

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AN URGENCY ORDINANCE TO TAKE EFFECT IMMEDIATELY UPON ITS ADOPTION AMENDING THE ALAMEDA MUNICIPAL CODE BY:

1. ADDING SECTION 1-8.01 CONCERNING HEARING PROCEDURES, HEARING OFFICERS' DECISIONS AND ADMINISTRATIVE REGULATIONS;
2. REPEALING IN THEIR ENTIRETY ARTICLE XIV (CURRENTLY SUSPENDED) AND ARTICLE XV OF CHAPTER VI CONCERNING (a) REVIEW OF RENT INCREASES APPLICABLE TO ALL RENTAL UNITS AND RENT STABILIZATION APPLICABLE TO CERTAIN RENTAL UNITS AND (b) LIMITATIONS ON EVICTIONS AND THE PAYMENT OF RELOCATION ASSISTANCE APPLICABLE TO ALL RENTAL UNITS;
3. REPEALING ORDINANCE NO. 3246 (UNCODIFIED); AND
4. ADDING A RESTATED ARTICLE XV OF CHAPTER VI CONCERNING RENT CONTROL, LIMITATIONS ON EVICTIONS, AND PROVIDING RELOCATION PAYMENTS TO DISPLACED TENANTS

WHEREAS, in response to community concern that rents in Alameda were rising at a rate greater than household incomes and that some landlords were terminating tenancies for no cause in order to raise rents, after numerous public hearings, the Alameda City Council on March 1, 2016, adopted an Ordinance (Ordinance No.3148), which became effective March 31, 2016, that sets forth (a) procedures for the review of rent increases applicable to all rental units, (b) procedures for the stabilization of rent increases above 5% for certain rental units, (c) limitations on the grounds for which landlords may terminate tenancies for tenants in all rental units and (d) a requirement that landlords pay relocation fees when terminating a tenancy for certain reasons, such as a "no cause" tenancy termination; and

WHEREAS, the City Council placed on the November 8, 2016 ballot a measure (designated as Measure L1) asking Alameda voters to confirm Ordinance No. 3148 but which measure, if passed by a majority vote, also provided the City Council would retain the authority to amend, suspend or repeal Ordinance No. 3148 without a further vote of the people; and

WHEREAS, Alameda voters passed Measure L1 with 55.5% of the voters in favor of the measure; and

WHEREAS, over the course of implementing Ordinance No. 3148, City Council determined that certain sections of the Ordinance needed to be amended in order to provide additional protection to tenants and to that end City Council adopted in June 2019 Ordinance No. 3244 that eliminated “no cause” as grounds for terminating a tenancy and adopted in July 2019 Ordinance No. 3246 (uncodified) that, among other things, established limitations on the amount of rent increases that landlords could impose on most rental units; and

WHEREAS, City staff and the Program Administrator have determined that there remain in Ordinance No. 3148 certain ambiguities, internal inconsistencies and latent “loopholes” that warrant revisions to Ordinance No. 3148; and

WHEREAS, in light of Ordinance Nos. 3244 and 3246 that the City Council adopted earlier this year, and the need to revise many sections of Ordinance No. 3148, City staff and the Program Administrator have recommended that Article XIV of Chapter VI of the Municipal Code (which was suspended when Council adopted Ordinance No. 3148), Article XV of Chapter VI of the Municipal Code (which includes portions of Ordinance No. 3148 and Ordinance No. 3244) and Ordinance No. 3246 (uncodified), be repealed and, in its place, a restated Rent Control, Limitations on Evictions and Providing Relocation Payments Ordinance be adopted, which Ordinance would track many provisions of Ordinance No. 3148 but remove the ambiguities, internal inconsistencies and latent “loopholes” and would imbed in the restated Ordinance the ordinances City Council adopted earlier this year; and

WHEREAS, on September 3, 2019, City staff presented to the City Council an agenda report concerning the restated Ordinance; and

WHEREAS, when the City Council adopted Ordinance No. 3148, Ordinance No. 3244, and Ordinance No. 3246, it made certain findings to warrant the adoption of such Ordinances; and

WHEREAS, based on public testimony and the City agenda reports, the City Council finds and determines that the conditions that gave rise to the adoption of Ordinance Nos. 3148, 3244 and 3246 still exist and therefore those findings and determinations are reaffirmed and adopted herein by reference; and

WHEREAS, Government Code, section 36937 allows a city, including a charter city, to adopt an urgency ordinance to take effect immediately upon its adoption for the preservation of the public peace, health or safety upon a finding of facts constituting he urgency thereof; and

WHEREAS, Section 3.12 of the Alameda City Charter allows the City to adopt an urgency ordinance to take effect immediately upon its adoption for the preservation of eh public peace, health or safety upon a finding of facts constituting the urgency thereof; and

WHEREAS, such an urgency measure requires a four-fifths vote (4 votes) of the City Council for adoption; and

WHEREAS, landlords owning private property and participating in the Housing Choice Voucher Section 8 Program (“the Section 8 Program”) may terminate the tenancies of tenants in the Section 8 Program without just cause and are not required to provide relocation payments to such tenants should their tenancies be so terminated; and

WHEREAS, the current Rent Stabilization Ordinance exempts tenants in the Housing Choice Voucher Section 8 Program (“the Section 8 Program”) from the “just cause” protections of that Ordinance and does not require landlords of rental units in the Section 8 Program to provide relocation payments to tenants in such units when they are temporarily displaced or permanently displaced through no fault of their own; and

WHEREAS, many tenants in the Section 8 Program are the most vulnerable households in the City in that they are low income households, may be senior adults, have a disability or have minor children in the household; and

WHEREAS, the City Council finds that without extending the just cause and relocation payment protections of this Article to the tenants in the Section 8 Program when the tenants occupy Rental Units that are not owned by a public entity or a not for profit organization puts such tenants at great risk of displacement without the financial wherewithal to find other permanent housing; and

WHEREAS, the City has received reliable communications that such actions are being currently being undertaken by landlords; and

WHEREAS, the consequences of such actions create immediate and unacceptable disruptions to the peace, health and safety of the City, as extremely vulnerable tenants could be immediately and permanently displaced from their homes and face the real possibility of being homeless; and

WHEREAS, such outcomes would not only endanger the health and safety of the dislocated tenants, but create severe harm to the City as a whole and exacerbate the already serious regional and state-wide homelessness crisis; and

WHEREAS, based on the foregoing findings, evidence presented to the City, other evidence of record, evidence presented to the Council at its meeting, the City Council finds and determines that this ordinance is urgently needed for the immediate preservation of the public peace, health, or safety and to avoid a current, immediate and direct threat to the safety, health, or welfare of the community; and

WHEREAS, adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to the following, each a separate and independent basis: CEQA Guidelines, Section 15378 (not a project) and Section 15061(b)(3) (no significant environmental impact).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALAMEDA DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby incorporates them into this Ordinance.

Section 2. Section 1-8.01 is added to the Alameda Municipal Code to read as follows:

Section 1-8.01 Hearing Procedures, Hearing Officers' Decisions and Administrative Regulations

- A. In any administrative proceeding conducted under this Code by a Hearing Officer or Hearing Examiner:
 - 1. The Hearing Officer or Hearing Examiner shall have no authority to consider the constitutionality of any federal, State or local law or regulation.
 - 2. The Hearing Officer or Hearing Examiner, in the performance of duties, shall comply with all applicable federal, State and local laws, regulations and codes of conduct.
- B. No administrative decision issued by a Hearing Officer or Hearing Examiner shall establish legal precedent applicable beyond the case presented by the decision.
- C. No administrative decision shall be cited as controlling or persuasive legal precedent in any subsequent administrative hearing in a separate case.
- D. This Section shall not preclude the use of an administrative decision to establish factual issues, such as showing a pattern or practice in any proceeding.
- E. The City Attorney or designee may promulgate administrative regulations to implement the administrative hearing procedures set forth in this Chapter. Such regulations may set forth instructions relating to topics such as conflicts of interest, disqualification and selection of Hearing Officer or Hearing Examiners.

Section 3: Article XIV (currently suspended) of Chapter VI of the Alameda Municipal Code, XV of Chapter VI of the Alameda Municipal Code, and Ordinance No. 3246 (uncodified) are repealed in their entirety.

Section 4. A new Article XV of Chapter VI is added to the Alameda Municipal Code to read as follows:

ARTICLE XV RENT CONTROL, LIMITATIONS ON EVICTIONS AND RELOCATION PAYMENTS TO CERTAIN DISPLACED TENANTS ORDINANCE

6-58.10. Title

This Article shall be known in its entirety as the “City of Alameda Rent Control, Limitations on Evictions and Relocation Payments to Certain Displaced Tenants Ordinance” and, for the sake of convenience, as the “City Rent Control Ordinance.”

6-58.15. Definitions

Unless the context requires otherwise, the terms defined in this Article shall have the following meanings:

- A. Annual General Adjustment. “Annual General Adjustment” means seventy percent (70%) of the percentage change in the Consumer Price Index for the 12 month period ending April of each year and rounded to the nearest one-tenth of a percent; provided, however, in no event shall the Annual General Adjustment be more than five percent nor less than one percent.
- B. Base Rent. “Base Rent” means for all Rental Units that State Law (as defined in subsection QQ of this Section 6-58.15) does not exempt from rent control, the Rent in effect on September 1, 2019 or the Rent in effect on a later date (as established in subsection A of Section 6-58.60) and shall be the reference point from which the Maximum Allowable Rent shall be adjusted upward or downward in accordance with this Article.
- C. Base Rent Year. “Base Rent Year” means 2015.
- D. Buyout Agreement. “Buyout Agreement” means a written agreement between a Landlord and a Tenant as provided in Section 6-58.115 by which a Tenant, typically in consideration for monetary payment, agrees to vacate a Rental Unit
- E. Capital Improvement. “Capital Improvement” means an improvement or repair to a Rental Unit or property that materially adds to the value of the property, appreciably prolongs the property’s useful life or adapts the property to a new use, and has a useful life of more than one year and that is required to be amortized over the useful life of the improvement under the straight line depreciation provisions of the Internal Revenue Code and the regulations issued pursuant thereto.
- F. Capital Improvement Plan. “Capital Improvement Plan” means an approved Capital Improvement Plan as set forth in the current Policy adopted by the City Council concerning Capital Improvement Plans.
- G. Certified Rent. “Certified Rent” means the Rent, less than the Maximum Allowable Rent, that the Program Administrator determines is the allowable rent when the Landlord has chosen not to impose the Annual General Adjustment and has banked the difference as provided in Section 6-58.70.
- H. City. “City” means the City of Alameda.

- I. Community Development Director. "Community Development Director" means the Director of the Community Development Department of the City of Alameda, or the Community Development Director's designated representative.
- J. Comparable. "Comparable" as applied to a Rental Unit means any Rental Unit that the Landlord owns in the City of Alameda, is similar in square footage, has the same number of or additional bedroom(s), has similar amenities, such as cable television or a washer/dryer, allows pets if the Tenant had a pet, as to a Tenant who is disabled, is disability accessible and ADA compliant and, if not currently habitable, can be made habitable without requiring the Landlord to obtain a building permit in order for the Rental Unit to be habitable. For purposes of paragraph 2 of subsection E of Section 6-58.80, the Comparable Rental Unit must be on the same property.
- K. Condominium. "Condominium" means the same as defined in Section 783 and 1351 (f) of the California Civil Code.
- L. Consumer Price Index. "Consumer Price Index" means the Consumer Price Index for All Urban Consumers ("CPI-U") for the San Francisco-Oakland-Hayward, CA Region, published by the U.S. Department of Labor, Bureau of Labor Statistics.
- M. Costs of Operation. "Costs of Operation" mean all reasonable expenses incurred in the operation and maintenance of a Rental Unit not exempt from rent control under State Law and the building(s) or complex of buildings of which it is a part, together with the common area, if any, and include but are not limited to property taxes, insurance, utilities, professional property management fees, pool and exterior building maintenance, supplies, refuse removal, elevator service and security services or system, but Costs of Operation exclude Debt Service, depreciation and the cost of Capital Improvements for which a Landlord has received a Rent Increase through a Capital Improvement Plan.
- N. Council. "Council" means the City Council of the City of Alameda.
- O. Debt Service. "Debt Service" means the periodic payment or payments due under any security financing device that is applicable to a Rental Unit not exempt from rent control under State Law or building or complex of which it is a part, including any fees, commissions or other charges incurred in obtaining such financing.
- P. "Disabled" means disabled as defined in Section 12955.3 of the California Government Code.
- Q. Dwelling Unit. "Dwelling Unit" means a room or group of rooms, designed and intended for occupancy and/or use by one or more persons, that includes in the room or group of rooms sleeping quarters and one or more of the following: the existence or capability for cooking facilities, e.g., refrigerator, stove, oven, microwave oven, etc.; and/or bath facilities, e.g., toilet, sink, shower, tub, etc.
- R. Eligible Tenant. "Eligible Tenant" means any Tenant entitled to be paid a Relocation Payment under this Article because the Landlord terminated the Tenant's tenancy for any of the reasons set forth in subsections E, F, G, H or I

of Section 6-58.80, the Tenant has vacated a Rental Unit pursuant to a governmental agency's order to vacate or due to Health or Safety Conditions and for which in either case the Landlord did not serve a notice to terminate the tenancy, or the Tenant has vacated a Rental Unit following the Tenant's receipt of a Relocation Rent Increase.

- S. Health or Safety Conditions. "Health or Safety Conditions" mean conditions in a Rental Unit resulting from, among other events, flooding, fire or smoke, lack of proper maintenance, or facilities failures and not caused by a Tenant, the occupants of the Rental Unit or the invitees/guests of the Tenant that, in the determination of a governmental agency or a court of competent jurisdiction, (i) have an adverse effect on the health or safety of the Tenant or occupant if the Tenant/occupant were to occupy the Rental Unit while the conditions exist, (ii) rendered the Rental Unit uninhabitable, or (iii) as to Rental Units in the Housing Choice Voucher Section 8 Program, failed to pass Housing Quality Standards as determined by the U.S. Department of Housing and Urban Development.
- T. Housing Authority. "Housing Authority" means the Housing Authority of the City of Alameda.
- U. Housing Services. "Housing Services" means those services provided and associated with the use or occupancy of a Rental Unit not exempt from rent control under State Law including, but not limited to, repairs, replacement, maintenance, effective waterproofing and weather protection, painting, providing light, heat, hot and cold water, elevator service, window shades and screens, laundry facilities and privileges, janitorial services, utilities that are paid by the Landlord, refuse removal, allowing pets, telephone, parking, storage, the right to have a specified number of Tenants or occupants, computer technologies, entertainment technologies, including cable or satellite television services, and any other benefits, privileges or facilities connected with the use or occupancy of such Rental Unit including a proportionate share of the services provided to common facilities of the building in which such Rental Unit is located and/or of the property on which such Rental Unit is located.
- V. Landlord. "Landlord" means any person, partnership, corporation or other business entity, or any successor in interest thereto, offering for rent or lease any Rental Unit in the City and shall include the agent or representative of the Landlord if the agent or representative has the full authority to answer for the Landlord and enter into binding agreements on behalf of the Landlord.
- W. Maximum Allowable Rent. "Maximum Allowable Rent" means the maximum Rent the Landlord may charge for the use or occupancy of any Rental Unit not exempt from rent control under State Law.
- X. Maximum Increase. "Maximum Increase" means a Rent Increase that on a cumulative basis over the twelve months preceding the effective date of a proposed Rent Increase is more than ten percent.
- Y. Net Operating Income. "Net Operating Income" means the gross revenues that a Landlord has received in Rent or any rental subsidy in the twelve months prior

to serving a Tenant with a notice of a Rent Increase less the Costs of Operation in that same twelve month period.

- Z Party. "Party" means a Landlord or Tenant.
- AA. Permanent Relocation Payment. "Permanent Relocation Payment" means the payment the Landlord is required to make to a Tenant when (i) the Landlord takes action to terminate a tenancy under subsections E, F, G, H or I of Section 6-58.80, (ii) the Landlord did not serve a notice of termination of tenancy but the Tenant has permanently vacated a Rental Unit pursuant to a governmental agency's order to vacate the Rental Unit or due to Health or Safety Conditions, or (iii) the Landlord has served the Tenant with a Relocation Rent Increase and the Tenant has vacated the Rental Unit within 90 days thereafter.
- BB. Primary Residence. "Primary Residence" means a Single Dwelling Unit, Condominium, Stock Cooperative or other Dwelling Unit for which the Landlord is the property owner and the residence is one in which the Landlord carries on basic living activities for at least six months of the year, the indicia of which include, but are not limited to, (i) the Landlord has identified the residence address for purposes of the Landlord's driver's license, voter registration or filing tax returns, (ii) utilities in the name of the Landlord are billed to the residence address and (iii) the residence address has a homeowner's property tax exemption in the name of the Landlord.
- CC. Programs. "Programs" mean the programs created by this Article.
- DD. Program Administrator. "Program Administrator" is a person designated by the City or the Housing Authority to administer one or more of the Programs.
- EE. Program Fee. "Program Fee" means the fee the City imposes on each Landlord to cover the costs to provide and administer the Programs.
- FF. Qualified Tenant Household. "Qualified Tenant Household" means a household with a Tenant who is displaced for any reason other than under subsections A, B, C or D of Section 6-68.80 and who (i) is a Senior Adult, (ii) is a person with a Disability or (iii) has at least one child under the age of 18 residing in the household.
- GG. Relocation Payment. "Relocation Payment" means the payment a Landlord is required to make for any of the reasons set forth in Section 6-58.85.
- HH. Relocation Rent Increase. "Relocation Rent Increase" means a rent increase that exceeds the Maximum Increase.
- II. Rent. "Rent" means periodic compensation, including all non-monetary compensation, that a Tenant provides to a Landlord concerning the use or occupancy of a Rental Unit, including any amount included in the Rent for utilities, parking, storage, pets or for any other fee or charge associated with the tenancy for the use or occupancy of a Rental Unit and related Housing Services.
- JJ. Rent Differential Payment. "Rent Differential Payment" means the difference between the lawful Rent that the Tenant was paying at the time of displacement and the Fair Market Rent as established from time to time by the U.S. Department

of Housing and Urban Development, for a Comparable Rental Unit in Alameda, based on the number of bedrooms.

- KK. Rent Hearing Officer. "Rent Hearing Officer" or "Hearing Officer" means a person designated by the City Attorney to hear and decide petitions under this Article and to hear and decide appeals as provided in this Article, which decisions are binding subject only to judicial review.
- LL. Rent Increase. "Rent Increase" means any upward adjustment of the Rent from the Base Rent.
- MM. Rental Agreement. "Rental Agreement" means an agreement, written, oral or implied between a Landlord and a Tenant for the use and/or occupancy of a Rental Unit.
- NN. Rental Unit. "Rental Unit" means a Dwelling Unit offered or available for Rent in the City of Alameda, and all Housing Services in connection with the use or occupancy thereof, other than the exemptions set forth in Section 6-58.20.
- OO. Senior Adult. "Senior Adult" means any person 62 years of age or older at the time the Landlord serves a notice of termination of tenancy or, if no notice of termination of tenancy was served, at the time the person vacated the Rental Unit.
- PP. Single Dwelling Unit. "Single Dwelling Unit" means a single detached structure containing one dwelling unit for human habitation, any accessory buildings appurtenant thereto, and any accessory dwelling unit as defined in State Government Code, section 65852.2 (formerly a "second unit") and permitted by the City, when the Single Dwelling Unit is located on a single legal lot of record.
- QQ. State Law. "State Law" means any California law, whether constitutional, statutory or executive order, that pre-empts local rent control such as, at the time this Ordinance is adopted, the Costa Hawkins Residential Rental Act (California Civil Code section 1954.50 and following, which Act exempts Rental Units for which a certificate of occupancy was issued after February 1, 1995 and Dwelling Units the title of which are separately alienable from the title of any other Dwelling Unit, (e.g., Single Dwelling Units and Condominiums)).
- RR. Stock Cooperative. "Stock Cooperative" means the same as defined in section 4190 of the California Civil Code.
- SS. Temporary Relocation Payment. "Temporary Relocation Payment means the payment that a Landlord is required to make to a Tenant when the Tenant has temporarily vacated the Rental Unit in compliance with a governmental agency's order to vacate, due to Health or Safety Conditions, or as part of an approved Capital Improvement Plan, regardless of whether the Tenant was served with a notice to terminate the tenancy.
- TT. Temporary Tenancy. "Temporary Tenancy" means a Tenancy in a Dwelling Unit which has been the Landlord's Primary Residence for at least three months prior to the inception of the Temporary Tenancy, which Tenancy has a fixed term at the end of which the Landlord within 60 days of the Tenant's vacating the

Dwelling Unit re-occupies the Dwelling Unit as the Landlord's Primary Residence, and thereafter the Landlord resides continually in the Dwelling Unit as the Landlord's Primary Residence for at least 12 consecutive months.

- UU. Tenancy. "Tenancy" means the right or entitlement of a Tenant to use or occupy a Rental Unit.
- VV. Tenant. "Tenant" means a tenant, subtenant, lessee, sub-lessee, roommate with Landlord's consent or any other person or entity entitled under the terms of a Rental Agreement for the use or occupancy of any Rental Unit and (i) has the legal responsibility for the payment of Rent for a Rental Unit or (ii) has agreed to pay the Rent for a Rental Unit; "Tenant" includes a duly appointed conservator or legal guardian of a Tenant as defined in this section but excludes a property manager who occupies a Dwelling Unit on the property and has 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.

6.58.20. Exemptions

The following are exempt from the provisions of this Article:

- A. Dwelling Units, regardless of ownership, for which the Rents are subsidized or regulated by federal law or by regulatory agreements between a Landlord and (i) the City, (ii) the Housing Authority or (iii) any agency of the State of California or the Federal Government; provided, however, if the Dwelling Unit is in the Housing Choice Voucher Section 8 Program and is not owned by a public entity or a bonafide not for profit organization dedicated to the provision of affordable housing, as further defined by Regulations, the Dwelling Unit is exempt only as to the rent control provisions of this Article. If a Dwelling Unit no longer qualifies for the full or partial exemption under this subsection A, for example, the Landlord withdraws from a subsidy program or a regulatory agreement expires and/or is not renewed, the Dwelling Unit will immediately be subject to all provisions of this Article;
- B. Dwelling Units owned by the Housing Authority;
- C. Dwelling Units that are rented or leased to transient guests for 30 consecutive days or less;
- D. Rooms in hotels, motels, inns, tourist homes, short-term rentals, rooming or boarding houses, provided that such rooms are not occupied by the same occupant or occupants for more than 30 consecutive days;
- E. Commercial units, such as office condominiums, commercial storage units or units subject to Section 30-15 of the Alameda Municipal Code (Work Live Studios);
- F. Rooms in any hospital or in a facility for assisted living, skilled nursing, convalescence or extended care;

- G. Rooms in a facility that provide a menu of services including, but not limited to, meals, continuing care, medication management, case management, counseling, transportation and/or a wellness clinic, and for which services an occupancy agreement is typically required, and regardless of whether the occupant must pay additionally for some services;
- H. Rooms in a convent, monastery, fraternity or sorority house or in a building owned, operated or managed by a bona fide education institution for occupancy by students;
- I. Rooms in a building or Dwelling Unit where the primary use is providing short-term treatment, assistance or therapy for alcohol, drug or other substance abuse and the room is provided incident to the recovery program and where the occupant has been informed in writing of the temporary or transitional nature of the arrangement at the inception of the occupancy.
- J. Rooms in a building or Dwelling Unit that provides a structured living environment that has the primary purpose of helping formerly homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is limited to a specific period of time and where the occupant has been informed in writing of the temporary nature of the arrangement at the inception of the occupancy;
- K. Mobile homes or mobile home lots;
- L. Houseboats;
- M. Community cabins;
- N. Rooms in a facility that require, as part of a person's occupation and use of the room and the facility, some or all of the following: intake, case management, counseling and an occupancy agreement;
- O. Dwelling Units in which the Landlord owns the Rental Unit, occupies the Rental Unit as the Landlord's Primary Residence and shares kitchen or bath facilities with one or more Tenants; and
- P. Any part of Dwelling Unit in which a Tenant has allowed or permitted a person to use or occupy such part but that person does not meet the definition of Tenant as defined in this Article.

6-58.25. Notices and Materials to be Provided to Prospective Tenants

- A. In addition to any other notice required to be given by law or this Article, a Landlord shall provide to a prospective Tenant (1) a written notice that the Rental Unit is subject to this Article, (2) a copy of this Article as such Article exists at the time such notice is provided and (3) a copy of the then current City regulations promulgated to implement this Article and (4) a copy of the then current information brochure(s) that the Program Administrator provides that explains this Article.

- B. A Landlord satisfies the requirements of this Section 6-58.25 by providing to a prospective Tenant a hard copy of the materials set forth in subsection A of this Section 6-58.25 or, if a prospective Tenant has internet access and so consents in writing to receive notice by being referred to the Program Administrator's website (www.alamedarentprogram.org) where the materials can be found online. A Landlord shall document that the prospective Tenant has been informed of the choices and of what choice the prospective Tenant made including, where applicable, the prospective Tenant's written acknowledgement to receive the materials online.

6-58.30. Disclosures

- A. A Landlord shall in writing disclose to a potential purchaser of the Rental Unit or of property that has one or more Rental Units that such Rental Unit or property is subject to all or some of this Article and all regulations that the City has promulgated to implement this Article including, but not limited to, the current Rent of all Rental Units not exempt from rent control under State Law that the Landlord owns that are the subject of the potential sale, whether the Rental Unit has been withdrawn permanently from the rental market, whether the Landlord has banked Annual General Adjustments as provided in Section 6-58.70 and whether the Rent of the Rental Unit is limited or restricted in any way.
- B. The failure of a Landlord to make the disclosure set forth in subsection A of this Section 6-58.30 shall not in any manner excuse a purchaser of such Rental Unit or property of any of the obligations under this Article.

6-58.35. Documents That the Landlord Must File with the Program Administrator

In addition to any other notice required to be filed with the Program Administrator by law or this Article, a Landlord shall file with the Program Administrator a copy of the following:

- A. Certain notices to terminate a tenancy (Section 6-58.80, E, F, G, H, and I; Section 6-58.110);
- B. The amount of the Rent for the new Tenant when the prior tenancy was terminated for no cause;
- C. The name and relationship of the person who is moving into the Rental Unit when the current tenancy is terminated due to an "owner move in" and documentation that the Landlord is a "natural person" (Section 6-58.80 E);
- D. Written notice that the Landlord or the enumerated relative who was intended to move into a Rental Unit did not move into the Rental Unit within 60 days after the Tenant vacated the Rental Unit or that the Landlord or the enumerated relative who moved into the Rental Unit did not remain in the Rental Unit for three years (Section 6-58.80 E. 5 (c).);

- E. Written notice and supporting documentation that the Landlord or the enumerated relative did move into the Rental Unit as the Landlord's or enumerated relative's Primary Residence. (Section 6-58.80 E. 4.);
- F. The requisite documents initiating the process to demolish or withdraw the Rental Unit from rent or lease permanently under Government Code, section 7060 et seq. and the City of Alameda's Ellis Act Policy Resolution No. 15517 (Section 6-58.80 F and H);
- G. Written proof of the relocation payment provided to the Tenant if different than as provided in Section 6-58.95 (Section 6-58.95 G);
- H. A fully executed Buyout Agreement (Section 6-58.115 D);
- I. For all Rental Units, an annual registration statement for each Rental Unit Section 6-58.55 A);
- J. For Rental Units that are not exempt from rent control under State Law, written notice within 30 days of the close of escrow that the Rental Unit has been transferred, the Rent at close of escrow, and the name and contact information of the new Landlord (Section 6-58.55 A);
- K. For Rental Units that are not exempt from rent control under State Law, a registration statement within 30 days of the inception of a new tenancy (6-58.55 A);
- L. Written notice that a Landlord has entered into a Temporary Tenancy and copy of the Rental Agreement within 30 days of the inception of the Temporary Tenancy (Section 6-58.40 A);
- M. Written notice and supporting documentation that the Landlord has moved into the Primary Residence within 60 days of the termination of a Temporary Tenancy (Section 6-58.15 TT);
- N. Proof of a military assignment where a Temporary Tenancy for that purpose has been created, if the Program Administrator requires such proof (Section 6-58.40 A);
- O. Requests for a Rent Increase in conjunction with a Capital Improvement Plan;
- P. A copy of any notice of a rent increase that is a Rent Relocation Increase within three days of serving a Tenant with such Increase (Section 6-58.110 H);
- Q. The judicial filing and related court papers if the Landlord is seeking judicial review of a decision of a Hearing Officer (Section 6-58.75 K); and
- R. Any other information or document that the Program Administrator reasonably requests to carry out the purposes and intent of this Article to the extent such request does not unreasonably infringe on the privacy interests of the Landlord.

6-58.40. Temporary Tenancy

- A. A Landlord may offer a Tenant a Temporary Tenancy of no more than twelve months provided, however, (a) if a Landlord is in the military and has a military assignment that will require the Landlord to be absent from the City, the Landlord may offer a Tenant a Temporary Tenancy consistent with the length of the Landlord's military assignment but of no more than five years, or (b) if a Tenant is in the military and has a military assignment, a Landlord may offer such Tenant a Temporary Tenancy consistent with the length of the Tenant's military assignment but of no more than five years. For purposes of this Section, the Program Administrator may require a Landlord or Tenant to provide proof of the military assignment, including the dates of the assignment.
- B. It is unlawful for a Landlord to offer consecutive Temporary Tenancies whether to the same or a different Tenant and there shall be at least twelve months between Temporary Tenancies.

6-58.45. Limitations on Revising What is Included in the Rent

- A. For Rental Units not exempt from rent control under State Law, as to any Rental Agreement or any Rental Agreement that has been converted to a month-to-month Tenancy in which charges or fees for utilities, parking, storage, pets or any other charge or fee associated with the Tenancy that is included in the Rent, a Landlord shall not:
 - 1. Unbundle any of such charges or fees during the term of the Rental Agreement, or the month-to-month Tenancy; or
 - 2. Increase any of such charges or fees except for increased charges paid directly to the Landlord for utilities that are separately metered or for charges for utilities that are pro-rated among the Tenants pursuant to a Ratio Utility Billing System or a similar cost allocation system.
- B. For Rental Units not exempt from rent control under State Law, as to the terms of a new or renewed Rental Agreement, or revisions to the terms of a month-to-month Tenancy, to the extent a Landlord unbundles or increases any of such charges or fees and lists them separately in a new or renewed Rental Agreement, or in the terms of a revised month-to-month Tenancy, the amount of such charges or fees shall be included in calculating the Maximum Allowable Rent.
- C. Notwithstanding subsections A and B of this section 6-58.45, to the extent that a Tenant requests Housing Services that were not included in an existing Rental Agreement, or month-to-month Tenancy, such as a parking space or an additional parking space, storage space or additional storage space, a pet or an additional pet, or to the extent that utilities are separately metered or the amount of such utility charges are pro-rated among the Tenants pursuant to a Ratio Utility Billing System or other similar cost allocation system but the charges are paid directly to the Landlord, such fees for Housing Services or charges for utilities shall not be included in calculating the Maximum Allowable Rent.

6-58.50. Limitations on the Frequency of Rent Increases and the Use of Banked Annual General Adjustments

- A. No Landlord shall increase the Rent of any Rental Unit (a) more than once in any twelve month period or (b) earlier than 12 months after the inception of the tenancy.
- B. For Rental Units that are not exempt from rent control under State Law, no Landlord shall increase Rent by utilizing any banked Annual General Adjustments in consecutive years nor increase Rent using any banked Annual General Adjustments more than three times during any tenancy.

6-58.55. Rent Registry

- A. The Landlord shall as provided in Regulations complete and submit to the Program Administrator a registration statement for each Rental Unit on a registration statement approved by the Program Administrator. In addition, except for those Rental Units exempt from rent control under State Law, a Landlord (i) shall complete and submit to the Program Administrator within 30 days of the inception of a new tenancy a registration statement concerning the new tenancy and (ii) upon a change of ownership of the Rental Unit, shall complete and submit to the Program Administrator within 30 days of the close of escrow the name and contact information for the new Landlord.
- B. For all Rental Units other than those exempt under State Law, the Program Administrator shall determine either the Maximum Allowable Rent or, as necessary, the Certified Rent, for each Rental Unit registered with the Program Administrator. The Program Administrator shall annually provide the determination of the Maximum Allowable Rent to Landlords and Tenants. A Landlord or Tenant may appeal the determination of the Maximum Allowable Rent or the Certified Rent as set forth in California Civil Code section 1947.8 and the City's implementing regulations.
- C. It shall be unlawful to report to the Program Administrator an amount of Rent for a Rental Unit other than the actual amount paid by the Tenant for the use and occupancy of the Rental Unit.

6-58.60. Establishment of Base Rent, Annual General Adjustment

- A. Beginning September 1, 2019, no Landlord shall charge Rent for any Rental Unit not exempt under State Law in an amount greater than the Base Rent plus increases expressly allowed under this Article. If there were no Rent in effect on September 1, 2019, the Base Rent shall be the Rent that was charged on the first date that Rent was charged following September 1, 2019. For tenancies

commencing after the adoption of this Article, the Base Rent is the initial Rent in effect on the date the tenancy commences.

- B. No later than May 31 of each year, the Program Administrator shall announce the percentage increase by which Rent for eligible Rental Units will be adjusted effective September 1 of that year. The Annual General Adjustment for September 1, 2019 shall be 2.8%.

6-58.65. Conditions for Taking the Annual General Adjustment

A Landlord may increase Rent by the Annual General Adjustment only if the Landlord:

- A. Serves the Tenant with a legally required notice of a rent increase under State law.
- B. Has complied with all other provisions of the City's Rent Stabilization Ordinance, as that Ordinance may be amended from time to time, and with any other applicable policies, regulations or resolutions concerning Rent, including without limitation the payment of all Rent Program Fees set forth in the City's Master Fee Schedule and the registration of all Rental Units.

6-58.70. Banking

- A. A Landlord may, but is not required to, increase Rent by the Annual General Adjustment as provided in Section 6-68.60. Any unused Rent Increase may be banked pursuant to the formula set forth in subsections B and C of this Section for future imposition concurrent with a future Annual General Adjustment.
- B. Banking of Annual General Adjustments shall be calculated based on compound addition. For example, an unused Annual General Adjustment of three percent (3%) in one year plus three point four percent (3.4%) in the following year is equal to a combined Annual General Adjustment of six point five six percent (6.56%), not six point four percent (6.4%).
- C. If a Landlord has not increased Rent to the Maximum Allowable Rent in any particular year during a tenancy, the Landlord may, as part of a subsequent annual Rent Increase, increase Rent by the previously banked Annual General Adjustment.
- D. If the notice of a Rent Increase includes a banked Annual General Adjustment, the Landlord must file with the Program Administrator within three days of such service a copy of the notice of the rent increase to which is attached a copy of the proof of service that the Tenant has been so served.
- E. It shall be unlawful for any Landlord to (a) bank more than eight percent (8%), (b) increase Rent by more than the current year Annual General Adjust plus three percent (3%) of any banked amount, (c) increase Rent by using any banked amount in consecutive years, or (d) increase Rent using any banked amount more than three times during any tenancy.

- F. Any banked Annual General Adjustments expire when a new tenancy is created or when the Landlord transfers the property in which or on which the Rental Unit is located.
- G. The Program Administrator may promulgate regulations implementing the banking process and regulating the notices that a Landlord may be required to provide to the Tenant and/or the Program Administrator when utilizing the banking process authorized by this Ordinance.

6-58.75. Petition Process

- A. A Landlord or a Tenant may file a petition with the Program Administrator to request an upward or downward adjustment of the Maximum Allowable Rent or Certified Rent, other petitions as provided in adopted Regulations, and appeals as provided in this Article.
- B. Upon the filing of a petition, the Program Administrator shall notify the petitioner of the acceptance or denial of the petition based on the completeness of the submission. The Program Administrator shall not assess the merits of the petition but shall only refuse acceptance of a petition that does not include required information or documentation. Upon acceptance of a petition, the Program Administrator shall provide written notice to the Parties affected by the petition. The written notice shall inform Parties of the petition process, the right to respond, and include a copy of the completed petition with the supportive documents available upon request. Any response submitted by the responding Party will be made available to the petitioning Party. Each accepted petition shall be scheduled for a hearing by the Hearing Officer to be held within thirty (30) calendar days from the date the Program Administrator accepts the petition. With agreement of the Parties, the Hearing Officer may hold the hearing beyond the 30 days. Before the hearing, the Program Administrator may attempt, with the Parties concurrence, to mediate a resolution of the petition. Notwithstanding any other provision of this Article, the Hearing Office may refuse to hold a hearing or grant a Rent adjustment if a Hearing Officer has held a hearing and made a decision with regard to the Maximum Allowable Rent or Certified Rent within the previous six months based on the same or substantially the same grounds for an upward or downward Rent adjustment.
- C. The Hearing Officer shall conduct the hearing employing the usual procedures in administrative hearing matters, i.e., the proceeding will not be governed by the technical rules of evidence and any relevant evidence will be admitted. The Hearing Officer shall have the power to issue subpoenas. The Hearing Officer shall have no authority to consider the constitutionality of any Federal, State or local law or regulation.
- D. Any Party may appear and offer such documents, testimony, written declarations, or other evidence as may be pertinent to the proceeding. Each Party shall comply with the Hearing Officer's request for documents and information and shall comply with the other Party's reasonable requests for documents and information. The

Hearing Officer may proceed with the hearing notwithstanding that a Party has failed to appear, failed to provide the documents or information requested by the Hearing Officer or a Party has failed to provide documents or information requested by the other Party. The Hearing Officer may take into consideration, however, the failure of a Party to provide such documents or information.

- E. The Party who files the petition shall have the burden of proof. As to the burden of proof, the Hearing Officer shall use the preponderance of evidence test, i.e., that what the petitioner is required to prove is more likely to be true than not and, after weighing all the evidence, if the Hearing Officer cannot decide that something is more likely to be true than not, the Hearing Officer must conclude that the petitioner did not prove it.
- F. The hearing will be reported by a certified court reporter or otherwise recorded for purposes of judicial review. The Hearing Officer may request a copy of the transcript prior to making a decision.
- G. In making an individual upward adjustment of Rent, the Hearing Officer shall grant an upward adjustment only if such an adjustment is necessary in order to provide the Landlord with a constitutionally required fair return on property. The Hearing Officer shall not determine a fair return solely by the application of a fixed or mechanical accounting formula but there is a rebuttable presumption that maintenance of Net Operating Income for the Base Year, as adjusted by inflation over time, provided a Landlord with a fair return on property.
- H. In making an individual downward adjustment of Rent, the Hearing Officer may consider decreases in Housing Services, living space, or amenities; substantial deterioration of the Rental Unit other than as a result of ordinary wear and tear; the Landlord's failure to comply substantially with applicable housing, health and safety codes; or the Landlord's failure to comply with this Article.
- I. Within 30 days of the close of the hearing, the Hearing Officer shall make a determination, based on the preponderance of evidence, whether there should be an upward or downward adjustment of Rent, and shall make a written statement of decision upon which such determination is based. The Hearing Officer's allowance or disallowance of any upward or downward adjustment of Rent may be reasonably conditioned in any manner necessary to effectuate the purposes of this Article. The Hearing Officer shall provide the statement of decision to the Program Administrator who shall provide copies to the Parties.
- J. The Hearing Officer's decision shall be final unless judicial review is sought within 60 days of the date of the Hearing Officer's decision. If a Party seeks judicial review of the Hearing Officer's decision, such Party shall immediately serve the Program Administrator with the judicial filing. An upward or downward adjustment of Rent shall take effect immediately upon the Hearing Officer's decision unless provided otherwise in the decision regardless of whether a Party seeks judicial review.

6-58.80. Evictions and Terminations of Tenancies

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, e.g. an eviction notice, bringing any action to recover possession or be granted possession of a Rental Unit except on one of the following grounds:

- A. Failure to pay rent. The Tenant upon proper notice has failed to pay the Rent to which the Landlord is entitled under a Rental Agreement; provided, however, that the “failure to pay rent” shall not be cause for eviction if (i) the Tenant cures the failure to pay rent by tendering the full amount of the Rent due within the time frame in the notice but the Landlord refuses or fails to accept the Rent or (ii) the Tenant tenders some or all of the Rent due and the Landlord accepts some or all of the Rent.
- B. Breach of Rental Agreement. The Tenant has continued, after the Landlord has served the Tenant with a written notice to cease, to commit a material and substantial breach of an obligation or covenant of the Tenancy other than the obligation to surrender possession upon proper notice, provided, however, that a Landlord need not serve a written notice to cease if the breach is for conduct that is violent or physically threatening to the Landlord, other Tenants or members of the Tenant’s household or neighbors.
 - 1. Notwithstanding any contrary provision in this Section 6-58.80, a Landlord shall not take action to terminate a Tenancy as a result of the addition to the Rental Unit of (a) a Tenant’s spouse or registered domestic partner, (b) a Tenant’s parent, grandparent, child or grandchild, regardless of whether that child or grandchild is related to the Tenant by blood, birth, adoption, marriage or registered domestic partnership, (c) the foster child or grandchild of the Tenant or any of the individuals described in subparagraphs (a) or (b) of this paragraph, (d) any other person that federal or state fair housing laws may in the future protect, or (e) a person necessary to reasonably accommodate the needs of a Tenant or any of the individuals described in subparagraphs (a), (b), (c) or (d) of this paragraph, so long as the number of occupants does not exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health and Safety Code, section 17922.
 - 2. Before taking any action to terminate a Tenancy based on the violation of a lawful obligation or covenant of Tenancy regarding subletting or limits on the number of occupants in the Rental Unit, the Landlord shall serve the Tenant a written notice of the violation that provides the Tenant with the opportunity to cure the violation within 14 calendar days. The Tenant may cure the violation by making a written request to add occupants to which request the Landlord reasonably concurs or by using other reasonable means, to which the Landlord reasonably concurs, to cure the violation including, but not limited to, causing the removal of any additional or unapproved occupant.

- C. Nuisance. The Tenant has continued, after the Landlord has served the Tenant with a written notice to cease, to commit or expressly permit a nuisance on the Rental Unit or to the common area of the rental complex, or to create a substantial interference with the comfort, safety or enjoyment of the Landlord, other Tenants or members of a Tenant's household or neighbors, provided, however, a Landlord need not serve a notice to cease if the Tenant's conduct is illegal activity, has caused substantial damage to the Rental Unit or the common area of the rental complex, or poses an immediate threat to public health or safety.
- D. Failure to give access. The Tenant has continued to refuse, after the Landlord has served the Tenant with a written notice, to grant the Landlord reasonable access to the Rental Unit for the purpose of inspection or of making necessary repairs or improvements required by law, for the purpose of showing the Rental Unit to any prospective purchaser or mortgagee, or for any other reasonable purpose as permitted or required by the lease or by law.
- E. Owner move-in. The Landlord seeks in good faith to recover possession of the Rental Unit for use and occupancy as a Primary Residence by (1) the Landlord, (2) the Landlord's spouse or registered domestic partner, or (3) the Landlord's parent, grandparent, child, grandchild, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law, whether that person is related to the Landlord by blood, birth, adoption, marriage or registered domestic partnership. Persons in paragraphs (2) and (3) above shall be deemed "enumerated relatives".
1. For purposes of this section a "Landlord" shall only include a Landlord that is a natural person who has at least a 50% ownership interest in the property and the Landlord shall provide to the Program Administrator documentation that the Landlord meets the definition of Landlord as provided in this paragraph. For purposes of this paragraph, a "natural person" means a human being but may also include a living, family or similar trust where the natural person is identified in the title of the trust.
 2. No action to terminate a Tenancy based on an "owner move-in" may take place if there is a vacant Rental Unit on the property that is Comparable to the Rental Unit for which the action to terminate the Tenancy is sought.
 3. The notice terminating the Tenancy shall set forth the name of the Landlord and, if applicable, the name and relationship to the Landlord of the enumerated relative intending to occupy the Rental Unit.
 4. The Landlord or the enumerated relative must intend in good faith to move into the Rental Unit within 60 days after the Tenant vacates and to occupy the Rental Unit as a Primary Residence for at least three years. The Landlord or the enumerated relative must within seven days after the Landlord or the enumerated relative has moved into the Rental Unit inform the Program Administrator in writing that the Landlord or enumerated relative has in fact moved into the Rental Unit and provide

sufficient documentation, as determined by the Program Administrator, to demonstrate the Rental Unit is the Landlord's or enumerated relative's Primary Residence.

5. If the Landlord or enumerated relative fails to occupy the Rental Unit within 60 days after the Tenant vacates or if the Landlord or enumerated relative vacates the Rental Unit without good cause before occupying the Rental Unit as a Primary Residence for three years, the Landlord shall:
 - (a) Offer the Rental Unit to the Tenant who vacated the Rental Unit and at the same Rent that was in effect at the time the Tenant vacated the Rental Unit;
 - (b) Pay to the Tenant all reasonable and documented expenses incurred in moving to the Rental Unit; and
 - (c) Inform the Program Administrator in writing.
 6. If (a) the Landlord or enumerated relative fails to occupy the Rental Unit within 60 days after the Tenant vacates or if the Landlord or enumerated relative vacates the Rental Unit without good cause before occupying the Rental Unit as a Primary Residence for three years, and (b) the displaced Tenant does not accept the Landlord's offer to return to the Rental Unit, the Landlord shall not charge Rent to a new Tenant that exceeds the lawful Rent charged to the displaced Tenant at the time the Landlord served the notice to terminate the tenancy. Nothing in this paragraph shall preclude other penalties or remedies provided to the displaced Tenant or the City under Section 6-58.155.
 7. Where the Landlord has terminated a tenancy based on an owner move-in and there are other Rental Units on the property, a Landlord shall not terminate a tenancy of any other Tenant based on an owner move-in until twenty-four months have elapsed since the Landlord or an enumerated relative has moved into the Rental Unit which was the subject of the prior owner move-in.
 8. It shall be evidence that the Landlord has not sought in good faith to recover possession of a Rental Unit based on an owner move-in if the Landlord or the enumerated relative does not occupy the Rental Unit within 60 days of the displaced Tenant's vacating the Rental Unit and/or if the Landlord or the enumerated relative does not occupy the Rental Unit as a Primary Residence for at least three years.
- F. Demolition. The Landlord seeks in good faith and in compliance with the City's Ellis Act Policy to take action to terminate a Tenancy to demolish the Rental Unit and remove the property permanently from residential rental housing use; provided, however, the Landlord shall not take any action to terminate such Tenancy until the Landlord has obtained all necessary and proper demolition and related permits from the City.

- G. Capital Improvement Plan. The Landlord seeks in good faith to take action to terminate a Tenancy in order to carry out an approved Capital Improvement Plan.
- H. Withdrawal from the rental market. The Landlord seeks in good faith and in compliance with the City's Ellis Act Policy to take action to terminate a Tenancy by withdrawing the Rental Unit from rent or lease with the intent of going out of the residential rental business permanently as to the Rental Unit(s) on the property.
- I. Compliance with a governmental order. If a Tenant has vacated the Rental Unit in compliance with a government agency's order to vacate, in response to a Landlord's taking action in good faith to terminate a Tenancy to comply with a government agency's order to vacate, in response to a Health or Safety Condition, or in connection with any other order that necessitates the vacating of the building or Rental Unit as a result of a violation of the City of Alameda's Municipal Code or any other provision of law:
 1. The Landlord shall offer the Rental Unit to the Tenant who vacated the Rental Unit when the Landlord has satisfied the conditions of the governmental agency that caused the governmental agency to order the Rental Unit vacated and at the same Rent that was in effect at the time the Tenant vacated the Rental Unit.
 2. The Landlord shall provide to the Tenant Relocation Payments as provided in Section 6-58.85 or as provided in Article 2.5, Chapter 5, Part 1.5, Division 13, California Health and Safety Code, beginning at section 17975, whichever is greater, and all reasonable and documented expenses incurred in returning to the Rental Unit should the Landlord be required to offer the Rental Unit to the Tenant once the conditions have been satisfied and the Tenant does so.

6-58.85 Relocation Payments.

- A. Permanent Relocation Payments. A Landlord who (i) takes action to terminate a tenancy permanently for the reasons specified in subsections E, F, G, H, or I of Section 6-58.80, (ii) serves a notice of a Rent Increase that is a Rent Relocation Increase as defined in this Article and the Tenant vacates the Rental Unit within 90 days of receiving the Rent Relocation Increase, or (iii) fails to correct deficient Housing Quality Standards in Housing Choice Voucher Section 8 Rental Units resulting in the Tenant's vacating the Rental Unit, shall provide to an Eligible Tenant a Permanent Relocation Payment.
- B. Relocation Payments Following a Governmental Order to Vacate or Tenant's Vacating Due to Health or Safety Conditions. If a Tenant has vacated a Rental Unit in compliance with a governmental agency's order to vacate or due to Health or Safety Conditions, and regardless of whether the Landlord has served a notice to temporarily terminate a tenancy:

1. For the first 60 days from the date the Tenant vacates the Rental Unit, the Landlord shall make Temporary Relocation Payments to the Tenant until the Tenant re-occupies the Rental Unit and the Tenant, upon receipt of the Temporary Relocation Payment, shall be obligated to pay the Rent that was in effect at the time the Tenant vacated the Rental Unit, plus any adjustments as permitted under this Article and Rent Program Regulations.
2. If the work necessary to comply with the governmental order or to correct the Health or Safety Conditions takes longer than 60 days to complete, the Landlord shall make Rent Differential Payments to the Tenant until either the work is completed and the Tenant re-occupies the Rental Unit or the Tenant finds alternative, permanent housing. A Tenant shall have no obligation to pay Rent to the Landlord when receiving Rent Differential Payments. If the Tenant re-occupies the Rental Unit, the Tenant shall pay the Rent in effect when the Tenant vacated the Rental Unit, plus any Rent adjustments as permitted under this Article and the regulations. If the Tenant finds alternative permanent housing and elects to terminate the tenancy, the Landlord shall provide to the Tenant a Permanent Relocation Payment, in addition to other Relocation Payments.
3. If there is a dispute concerning whether there are Health or Safety Conditions and/or whether such Conditions were caused by the Tenant, the Tenant or the guests/invitees of the Tenant, the City Building Official shall decide the dispute. Within 10 days of the Building Official's decision, either a Landlord or a Tenant may file an appeal with the Program Administrator concerning the decision of the Building Official. A Hearing Officer shall hear and decide the appeal pursuant to procedures set forth in adopted regulations.

C. Natural Disasters and Other Exceptions.

1. Notwithstanding subsection B of this Section 6-58.85, a Landlord shall not be liable for a Temporary Relocation Payment, a Rent Differential Payment, or a Permanent Relocation Payment if the governmental agency that ordered the Rental Unit, or the building in which the Rental Unit is located, to be vacated, determines the Rental Unit or the building in which the Rental Unit is located must be vacated as a result of:
 - (a) A fire, flood, earthquake or other natural disaster, or other event beyond the control of the Landlord and the Landlord did not cause or contribute to the condition giving rise to the governmental agency's order to vacate; or
 - (b) Any Tenant, occupant of the Rental Unit, or the guest or invitee of any Tenant, has caused or materially contributed to the condition giving rise to the order to vacate.
2. As to whether the Landlord caused or contributed to the condition giving rise to the order to vacate or as to whether a Tenant, the occupant of the Rental Unit, or the guest or invitee of any Tenant caused or materially contributed to the condition giving rise to the order to vacate, either a Landlord or a

Tenant, within 10 days of the determination of the governmental agency, may file an appeal with the Program Administrator concerning the determination of the governmental agency. A Hearing Office shall hear and decide the appeal pursuant to procedures set forth in adopted regulations.

- D. Offer of a Comparable Unit. Notwithstanding subsection B of this Section 6-58.85, a Landlord, in lieu of making Temporary Relocation Payments or Rent Differential Payments, may offer the Tenant a Comparable Rental Unit in Alameda while the work on the displaced Tenant's Rental Unit is being completed. The Tenant, in the Tenant's sole discretion, may waive, in writing, any of the Comparable factors in deciding whether the Rental Unit is Comparable.
1. If the Tenant accepts the offer and occupies the Comparable Rental Unit, the Tenant shall pay no more than the Rent the Tenant was paying at the time the Tenant was served with the notice to temporarily terminate the tenancy or at the time the Tenant vacated the Rental Unit, or the Tenant shall pay some other amount agreeable to the Landlord and Tenant that does not exceed the Rent at the time the tenant vacated the Rental Unit, if a governmental agency ordered the Rental Unit vacated or the Tenant vacated the Rental Unit due to Health or Safety Conditions, and no notice of temporary termination of tenancy was served.
 2. If the Tenant accepts the offer, the Landlord shall (i) pay the Tenant's reasonable and documented moving expenses to the Comparable Rental Unit and from the Comparable Rental Unit to the Tenant's Rental Unit and (ii) continue to make Temporary Relocation Payments or Rent Differential Payments until the Tenant has occupied the Comparable Rental Unit.
 3. If Tenant does not agree that a particular Rental Unit is Comparable, the Tenant must so inform the Landlord in writing. A Landlord may file an appeal with the Program Administrator within 10 days of the Landlord's receipt of the Tenant's written decision. A Hearing Officer shall hear and decide the appeal pursuant to procedures set forth in adopted Regulations. If the Hearing Officer has determined the Rental Unit is Comparable but the Tenant chooses not to occupy the Comparable Rental Unit, the Landlord shall have no further obligation to make Temporary Relocation Payments or Rent Differential Payments and the Tenant shall have no further obligation to pay Rent until the Tenant has re-occupied the Rental Unit from which the Tenant was displaced.
 4. If a Tenant has occupied a Comparable Rental Unit for at least 120 days, a Tenant for good cause may vacate the Comparable Rental Unit and thereafter receive from the Landlord Rent Differential Payments until the Tenant has re-occupied the Rental Unit from which the Tenant was displaced or, if the Tenant has found alternative, permanent housing, has received from the Landlord a Permanent Relocation Payment. Good cause shall be established in adopted regulations.

6.58.90 Notice of Entitlement to Tenants/Right of First Refusal

- A. Any notice to terminate a Tenancy temporarily which is served by a Landlord to a Tenant shall be accompanied by the appropriate completed notice of entitlement to a Temporary Relocation Payment form, a Rent Differential payment form, and a Permanent Relocation Payment form, available on the Program Administrator's website. As to any Tenant who vacates a Rental Unit for any the reasons set forth in subsection B of Section 6-58.85, the Landlord must provide to the Tenant within three business days of the Tenant's vacating the Rental Unit the appropriate completed notice of entitlement to a Temporary Relocation Payment, a Rent Differential Payment form, and a Permanent Relocation Payment form, available on the Program Administrator's website. The contents of such notice shall include but are not limited to:
 - 1. A written statement of the rights and obligations of Tenants and Landlords under this Article; and
 - 2. A written statement that the Landlord has complied with Section 6-58.85.
- B. A notice of entitlement to a Temporary Relocation Payment and/or Rent Differential Payment form shall include a summary of the repairs to be undertaken and the estimated duration of the work. The Landlord shall notify the Tenant when work is completed and provide the Tenant with the first right of refusal to re-occupy the Rental Unit. If the estimated duration of the work changes, the Landlord shall provide the Tenant with at least seven calendar days' advance notice of such a change.
- C. All Landlords shall be required to file with the Program Administrator a copy of the notice of entitlement described in this Section within three calendar days of serving the Tenant such notice. A proof of service with time and date of service of such notice shall be included with the copy of such notice filed with the Program Administrator.
- D. Nothing in this Section shall relieve the Landlord of the Landlord's obligation to serve any notice that would otherwise be required pursuant to federal, state or local law.

6-58.95 Amount of Relocation Payments

- A. The City Council shall determine by resolution the amount of the Relocation Payments.
- B. The Permanent Relocation Payment may be based on the first and last months' fair market rent, estimated moving and packing expenses, estimated storage costs, applicable taxes, and any other basis set forth by Regulation.
- C. The Temporary Relocation Payment may be based upon reasonable per diem rates, which may include safe and sanitary hotel, motel, or short-term rental accommodations; meal allowance if the temporary accommodations lack cooking facilities; laundry allowance if the rental property included laundry facilities and the temporary accommodations lack laundry facilities; and pet accommodations

if the rental property allowed pets and the temporary accommodation does not accept pets, and costs associated with moving and storage.

- D. The City Council may adopt a greater Relocation Payment amount for a Qualified Tenant Household.
- E. The Relocation Payment will be distributed on a pro-rata basis to each Eligible Tenant.
- F. Nothing provided herein prohibits a Landlord and a Tenant from agreeing to a Relocation Payment different than as provided in the City Council resolution adopting Relocation Payments, provided the Landlord informs the Tenant in writing of the amount of the Relocation Payment to which the Tenant is entitled to receive under this Article and the Landlord and Tenant submits to the Program Administrator written proof of the alternative relocation payment within 21 days of the Tenant's vacating the Rental Unit.

6-58.100 Distribution of Relocation Payments to Eligible Tenants.

- A. A Landlord shall provide the Relocation Payment in the amount required by the City Council resolution concerning Relocation Payments to each Eligible Tenant through direct payment to the Tenant.
- B. When the Tenant has been served with a notice to vacate the Rental Unit under subsections E, F, G, or H of Section 6-58.80 (Owner Move-in, Withdrawal of the Rental Unit from the Rental Market, Demolition and Capital Improvement Plan), the Landlord shall pay one-half ($\frac{1}{2}$) of the applicable Permanent Relocation Payment within three business days after the Tenant has informed the Landlord, in writing, that the Tenant will vacate the Rental Unit on the date no later than the date provided in the notice terminating the tenancy and the other half within three business days after the Tenant has (i) vacated the Rental Unit by no more than two calendar days after the date provided in the notice; and (ii) removed all of the Tenant's personal property from the Rental Unit and/or from other property of the Landlord, such as a storage unit.
- C. When the Tenant has informed the Landlord, in writing, the Tenant has found permanent housing as provided in paragraph (iii) of subsection A of Section 6-58.85 (failure to correct Housing Quality Standards) or in subsection B of Section 6-58.85 (Governmental Order to Vacate or Vacating due to Health or Safety Conditions), the Landlord shall pay the full amount of the applicable Permanent Relocation Payment within three business days thereof or within three business days after the Tenant has removed all of the Tenant's personal property from the Rental Unit and/or other property of the Landlord, such as a storage unit, whichever is later.
- D. When the Tenant has been served with a Rent Relocation Increase and within 90 days of receipt of such Increase has notified the Landlord in writing that the Tenant will vacate the Rental Unit, the Landlord shall pay one-half of the applicable Permanent Relocation Payment within three business days of the

Landlord's receipt of the written notice and the other half within three business days after the Tenant has (i) vacated the Rental Unit by no more than two calendar days after the date the Tenant has informed the Landlord that the Tenant would vacate the Rental Unit, and (ii) removed all of Tenant's personal property from the Rental Unit and/or from other property of the Landlord, such as a storage unit.

- E. As to any Tenant who is entitled to receive a Temporary Relocation Payment and/or a Rent Differential Payment as provided in subsection B. of Section 6-58.85 (Governmental Order to Vacate or Vacating Due to Health or Safety Conditions), the Landlord shall make such Payment in the amount and as provided in the applicable City Council Resolution.

6-58.105 Coordination with other relocation requirements.

If a Tenant(s) receives, as part of the termination of tenancy, relocation assistance from a governmental agency, then the amount of that relocation assistance shall operate as a credit against any Relocation Payment to be paid to the Tenant under Section 6-58.95.

6-58.110. Service and Contents of the Written Notices to Terminate a Tenancy

- A. In any notice purporting to terminate a Tenancy the Landlord shall state in the notice the cause for the termination.
- B. If the cause for terminating the Tenancy is for the grounds in subsections A, B, C, or D of Section 6-58.80 and a notice to cease is required, the notice shall also inform the Tenant that the failure to cure may result in the initiation of an action to terminate the Tenancy; such notice shall also include sufficient details allowing a reasonable person to comply and defend against the accusation.
- C. If the cause for terminating the Tenancy is for the grounds in subsections E, F, G, H, or I of Section 6-58.80, the notice shall also inform the Tenant that the Tenant is entitled to a Relocation Payment and the amount thereof.
- D. If the Landlord has served a Tenant with a Rent Relocation Increase, the Landlord shall inform the Tenant in writing of the Tenant's rights to vacate the Rental Unit as provided in this Article, that the Tenant is entitled to a Relocation Payment, and the amount thereof.
- E. If the cause for terminating the Tenancy is for the grounds in subsection G of Section 6-58.80, the notice shall state the Landlord has complied with that subsection by obtaining a City approved Capital Improvement Plan and a copy of the approved Capital Improvement Plan shall accompany the notice.
- F. The Landlord shall file with the Program Administrator within three calendar days after having served any notice required by subsections E, F, G, H, or I of Section 6-58.80 a copy of such notice.

- G. The Landlord shall file with the Program Administrator within three calendar day of serving a Tenant with a Rent Relocation Increase a copy of the notice of the rent increase and the written information set forth in subsection E of this Section 6-58.110.

6-58.115. Buyout Agreements

- A. The purpose of this Section is to afford protection to a Tenant who is offered a Buyout Agreement.
- B. Before making an offer to a Tenant of a Buyout Agreement, a Landlord must give a Tenant a written disclosure document, in a form set forth in an adopted regulation, setting forth the Tenant's rights concerning the Buyout Agreement including the following: (i) the right not to enter into the Buyout Agreement; (ii) the right to consult an attorney and the right to revise the Buyout Agreement before signing the Buyout Agreement; (iii) the right to consult the Program Administrator regarding the Buyout Agreement; and (iv) the right to rescind the Buyout Agreement any time up to 30 calendar days after the Tenant has signed the Buyout Agreement.
- C. A Buyout Agreement that does not satisfy all the requirements of this Ordinance and the regulation is not effective and the Tenant may rescind the Buyout Agreement at any time, even after 30 calendar days from the date the Tenant signed the Buyout Agreement. In order to rescind a Buyout Agreement, the Tenant must hand deliver, email or place in the U.S. mail a statement to the Landlord that the Tenant has rescinded the Buyout Agreement.
- D. The Landlord shall provide the Tenant a copy of the Buyout Agreement when all the parties have signed and shall file the signed Buyout Agreement with the Program Administrator within three calendar days after all parties have signed.

6-58.120. Retaliation Prohibited

No Landlord shall take any action to terminate a tenancy, reduce any Housing Services or increase the Rent where the Landlord's intent is to retaliate against the Tenant for (i) the Tenant's assertion or exercise of rights under this Article or under state or federal law, (ii) the Tenant's request to initiate, or the tenant's participation in, the rent control procedures under this Article, (iii) the Tenant's refusing to enter into a Buyout Agreement or rescinding a Buyout Agreement or (iv) the Tenant's exercise of rights under or participation in litigation arising out of this Article. Such retaliation may be a defense to an action to recover the possession of a Rental Unit and/or may serve as the basis for an affirmative action by the Tenant for actual and punitive damages and/or injunctive relief as provided herein. In an action against the Tenant to recover possession of a Rental Unit, evidence of the assertion or exercise by the Tenant of rights under this Article or under state or federal law within 180 days prior to the alleged act or retaliation shall create a rebuttable presumption that the Landlord's act was retaliatory; provided, however, a Tenant may assert retaliation affirmatively or as a defense to the Landlord's action without the presumption regardless of the period of

time that has elapsed between the Tenant's assertion of exercise of rights under this Article and the alleged action of retaliation.

6-58.125. Waiver

- A. Any waiver or purported waiver of a Tenant of rights granted under this Article prior to the time when such rights may be exercised shall be void as contrary to public policy.
- B. It shall be unlawful for a Landlord to attempt to waive or waive, in a rental agreement or lease, the rights granted a Tenant under this Article prior to the time when such rights may be exercised.

6-58.130. Actions to Recover Possession

In any action brought to recover possession of a Rental Unit, the Landlord shall allege and prove by a preponderance of evidence compliance with this Article.

6-58.135. Landlord's Failure to Comply

A Landlord's failure to comply with any requirement of this Article may be asserted as an affirmative defense in an action brought by the Landlord to recover possession of the Rental Unit. Additionally, any attempt to recover possession of a Rental Unit in violation of this Article shall render the Landlord liable to the Tenant for actual and punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The Tenant may seek injunctive relief and money damages for wrongful eviction. The prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

6-58.140. Penalties and Remedies for Violations

- A. The City may issue an administrative citation to any Landlord and to the Landlord's agent for a violation of this Article. The fine for such violations shall be \$250 for the first offense, \$500 for a second offense within a one year period and \$1000 for a third offense within a one year period.
- B. Any person violating any provision of this Article shall be guilty of an infraction punishable for a fine not to exceed \$250 or a misdemeanor punishable by a fine not exceeding \$1,000 per violation, or by imprisonment in the County jail for a period not exceeding six months, or by both a fine and imprisonment.
- C. Any aggrieved person, including the City and the People of the State of California may enforce, and seek to enjoin the violation of, this Article by means of a civil action. The burden of proof in such cases shall be preponderance of the evidence. As part of any civil action brought by the People of the State of

California or City to enforce this Article, a court shall assess a civil penalty in an amount up to the greater of \$2,500 per violation per day or \$10,000 per violation, 50% payable to the City and 50% to the person or persons whose rights were violated, against any person who commits, continues to commit, operates, allows or maintains any violation of this Article. Any violator shall be liable for an additional civil penalty of up to \$5,000 for each offense committed against a person who is a Senior Adult, has a Disability, or is in a household with one or more minor children.

- D. A Landlord who has terminated a tenancy on grounds not permitted under this Article shall not impose Rent for the new tenancy that exceeds the Maximum Allowable Rent or Certified Rent at the time the prior tenancy was terminated.
- E. Any Rental Unit business conducted or maintained contrary to this Article shall constitute a public nuisance.
- F. The remedies provided in this Article are not exclusive, and nothing in this Article shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

6-58.145. Program Fee

- A. There is hereby imposed on each Rental Unit in the City a Program Fee. Landlords shall pay the Program Fee to the City annually. Landlords may include the Program Fee as a Cost of Operation and up to one half of the Program Fee may be allocated to a Tenant, to be paid by the Tenant in 12 equal installments, which payments need not be included in the calculation of the Maximum Allowable Rent or the Maximum Increase.
- B. The amount of the Program Fee shall be determined by resolution of the City Council adopted from time to time and set forth in the City's Master Fee Schedule. The Program Fee shall not exceed the amount found by the City Council to be necessary to administer the costs of the Programs under this Article and the City Council's finding in this regard shall be final.
- C. Any Landlord responsible for paying the Program Fee who fails to pay the Program Fee within 30 calendar days of its due date shall, in addition to the Program Fee, pay additional late charges, penalties of assessments as determined by resolution of the City Council.

6-58.150 Annual Review

The Program Administrator shall annually prepare a report to the Council assessing the effectiveness of the Programs under this Article and recommending changes as appropriate.

6-58.155. Implementing Policies and Regulations

The City Manager or the City Manager’s designee shall have the authority to promulgate regulations to implement the requirements and fulfill the purposes of this Article. No person shall fail to comply with such regulations.

Section 5: IMPLIED REPEAL

Any provision of the Alameda Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 6: CEQA DETERMINATION

The City Council finds and determines that the adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to the following, each a separate and independent basis: CEQA Guidelines, Section 15378 (not a project) and Section 15061(b)(3) (no significant environmental impact).

Section 7: SEVERABILITY

If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 8: Authority for Enacting this Urgency Ordinance. This urgency ordinance is enacted pursuant to the City of Alameda’s general police powers, Section 3-12 of the Charter of the City of Alameda, Article XI of the California Constitution and Government Code, section 36937.

Section 9: **URGENCY ORDINANCE:** EFFECTIVE IMMEDIATELY

This Ordinance is an urgency ordinance and shall be in full force and effect immediately upon its adoption.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed on an urgency basis by a super majority of the Council of the City of Alameda in a regular meeting assembled on the ___ day of _____, 2019, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ___ day of _____, 2019.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Yibin Shen, City Attorney
City of Alameda