

COVID-19 URGENCY ORDINANCE REGULATION 20-02

IMPLEMENTING REGULATIONS CONCERNING A MORATORIUM ON RENT INCREASES UNTIL 60 DAYS AFTER THE RESCISSION OF THE DECLARATION OF THE LOCAL EMERGENCY OR JUNE 30, 2021, WHICHEVER IS LATER, DUE TO THE COVID-19 PANDEMIC

Whereas, as a result of the serious public health issue caused by the COVID-19 virus, Governor Newsom has ordered all residents of California to stay at home except for conducting essential business and has issued an Executive Order giving cities broad authority to enact legislation concerning evictions; and

Whereas, on March 17, 2020, the City of Alameda declared a local state of emergency based on the COVID-19 pandemic; and

Whereas, on March 17, 2020, as a result of the local state of emergency and government ordered directives, the City Council adopted an urgency ordinance to help protect residential tenants who have experienced, or who may experience, sudden income loss, leaving such tenants vulnerable to eviction; and

Whereas, on April 7, 2020, as a result of the continuing local state of emergency and government ordered directives, the City Council adopted another urgency ordinance (Ordinance No. 3273) to broaden the protection from eviction to residential tenants; and

Whereas, on April 21, 2020, as a result of the continuing local state of emergency and government ordered directives, the City Council adopted another urgency ordinance (Ordinance No. 3275) to freeze rent increases from April 22, 2020 until January 1, 2021 and also to broaden the protection against eviction of residential tenants due to an owner move in or as part of an approved Capital Improvement Plan; and

Whereas, on December 15, 2020, as result of the continuing local emergency due to the COVID-19 pandemic, the City Council adopted another urgency ordinance (Ordinance No. 3293) to continue to freeze rent increases for fully regulated rental units from April 22, 2020 until 60 days after the rescission of the declaration of the local emergency or June 30, 2021, whichever is later; and

Whereas, Section 5 of Ordinance No. 3275 provides that the Interim Community Development Director has the authority to promulgate regulations to implement the requirements and fulfill the purposes of the Ordinance; and

NOW, THEREFORE, under Section 5 of Ordinance No. 3275, the Interim Community Development Director adopts the following implementing regulations due to the COVID-19 pandemic concerning a temporary moratorium on rent increases and evictions due to certain no fault evictions.

Section 1. Capitalized terms shall have the same meaning as Capitalized terms as defined in Ordinance 3250 and in Ordinance Nos. 3275 and 3293. In addition, the following definitions are adopted:

- A. "Declaration of Local Emergency" shall mean the declaration of a local state of emergency adopted by the City Council on March 17, 2020, as said Declaration of Local Emergency has been extended from time to time.

- B. “Fully Regulated Units” shall mean the residential rental units for which rents are not pre-empted from local rental control by State Law and for which all other provisions of Ordinance No. 3250, including just cause eviction and rent registry provisions, apply, and that are not exempt from the provisions of Ordinance No. 3250 as set forth in Section 6-58.20, Alameda Municipal Code.
- C. “No Fault Eviction” shall mean an action that a Landlord takes to terminate a Tenancy based on either an owner move in as provided in subsection E of Section 6-58.80, Alameda Municipal Code or on an unconditionally approved Capital Improvement Plan as provided in subsection G of Section 6-58.80 and City Council Resolution 15138.
- D. “Writing” may include email or text communications to a landlord or the landlord’s representative with whom the Tenant has previously communicated or corresponded.

Section 2. For Fully Regulated Units, the following shall apply:

- A. No Landlord shall increase Rent that was in effect as of April 21, 2020 until 60 days after the rescission of the declaration of local emergency due to the COVID-19 pandemic or June 30, 2021, whichever is later. (That date hereafter will be referred to the “Rent Increase Effective Date”.) Any notice of a Rent Increase served prior to December 15, 2020 which Rent Increase would not take effect until after April 21, 2020 is void and has no force or effect.
- B. Any Rent Increase that a Landlord imposes on or after the Rent Increase Effective Date that could have been imposed between April 22, 2020 and the Rent Increase Effective Date but for the Rent Increase freeze adopted on April 21, 2020, and on December 15, 2020, shall not count as a Rent Increase for purposes of subsection A of Section 6-58.50, Alameda Municipal Code (limiting rent increases to once every 12 months).
- C. Nothing in Ordinance No. 3275 nor this Regulation shall be construed to preclude any Landlord affected by Ordinance No. 3275 or this Regulation from banking Rent Increases for future implementation on or after the Rent Increase Effective Date, following the procedures in Section 6-58.70, Alameda Municipal Code.
- D. For Rent Increases that were frozen between April 22, 2020 and the Rent Increase Effective Date, in order to encourage Landlords not to impose such Rent Increase on or after the Rent Increase Effective Date but, instead, to bank the Rent Increase, if a Landlord banks the Rent Increase until the date when a Rent Increase would be permitted under Ordinance No. 3250, that banking will not count for purposes of subsection B of Section 6-58.50 (prohibiting Landlords from banking in consecutive years and limiting banking Rent Increases to three times in any one tenancy).

Section 3. Examples of how a Landlord may increase Rent on or after the Rent Increase Effective Date are as follows:

Example 1: Assume a Tenant’s Tenancy started on July 1, 2019 and the Tenant’s Base Rent (the Rent in effect as of September 1, 2019) is \$2000/monthly. In the absence of Ordinance No. 3275, a Landlord could have served a notice of a Rent Increase such that the Tenant’s Rent would have increased by 2.8% (the allowable Annual General Adjustment [AGA] between September 1, 2019 and August 31, 2020) on July 1, 2020. Because of the Rent Increase freeze in Ordinance No. 3275, a Landlord

is precluded from increasing the Tenant's Rent by 2.8% until the Rent Increase Effective Date. Moreover, the Annual General Adjustment for the period September 1, 2020 and August 31, 2021 is 1%. If the rent increase freeze (Ordinance No. 3293) remains in place through June 30, 2021, the Landlord is also precluded from increasing the Tenant's rent by 1% until the Rent Increase Effective Date. Assume the Rent Increase Effective Date is October 1, 2021 and the Annual General Adjustment for the period September 1, 2021 to August 31, 2022 is also 1%. The Landlord may serve on or after October 1, 2021 a notice of a Rent Increase such that the Tenant's Rent may be increased by 3.8%. A Landlord may also serve a notice of a Rent Increase of an additional 1% come July 1, 2022, notwithstanding that the Tenant's Rent had been increased in October 2021.

Example 2. Assume the same facts as in Example 1 but the Landlord, rather than increasing the Rent in October 2021, decides to "bank" the Rent Increase until July 2022. The Landlord could then increase the Rent by 4.8%. That banking (of the 3.8%) will not count as one of the three "banks" of a Rent Increase that the Landlord is permitted in any one Tenancy.

Example 3. Assume a Tenant's Tenancy started in October 2018, the Tenant's Base Rent as of September 1, 2019 was \$2000/monthly and the Landlord increased the Rent as of October 1, 2019 by 2.8% (the allowable AGA). The AGA for the September 2020 and August 2021 time frame is 1%. The Landlord was precluded from increasing the Rent in October 2020 because of the Rent Increase freeze. Assume the Rent Increase Effective Date is July 1, 2021. The Landlord could impose a Rent Increase of 1% in July 2021. The Landlord could then impose a Rent Increase in October 2021 by the AGA that is established for the September 2021 to August 2022 time frame, notwithstanding that the Landlord had increased Rent by 1% in July 2021.

Example 4. Assume the same facts as in Example 3 but the Landlord, rather than increasing the Rent in July 2021, decides to bank the Rent Increase until October 2021. The Landlord could then increase the Rent by the combination of 1% plus the September 2021 – August 2022 AGA. That banking would not count against one of the three banks of a Rent Increase that Landlord is permitted per any one tenancy.

Example 5. Assume a Tenant's Tenancy started on January 1, 2019 and the Tenant's Base Rent as of September 1, 2019 was \$2000/month. The Landlord could have increased the Rent in January 2020 by the 2.8% AGA but decided to bank the Rent Increase. Because of the Rent Increase freeze, the Landlord is precluded from imposing any Rent Increase until the Rent Increase Effective Date. At that time, the Landlord could impose a Rent Increase of not only the banked 2.8% but also the 1% AGA for the September 2020 – August 2021 time frame. Because the Landlord could have imposed the banked Rent Increase any time during 2020 but could not after April 21, 2020, the banking for 2020 will not count against one of three banks of a Rent Increase that a Landlord is permitted per any one tenancy.

Section 4. No Evictions or Termination of Tenancies

For all Residential Rental Units except those defined in Section 6-58.20, Alameda Municipal Code, between April 22, 2020 and 30 days after the City Council rescinds the Declaration of Local Emergency, no Landlord shall take action to terminate any Tenancy including, but not limited to, making a demand for possession of a Rental Unit, threatening to terminate a Tenancy, serving any notice to quit or other notice to terminate a Tenancy, filing an action to recover possession or be granted possession of a Rental Unit, based on an Owner move in (subsection E of Section 6-58.80, Alameda Municipal Code) or

to carry out an unconditionally approved Capital Improvement Plan (subsection G of Section 6-58.80, Alameda Municipal Code and City Council Resolution No. 15138). Any action to terminate a Tenancy as described in the previous sentence based on an owner move in or to carry out an unconditionally approved Capital Improvement Plan that was initiated on or after March 1, 2020 and for which a final judgment from a court of competent jurisdiction had not been issued as of April 21, 2020 is void and has no force or effect.

Section 5. The protections of Ordinance Nos. 3275 and 3293, and this Regulation shall be available to all Tenants, regardless of any agreement wherein a Tenant waives or purports to waive a Tenant's rights under Ordinance Nos. 3275 or 3293, or this Regulation.

December ____, 2020

Lisa Maxwell, Interim Director of Community Development

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