation as before—that year's AGA + 3%. Also, a Landlord may use banking to increase Rent only three times in any one Tenancy and any banked AGA expires when a new Tenancy is created or when a Landlord transfers the Rental Unit.

Section 5. Nothing in this Regulation precludes a Landlord from filing a petition for Rent Increase in excess of the Annual General Adjustment.

Dated: October 30, 2020

Lois Butler, Interim Community Development Director