

COVID-19 URGENCY ORDINANCE REGULATION 20-02

IMPLEMENTING REGULATIONS CONCERNING A MORATORIUM ON RENT INCREASES
UNTIL JANUARY 1, 2021 DUE TO THE COVID-19 PANDEMIC

Whereas, as a result of the serious public health issues 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 (Ordinance No. 3268) 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of emergency and government-ordered directives, the City Council adopted an urgency ordinance (Ordinance No. 3273) that repealed Ordinance No. 3268 but incorporated its protections as well as broadening the protection from eviction to residential tenants; and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of emergency and government-ordered directives, the City Council adopted an urgency ordinance (Ordinance No. 3275) that repealed Ordinance No. 3273 but incorporated its protections, froze rent increases from April 22, 2020 until January 1, 2021, and broadened the protection against eviction of residential tenants due to an owner move-in or as part of an approved Capital Improvement Plan; and

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

Whereas, the Community Development Director on April 10, 2020, promulgated COVID-19 Urgency Regulation 20-01 concerning a moratorium on evictions and establishing a time frame in which “deferred rent” must be repaid.

NOW, THEREFORE, under Section 5 of Ordinance No. 3275, the 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 No. 3275 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.
- B. “Fully Regulated Units” shall mean the residential rental units for which rents are not preempted 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 no earlier than January 1, 2021. Any notice of a Rent Increase served prior to April 22, 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 January 1, 2021, that could have been imposed between April 22, 2020 and December 31, 2020, but for the Rent Increase freeze adopted on April 21, 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 January 1, 2021, following the procedures in Section 6-58.70, Alameda Municipal Code.
- D. For Rent Increases that were frozen between April 22, 2020 and January 1, 2021, in order to encourage Landlords not to impose such Rent Increase on January 1, 2021, 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 January 1, 2021, 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 January 1, 2021. Assume that the Annual General Adjustment for the period September 1, 2020 and August 31, 2021 is 2%. The Landlord may serve a notice of a Rent Increase such that the Tenant's Rent may be increased by an additional 2% as of July 1, 2021, notwithstanding that the Tenant's Rent had been increased in January 2021.

Example 2: Assume the same facts as in Example 1 but the Landlord, rather than increasing the Rent in January, decides to "bank" the Rent Increase until July 2021. The Landlord could then increase

the Rent by 4.8%. That banking 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). Assume the AGA for the September 2020 to August 2021 time frame is 2%. The Landlord is precluded from increasing the Rent in October 2020, because of the Rent Increase freeze but could impose a Rent Increase of 2% in January 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 2% in January 2021.

Example 4: Assume the same facts as in Example 3 but the Landlord, rather than increasing the Rent in January 2021, decides to bank the Rent Increase until October 2021. The Landlord could then increase the Rent by the combination of 2% plus the September 2021 – August 2022 AGA. That banking would not count against one of the three banks of a Rent Increase that a 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 January 1, 2021. At that time, the Landlord could impose a Rent Increase of not only the banked 2.8% but also the AGA for the September 2020 – August 2021 time frame. Because the Landlord could have imposed the 2020 banked Rent Increase only with the Rent Increase in January 2021, the banking for 2020 will 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.

April 22, 2020

Debbie Potter, Director of Community Development