

RENT ORDINANCE REGULATION 20-01

IMPLEMENTING REGULATIONS CONCERNING THE RENT REGISTRATION STATEMENT, PAYMENT OF RENT PROGRAM FEES, AND EXEMPTION PROCEDURES APPLICABLE TO RENTAL UNITS NOT EXEMPT FROM RENT CONTROL UNDER STATE LAW ("FULLY REGULATED UNITS")

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

Whereas, subsection A of Section 6-58.55, Alameda Municipal Code (all further section references are to the Alameda Municipal Code unless stated otherwise) provides that a Landlord shall as provided in Regulations complete and submit to the Program Administrator a registration statement for each Rental Unit and, as to those Rental Units that are not exempt from rent control under State Law, a Landlord must complete and submit a new registration statement to the Program Administrator within 30 calendar days from the inception of a new tenancy and upon a change of ownership of the Rental Unit; and

Whereas, subsection B of Section 6-58.55 provides that for all Rental Units other than those exempt from rent control under State Law ("fully regulated units"), the Program Administrator shall for each Rental Unit (a) initially determine an Apparent Lawful Rent Ceiling (as that term is defined in subsection A of Section 4 of this Regulation), (b) annually provide to Landlords and Tenants the registered Base Rent, registered current Rent, and Apparent Lawful Rent Ceiling, and (c) create a process for a Landlord or Tenant to appeal a certification of permissible rent levels as provided in California Civil Code, section 1947.8.

Whereas, the City Council has adopted a resolution establishing various Program Fees, depending on the classification of the Rental Unit, for example, Landlords pay a different Program Fee for fully regulated units than for a "partially regulated" unit; and

Whereas, Section 6.58.20 provides that certain Dwelling Units are exempt from the entire Rent Ordinance, including exempt from paying Program Fees, including an exemption for projects where all of the Dwelling Units in the project are covered by a regulatory agreement that provides (a) that Tenants pay affordable rent (as defined in the Health and Safety Code) and (b) Landlords accept only persons or families or low or

moderate income (as defined in the Health and Safety Code); and

Whereas, Section 6-58.155 provides that the Rent Program Administrator has the authority to promulgate regulations to implement the requirements and fulfill the purposes of the Rent Ordinance.

Now, therefore, the following Regulation is adopted to implement provisions of the Rent Ordinance concerning rent registration, payment of Program Fees, and exemption procedures for fully regulated units.

1. When a Registration Statement Must be Filed

A. Initial Registration Statement. Landlords shall file with the Program Administrator an Initial Registration Statement for each Rental Unit. For units rented to Tenants as of Sept. 1, 2019, the deadline for initial registration was May 25, 2020. For all other units, i.e., units first rented to Tenants since Sept. 1, 2019, the Initial Registration Statement must be submitted within 30 calendar days of the start date of the first tenancy in the unit. An Initial Registration Statement may be submitted through the online Rent Registry or by submitting Form RP-221(A). Required information to be submitted with the Initial Registration Statement includes:

1. Alameda County Assessor's Parcel Number ("APN")
2. Primary property address
3. Property purchase date
4. Owner name, business name (if different), mailing address, phone number, email address, and owner type (i.e. individual, corporation, etc.)
5. Property manager name, business name (if different), mailing address, phone number, and email address
6. For each Rental Unit:
 - a) Unit address
 - b) Number of bedrooms
 - c) Occupant type (Tenant or rent-subsidized Tenant)
 - d) Start date of tenancy
 - e) Current Rent
 - f) Base Rent (defined as rent that was charged on

September 1, 2019, or the rent charged on the first date the rent was charged following September 1, 2019, if the unit was not occupied by a Tenant at that time)

- g) Date of most recent rent increase
- h) Dollar amount and percentage increase for the most recent rent increase
- i) Housing services included with Base Rent
- j) Tenant name(s)

B. Annual Registration Statement. A Landlord shall file with the Program Administrator an Annual Registration Statement by no later than August 31 of each year. The Annual Registration Statement may be submitted by confirming information in the online Rent Registry no earlier than June 1 or by submitting Form RP-221(B) no earlier than May 1. Any new tenancies that have started since the initial registration statement or the most recent annual registration statement must be registered according to the requirements for a Change in Tenancy as set forth in subsection C of this Section 1. Required information to be submitted with the Annual Registration Statement includes:

1. Any changes to the Initial Registration Statement or most recent Annual Registration Statement, whichever is most recent.
2. For each Rental Unit:
 - a) Current Rent
 - b) Date, dollar amount, and percentage increase, of most recent rent increase

C. Change in Tenancy. When a Landlord has already submitted an Initial Registration Statement for a Rental Unit and there has been a change in Tenancy, within 30 calendar days of the start date of the new Tenancy, a Landlord must register the new Tenancy with the Program Administrator. A Change in Tenancy may be submitted through the online Rent Registry or by submitting Form RP-221(C). Required information to be submitted to register a change in tenancy includes:

1. Any changes to the Initial Registration Statement or most recent Annual Registration Statement, whichever is more recent.
2. For each Rental Unit:

- a) Occupant type (Tenant or rent-subsidized Tenant)
- b) Start date of tenancy
- c) Current Rent
- d) Date of last rent increase
- e) Base Rent (defined as rent that was charged on September 1, 2019, or the rent charged on the first date the rent was charged following September 1, 2019, if the unit was not occupied by a Tenant at that time)
- f) Housing services included with Base Rent
- g) Tenant name(s)

D. Transfer of Ownership. When there has been a transfer of ownership of the Rental Unit to a bona fide purchaser for value, within 30 calendar days of such transfer (for example, within 30 calendar days of the sale of the Rental Unit, close of escrow, distribution of property housing the Rental Unit through probate or other court proceedings, etc.) the transferor must register the change in ownership with the Program Administrator. A change in ownership may be submitted through the online Rent Registry or by submitting Form RP-215. Required information to be submitted to register a transfer of ownership includes:

- 1. Seller name
- 2. Buyer name and mailing address
- 3. APN or primary property address
- 4. Date of ownership transfer
- 5. For each Dwelling Unit, the occupant type (e.g. Tenant, owner, etc.) at close of escrow
- 6. For each Tenant-occupied unit:
 - a) Occupant type at close of escrow
 - b) Monthly rent at close of escrow
 - c) Start date of tenancy
 - d) Date of last rent increase

A transfer of the ownership of a Rental Unit between a Landlord and spouse, from the Landlord to a family trust, or a similar transfer of ownership where no or nominal consideration was exchanged for the

transfer, will not require a Landlord to file a new registration statement.

2. Annual Program Fee Payment. In addition to complying with registration requirements, Landlords are required to pay an annual Program Fee for each Rental Unit by no later than August 31 of each year. Fee amounts will be determined in accordance with City Council resolutions and announced by May 31. A Landlord may pay the annual Program Fee by credit card or e-check via the online Rent Registry immediately after submitting an online registration statement, or by check upon receiving an invoice that will be mailed after July 1. Payment of the Program Fee alone does not satisfy the requirements for filing an Annual Registration Statement.

3. Exemption Requests.

A. No later than 30 calendar days before the deadline for paying the Program Fee, a Landlord may submit a request that a fully regulated unit should be exempt from the Program Fee, for the reasons in paragraphs 1 through 6 below. A fee exemption request may be submitted through the online Rent Registry or by submitting Form RP-221(D). Submissions must include documentation to substantiate the grounds for the exemption.

1. The unit serves as the Landlord's primary residence.
2. The unit occupant does not pay rent.
3. The unit is a commercial unit, such as office condominiums, commercial storage units, or units subject to Section 30-15 (Work Live Studios).
4. The unit is rented or leased to transient guest(s) for no more than 30 consecutive days.
5. The unit is occupied by a property manager and there is a written agreement with the Landlord under which the property manager does not pay the full amount of rent that would otherwise be paid for a comparable Rental Unit on the property.
6. The unit is vacant and will remain vacant for the entire fiscal year, i.e., from July 1 of the current year to June 30 of the following calendar year.

B. No later than 30 calendar days before the deadline for paying a Program Fee, a Landlord may submit a request that all Dwelling Units should be exempt from all provisions of the Rent Ordinance, including

the Program Fee requirement, for the reasons in paragraphs 1 and 2 below. A request for an exemption may be submitted through the online Rent Registry or by submitting either (a) Form RP-221(D) for each Dwelling Unit to be exempted or (b) Form RP-222. Submissions must include documentation to substantiate the grounds for the exemption.

1. All units on the property meet one or more of the criteria of Section 6-58.20. Dwelling units qualify for an exemption under subsection A of Section 6-58.20 only if (a) all Dwelling Units in the development project are below market rate Rental Units and (b) all Dwelling Units in the development project are covered by a regulatory agreement that provides (i) that Tenants pay affordable rent (as defined in the Health and Safety Code) and (ii) Landlords accept only persons or families of low or moderate income (as defined in the Health and Safety Code).
 2. All Dwelling Units on the property do not meet definition of Rental Unit under Section 6-58.15 (e.g. a unit serves as the Landlord's primary residence).
- C. The Program Administrator shall grant an exemption only when the request is timely, complete documentation is provided to substantiate the exemption, and substantial evidence supports the granting of the exemption. The Landlord shall have the burden of proof as to any requested exemption.
- D. The Program Administrator shall determine whether to grant or deny the exemption and provide a written notice of the determination to the Landlord. If the Program Administrator denies the exemption, the Program Administrator shall inform the Landlord that the Landlord has 20 days from the date of the notice to file a petition to contest the determination. If a Landlord files a timely petition, a Hearing Officer will hear the matter as provided by City Attorney Administrative Regulation Number 21-01. If the Landlord does not file a timely petition, the Landlord's right to contest the determination is waived.
- E. If the Program Administrator grants the exemption and thereafter the Landlord places the Dwelling Unit into the rental market, the Landlord shall, within 30 calendar days of establishing a new Tenancy at the Dwelling Unit, file with the Program Administrator a registration statement as provided in subsection C of Section 1 of this Regulation.

4. Annual Notice to Landlords and Tenants.

- A. For each Tenancy, the Program Administrator shall annually notify the Landlord and Tenant of (a) the Annual General Adjustment for the current program year, (b) the Base Rent (as reported by the Landlord) and the current Rent for the Rental Unit (as reported by the Landlord,) and (c) the Apparent Lawful Rent Ceiling for the Rental Unit, which amount is based on the registration information provided by the Landlord and shall be determined by either the Maximum Allowable Rent or by the current Rent increased by the current program year Annual General Adjustment plus 3.0% as permitted by Section 6-58.70, whichever is less.

- B. The Program Administrator shall in the same notice inform the Landlord that within 20 calendar days from the date of the notice the Landlord may file a petition contesting the Program Administrator's determination of the Apparent Lawful Rent Ceiling, and shall inform the Tenant that within 20 calendar days from the date of the notice the Tenant may file a petition contesting the information reported by the Landlord or the Program Administrator's determination of the Apparent Lawful Rent Ceiling. If a Landlord or Tenant fails to submit a timely petition, the Landlord's or Tenant's right to file such petition is waived.

5. Procedures Concerning Petitions Challenging the Base Rent, Housing Services Included with Rent and the Apparent Lawful Rent Ceiling.

The Program Administrator shall consider petitions filed under Section 4 of this Regulation and issue a decision concerning such petitions. As to any Program Administrator's decision concerning such petitions or if the Program Administrator makes a determination under any other section of this Regulation, a Landlord or a Tenant may file a petition with the Program Administrator within 20 calendar days of the decision/determination, contesting the Program Administrator's decision/determination. A Hearing Officer will hear any such timely filed petitions as provided by City Attorney Administrative Regulation Number 21-01.

6. Landlord's Failure to Meet Registration and Fee Payment Deadlines.

- A. If a Landlord fails to submit timely the Annual Registration Statement, Change in Tenancy, or pay all applicable Program Fees, a Landlord shall not notice or impose an Annual General Adjustment nor pass through any fees or costs otherwise allowed under the Rent Ordinance or Council Resolutions for that Rental Unit or any other Rental Unit on

the property until the requirements of Rent Ordinance and this Regulation have been satisfied. Once the Landlord has satisfied the requirements of the Rent Ordinance and this Regulation, any Annual General Adjustment or any allowable pass through fees or costs shall be prospective only. If a Landlord has imposed a Rent Increase or passed through any fees or costs, the Landlord must (a) rescind the Annual General Adjustment and, as determined by the Program Administrator, reimburse or provide a Rent credit to the Tenant for any Rent the Tenant has paid that included the Annual General Adjustment and (b) as determined by the Program Administrator, reimburse or provide a rent credit to a Tenant for any pass through of fees or costs the Tenant paid.

- B. A Landlord who fails to pay timely the Program Fee shall pay, in addition to the Program Fee, a late penalty of 10% for each month (including any partial month) up to a maximum of 60%.
- C. A Landlord's failure to submit a required registration statement or pay all applicable Program Fees is a violation of the Rent Ordinance and may subject the Landlord to the penalties and remedies for violations of the Rent Ordinance.

First Adopted: April 13, 2020

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