

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALAMEDA ADDING ARTICLE XV TO CHAPTER VI OF THE ALAMEDA MUNICIPAL CODE CONCERNING (A) RENT STABILIZATION FOR CERTAIN RENTAL UNITS (B) LIMITATIONS ON EVICTIONS AND THE PAYMENT OF RELOCATION ASSISTANCE FOR ALL RENTAL UNITS AND (C) AMENDMENTS TO SECTIONS OF ARTICLE XIV OF CHAPTER VI OF THE ALAMEDA MUNICIPAL CODE

WHEREAS, for more than a year, community members have reported (a) to the City Council at City Council meetings, (b) to the City Council in written communications, (c) to the Rent Review Advisory Committee and (d) to and through the press that in the City there have been substantial increases in rent and there have been a substantial number of evictions without cause; and

WHEREAS, in response, the City Council directed City staff to present to the Council various tenant protection policy options, including strengthening the City's rent review procedures using the Rent Review Advisory Committee, or adopting rent control/stabilization and/or just cause eviction policies; and

WHEREAS, community members also reported that the City Council's discussion and direction to study rent control and just cause eviction policy options have created market uncertainty and concern among some property owners that if they did not immediately increase rents and/or take action to terminate tenancies without just cause, they could face a loss of income and property values; and

WHEREAS, on November 4, 2015, City staff presented to the City Council a number of alternative tenant protection policies including rent control and/or just cause eviction regulations and the City Council considered an urgency ordinance regarding rent control, just cause eviction and other tenant protections; and

WHEREAS, according to the 2008-2012 Comprehensive Housing Affordability Strategy (CHAS) data, 2,975 very low-income renter households in Alameda pay more than half of their incomes for housing and are at risk of displacement; and

WHEREAS, according to Real-Answers (Third Quarter, 2015), the average monthly rent for market-rate units of apartment buildings with fifty or more units in the City of Alameda has increased by 52% between 2011 and 2015; and

WHEREAS, the City's rental units are almost fully occupied with a 1.4% average vacancy rate (as of 2013) compared to a Countywide average vacancy rate of 3.8%, and the 1.4% vacancy rate is so low that there is not enough available supply to offer meaningful choice in the rental market; and

WHEREAS, between 2000 and 2013, median household income for those who rent in the City of Alameda increased by 29%, which has not kept pace with rising rents that increased by 54% over the same 13-year period, and has created a growing “affordability gap” between incomes and rents; and

WHEREAS, given this increased housing cost burden faced by many City of Alameda residents, excessive rental increases threaten the public health, safety, and welfare of the City’s residents, including seniors, those on fixed incomes, those with very low-, low-, and moderate-income levels, and those with other special needs to the extent that such persons may be forced to choose between paying rent and providing food, clothing, and medical care for themselves and their families; and

WHEREAS, prior to November 5, 2015, the City of Alameda did not restrict rental increases nor just cause evictions; and

WHEREAS, on November 5, 2015, the City Council adopted Ordinance No. 3140 as an urgency ordinance imposing within the City a temporary moratorium (65 days) on rent increases of 8% or more (on a cumulative basis over a twelve month period) for certain residential rental units and imposing within the City a temporary moratorium (65 days) on any action to terminate a tenancy except for “just cause”, the grounds of which were identified in Exhibit A to Ordinance 3140; and

WHEREAS, on November 5, 2015, the City Council directed staff to present to it at the Council’s January 5, 2016 meeting proposed ordinances that would (a) revise and strengthen the City’s current rent review procedures using the Rent Review Advisory Committee but include limitations on evictions and requiring relocation assistance for certain evictions and (b) impose rent stabilization regulations, limit evictions and require relocation assistance for certain evictions; and

WHEREAS, because the public peace, health and safety did not appear to be adequately protected by the rent control and other rent stabilization measures that the City Council adopted in Ordinance 3140 (including Exhibit A) due to the omission of certain protections concerning the grounds for just cause evictions, on December 1, 2015, the City Council amended Ordinance 3140 by adopting Ordinance No., 3143 on an urgency basis; and

WHEREAS, the City Clerk published and posted a notice of a public hearing for the City Council’s regular meeting on January 5, 2016 for the purposes of considering these ordinances or other tenant protection measures; and

WHEREAS, the City Council has considered the information and reports in its agenda packets dated November 4, 2015, December 1, 2015 and January 5, 2016, and public testimony received at its meetings of November 4, 2015, December 1, 2015 and January 5, 2016; and

WHEREAS, the City Council finds and determines that if an ordinance limiting the percentages and frequency of rent increases were not enacted now, as to those rental units to which the City may impose such limitations, the public peace, health and

safety will be threatened because housing providers will have an immediate incentive to increase rents thereby (a) imposing an undue burden on the finances of many Alameda residents and (b) compelling such residents either to pay the increased rent or face the Hobson's choice, due to a critically low vacancy factor, of either finding housing elsewhere and at a higher rent or not paying for food, clothing and medical care for themselves and their families; and

WHEREAS, the City Council finds and determines that if an ordinance limiting the grounds for evictions without cause were not enacted now, the public peace, health and safety will be threatened because housing providers will have an immediate incentive to serve eviction without cause notices thereby displacing many tenants in the City who, because of a critically low vacancy factor in the City, will be compelled to find housing elsewhere and at a higher rent; and

WHEREAS, the City Council finds and determines that if an ordinance compelling the payment of relocation assistance to certain displaced tenants were not enacted now, the public peace, health or safety will be threatened because tenants who are displaced through no fault of their own may not have the financial wherewithal to pay for relocation costs, such as a first and last month's rent at a different rental unit and for moving expenses, thereby causing significant economic hardship to those tenants; and

WHEREAS, the City Council likewise recognizes that property owners have the right to receive a fair, just and reasonable return on their properties and that this ordinance provides a process that protects and satisfies those rights; and

WHEREAS, it is also the purpose and intent of this ordinance to prohibit any unlawful acts concerning rental housing because of a person's actual or perceived race, color, ancestry, national origin, place of birth, sex, age, religion, creed, disability, gender identity, source of income, weight or height; 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 Guideline Section 15183 (action consistent with the general plan and zoning); Section 15378; 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: Article XV is hereby added to Chapter VI of the Alameda Municipal Code to read as follows:

ARTICLE XV RENT STABILIZATION AND LIMITATIONS ON EVICTIONS ORDINANCE

6-58.10. Title

This Article shall be known as the "City of Alameda Rent Stabilization and Limitations on Evictions Ordinance."

6-58.15. Definitions

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

- A. Article XIV. "Article XIV" means Article XIV of Chapter VI of the Alameda Municipal Code, as said Article may be amended from time to time.
- B. Base Rent. "Base rent" means the rental amount, including any amount paid directly to the housing provider for utilities, parking, storage, pets or any other fee or charge associated with the tenancy that the Tenant is required to pay to the housing provider in the month immediately preceding the effective date of the rent increase.
- C. Base Rent Year. "Base rent year" means 2015.
- D. Capital Improvement. "Capital Improvement" mean an improvement or repair to a rental unit or property that materially adds to the value of the property, appreciably prolongs its useful life or adapts it 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.
- E. Capital Improvement Plan. "Capital Improvement Plan" means a plan submitted by a housing provider, either on the housing provider's own initiative, as a result of the housing provider's obligation to comply with an order of a local, state or federal regulatory agency, such as the City's building or fire department, or was necessary in order to repair damage as a result of fire, flood, earthquake or other natural disaster, that meets the criteria of a capital improvement as defined above and (i) the cost of which improvements is not less than the product of eight times the amount of the monthly rent times the number of rental units to be improved, (ii) the implementation of which renders the rental unit uninhabitable for 30 or more consecutive days and (iii) is approved by the City.

- F. City. "City" means the City of Alameda.
- G. Committee. "Committee" means the Rent Review Advisory Committee created in Article II of Chapter II of the Alameda Municipal Code.
- H. Community Development Director. "Community Development Director" means the Director of the Community Development Department of the City of Alameda, or his/her designated representative.
- I. Consumer Price Index. "Consumer Price Index" means the Consumer Price Index for All Urban Consumers ("CPI-U") for the San Francisco-Oakland-San Jose, CA Region, published by the U.S. Department of Labor, Bureau of Labor Statistics.
- J. Costs of Operation. "Costs of operation" means all reasonable expenses, exclusive of (i) debt service, (ii) depreciation and (iii) capital improvements, incurred in the operation and maintenance of the rental unit 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.
- K. Council. "Council" means the City Council of the City of Alameda.
- L. Debt Service. "Debt service" means the periodic payment or payments due under any security financing device that is applicable to the rental unit or building or complex or other real property of which it is a part, including any fees, commissions or other charges incurred in obtaining such financing.
- M. Executive Director. "Executive Director" shall mean the Executive Director of the Housing Authority of the City of Alameda, or his/her designated representative.
- N. Housing Authority. "Housing Authority" means the Housing Authority of the City of Alameda or other entity as determined by the Council.
- O. Housing Provider. "Housing provider" means any person, partnership, corporation or other business entity offering for rent or lease any residential property in the City and shall include the agent or representative of the housing provider if such agent or representative has the full authority to answer for the housing provider and enter into binding agreements on the housing provider's behalf.
- P. Housing Services. "Housing services" means those services provided and associated with the use or occupancy of a rental unit including, but not limited to, repairs, replacement, maintenance, painting, light, heat, water, elevator service, laundry facilities and privileges, janitorial services, refuse removal, allowing pets, telephone, parking, storage and any other benefits, privileges or facilities.
- Q. Housing Unit. "Housing Unit" means a room or group of rooms that includes a kitchen, bath and sleeping quarters, designed and intended for occupancy by

one or more persons as separate living quarters except a room or rooms in a single family residence.

- R. Maximum Allowable Increase. "Maximum allowable increase" means a rent increase that on a cumulative basis over the 12 months preceding the effective date of a proposed rent increase is more than 8% unless a larger increase is approved by a Rent Dispute Hearing Officer after a petition and hearing as provided in this Article.
- S. Net Operating Income. "Net operating income" means the gross revenues that a housing provider has received in rent or any rental subsidy in the twelve months prior to filing a petition for a rent increase as provided in Section 6-58.50 less the costs of operation in that same twelve month period.
- T. Notice to Vacate. "Notice to vacate" means a notice to vacate that a housing provider serves on a tenant under Section 1946.1 of the California Civil Code and Section 1162 of the California Code of Civil Procedure.
- U. Party. "Party" means a housing provider or tenant.
- V. Program Fee. "Program fee" means the fee the City imposes on each rental unit to cover the costs to provide and administer the program created by this Article.
- W. Rent. "Rent" means a fixed periodic compensation including any amount paid for utilities, parking, storage, pets or any other fee or charge associated with the tenancy that a tenant pays at fixed intervals to a housing provider for the possession and use of property; as to any housing provider whose rental unit was exempt from the ordinance under subsection Z (i), "rent" shall include the subsidy amount, if any, received as part of the base rent.
- X. Rent Dispute Hearing Officer. "Rent Dispute Hearing Officer" or "Hearing Officer" means a person designated by the Community Development Director to hear rent dispute petitions under this Article.
- Y. Rent Increase. "Rent increase" means any upward adjustment of the rent from the base rent.
- Z. Rental Unit. "Rental unit" means a housing unit other than a mobile home or mobile home lot offered or available for rent in the City of Alameda, together with the land and appurtenant buildings thereto, and all housing services in connection with the use or occupancy thereof other than (i) housing units the rents of which are regulated by federal law or by regulatory agreements between a Housing Provider and the City, the Housing Authority of the City of Alameda or any agency of the State of California or (ii) housing units that are rented or leased for 30 days or less, (iii) accommodations in hotels, motels, inns, tourist homes, rooming or boarding houses, provided that such accommodations are not occupied by the same occupant or occupants for more than 30 consecutive days, (iv) commercial units, (v) housing accommodations in any hospital, convent, monastery, extended care facility, convalescent home, non-profit home for the aged or dormitory operated by an education institution.

- AA. Tenant. "Tenant" means any person having the legal responsibility for the payment of rent for a rental unit in the City and shall include the agent or representative of the tenant if such agent or representative has the full authority to answer for the tenant and enter into binding agreements on the tenant's behalf.

6-58.20. Notice provided to existing tenants and to tenants upon commencement of tenancy

- A. In addition to any other notice required to be given by law or by this Article, a housing provider shall provide to existing tenants and to prospective tenants (1) a written notice that the rental unit is subject to this Article, (2) a copy of this Article as it 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 City provides that explains this Ordinance.
- B. For leases that begin on or after the effective date of this Ordinance, housing providers shall comply with the requirements of subsection A no later than the date on which they receive the first payment of rent from the tenant. For month to month tenancies in existence as of the effective date of this Ordinance, housing providers shall comply with the requirements of subsection A no later than the day following the expiration of the current month of the tenancy. For prospective tenants, housing providers shall comply with the requirements of subsection A prior to the tenant's entering into a lease or, as to month to month tenancies, prior to the tenant's occupancy of the rental unit.

6-58.25. Disclosure

- A. Any housing provider and/or any owner of property housing one or more rental units shall in writing disclose to a potential purchaser of the property or the rental unit that such property or unit is subject to this Article and all regulations that the City promulgates to implement this Article.
- B. The failure of a housing provider and/or owner of property housing one or more rental units to make the disclosure set forth in subsection A shall not in any manner excuse a purchaser of such property or unit of any of the obligations under this Article.

6-58.30. Offer of a One Year Lease

A housing provider shall offer a tenant a one year lease to any prospective tenant and to any tenant with a lease at the expiration of that lease. As to any tenant on a month to month tenancy, the housing provider must within a six month period of the effective date of this Ordinance offer such tenant a one year lease.

6-58.35. Limitations on Revising What is Included in the Rent

As to any lease in which charges or fees for utilities, parking, storage, pets or any other fee or charges associated with the tenancy that the tenant pays at fixed intervals to a housing provider for the possession and use of property are not a separate line item within the lease, a housing provider shall not unbundle any of such charges or fees during the term of the lease. At the expiration of any lease, to the extent a housing provider unbundles any of such charges or fees and lists them on a line item within a new lease, the amounts of such charges or fees shall be included in calculating the maximum allowable increase.

6-58.40. Limitations on the Frequency of Rent Increases

No housing provider shall increase the rent of any rental unit more than once in any twelve month period.

6-58.45. No Rent Increase in Excess of the Maximum Allowable Increase

- A. Except for rental units exempt under Section 6-59.95 and except as provided in Section 6-59.50, no housing provider shall serve or give notice of a rent increase that is more than the maximum allowable increase.
- B. Notwithstanding subsection A, a housing provider must comply with all the notice and participation provisions of Article XIV and any tenant may utilize the rent review procedures set forth in that Article for any rent increase up to and including the maximum allowable increase.

6-58.50. Petitions by Housing Providers

- A. Any housing provider whose rental units are not exempt under Section 6-58.95 and who seeks to increase the rent of any rental unit or units by an amount greater than the maximum allowable increase may invoke a hearing process by filing a petition with the Housing Authority provided that the housing provider shall notify in writing all tenants subject to such proposed rental increase and shall include in the filing with the Housing Authority a list of names and addresses of all such tenants.
- B. Petitions must be filed on a form prescribed by the Housing Authority and must be accompanied by such supporting material as the Housing Authority shall prescribe including, but not limited to, a copy of the housing provider's notice of the rent increase.
- C. A housing provider must file the petition at least 60 days prior to the effective date of the rent increase and at the same time the housing provider serves the notice of the rent increase on the tenant(s) as provided by law.
- D. Provided that a petition has been filed as provided in this Section, that portion of the rent increase (and only that portion) that exceeds the maximum allowable increase shall not take effect until 60 days after a decision of a hearing officer or, if that decision is judicially challenged, until there is a final judgment from a court of competent jurisdiction or other resolution, such as a

settlement.

6-58.60. Burden of Proof

- A. As to petitions filed by housing providers, the housing provider shall have the burden of proof.
- B. As to the burden of proof, the hearing officer will use the preponderance of evidence test, i.e. that what the housing provider is required to prove is more likely to be true than not and, after weighing all of the evidence, if the Hearing Officer cannot decide that something is more likely to be true than not true, the Hearing Officer must conclude that the housing provider did not prove it.

6-58.70. Hearing Process

- A. The Community Development Director shall assign a rent dispute hearing officer to decide any petition, including its timeliness and other procedural matters, which is filed under this Article.
- B. The hearing officer shall endeavor to hold the hearing with 30 days of the filing of the petition or within such time as the hearing officer and the parties may agree.
- 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. Hearsay evidence may be admitted solely for the purpose of supplementing or explaining other evidence.
- D. Any party or their counsel 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 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. A record of the proceedings shall be maintained for purposes of judicial review. Any party or the City may retain at that party's (or the City's) expense the services of a certified court reporter to record the proceedings.

6-58.80. Hearing – Findings and determination

Within 30 days of the close of the hearing, the hearing officer shall make a determination, based on the preponderance of evidence and applying the criteria set forth in Section 6-58.85, whether the proposed rent increase is reasonable under

the circumstances or not, and shall make a written statement of decision upon which such determination is based. The hearing officer's allowance or disallowance of any rent increase or portion thereof may be reasonably conditioned in any manner necessary to effectuate the purposes of this Article. Copies of the statement of decision shall be served on the parties and the City.

6-58.85. Criteria to be applied to rent increases

- A. In determining petitions concerning a fair rate of return on property, the hearing officer shall take into account the purposes of this Article to eliminate imposing excessive rent increases while providing housing providers with a just and reasonable return on property. The hearing officer shall not determine just and reasonable rate of 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, provides a housing provider with a just and reasonable rate of return on property.
- B. In determining petitions requesting a rent increase for capital improvements, the hearing officer shall take into account the regulations that the City has promulgated for such purposes.

6-58.90. Rent Dispute Hearing Officer's Decision—Final Unless Judicial Review is Sought

The Rent Dispute Hearing Officer's decision shall be final and binding on the parties unless judicial review is sought within 60 days of the date of the Hearing Officer's decision.

6-58.95. Exemptions

The following rental units shall be exempt from the provisions of Sections 6-58.45, 6-58.50, 6-58.70, 6-58.80, 6-58.85 and 6-58.90 but are subject to all other Sections of this Article and to the rent review procedures of Article XIV: rental units constructed after February 1, 1995; rental units that are separately alienable from the title of any other dwelling (e.g., single family residences, condominiums, etc.); and any other units exempt under the Costa-Hawkins Rental Housing Act (California Civil Code, sections 1954.50 and following) or under any other applicable state or federal law.

Section 6-58.100. Evictions

No housing provider 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 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 vacate after proper service of a Notice to Vacate. Except as provided in Section 6-58.105, a tenant upon proper notice under California Civil Code, section 1946.1 has failed to vacate the rental unit, provided, however, the following shall apply:
1. The housing provider shall pay the tenant relocation assistance as provided in subsections A and B of Section 6-58.110 if the tenant vacates the rental unit as provided in the notice or as otherwise provided in subsection C of Section 6-58.110; and
 2. The housing provider shall not impose on a new tenant rent that exceeds the amount of the base rent the prior tenant was paying plus no more than the maximum allowable increase, and shall inform the new tenant in writing the base rent the prior tenant was paying and the amount of the rent increase, if any, up to the maximum allowable increase; and
 3. The housing provider must provide to the Housing Authority a copy of the notice to vacate served on the tenant under California Civil Code, section 1946.1 and the amount of the base rent the tenant was paying at the time the notice was served; and
 4. The housing provider must provide to the Housing Authority at the start of the new tenancy the name and contact information of the new tenant, a copy of the lease (if applicable) and the rent the new tenant will be paying; and
 5. If it is determined that the housing provider at any time imposes rent on the new tenant that exceeds that allowable under this section, in addition to any other penalties or remedies available to the existing tenant, the City or the previous tenant, the housing provider shall reduce the rent to that allowable under this section and shall reimburse the existing tenant, plus interest as provided by law, the difference between the amount of the rent that exceeded the allowable rent under this section and the rent the existing tenant has paid, retroactive to the date when the excessive rent was first paid.
- B. Failure to pay rent. The tenant upon proper notice, has failed to pay the rent to which the housing provider is entitled under a written or oral agreement.
- C. Breach of lease. The tenant has continued, after the housing provider 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.
1. Notwithstanding any contrary provision in Section 6-58.100, a housing provider shall not take action to terminate a tenancy as a result of the addition to the rental unit of a tenant's child, parent, grandchild, grandparent or spouse or domestic partner (as defined in California Family Code, section 297) of such relatives, or as a result of the addition of a spouse or domestic partner of the tenant, 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 housing provider shall serve the tenant a written notice of the violation that provides the tenant with the opportunity to cure the violation in 14 or more days. The tenant may cure the violation by making a written request to add occupants as provided or by using other reasonable means to cure the violation including, but not limited to, causing the removal of any additional or unapproved occupant.
- D. Nuisance. The tenant has continued, after the housing provider has served the tenant with a written notice to cease, to commit or expressly permit a nuisance or illegal activity in, or cause substantial damage to, 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 housing provider, other occupants or neighbors.
- E. Failure to give access. The tenant has continued to refuse, after the housing provider has served the tenant with a written notice, to grant the housing provider 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.
- F. Owner move-in. The housing provider seeks in good faith to recover possession of the rental unit for use and occupancy as a primary resident by the housing provider, or the housing provider's spouse, domestic partner, children, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.
1. For purposes of this section a "housing provider" shall only include a housing provider that is a natural person who has at least a 50% ownership interest in the property.
 2. No action to terminate a tenancy based on an "owner move-in" may take place if a vacancy already exists on the property and the vacant unit 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 and relationship to the housing provider of the person intended to occupy the rental unit.
 4. The housing provider 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 one year.

5. If the housing provider or enumerated relative specified on the notice terminating the tenancy fails to occupy the rental unit within 60 days after the tenant vacates, the housing provider shall:
 - a) Offer the rental unit to the tenant who vacated it and at the same rent as the tenant was paying prior to eviction; and
 - b) Pay to the tenant all reasonable expenses incurred in moving to and from the unit, to the extent such expenses exceed the relocation assistance the housing provider has already paid to the tenant as provided in Section 6-58.110.

- G. Demolition. The housing provider seeks in good faith to take action to terminate a tenancy to demolish and remove the rental unit permanently from residential rental housing use; provided, however, the housing provider shall not take any action to terminate such tenancy until the housing provider has obtained all necessary and proper permits from the City.

- H. Capital Improvement Plan. The housing provider seeks in good faith to take action to terminate a tenancy in order to carry out a Capital Improvement Plan, provided, however, that until the City adopts regulations concerning the elements of a Capital Improvement Plan, a Capital Improvement Plan shall not be grounds to take any action to terminate any tenancy.

- I. Withdrawal from the rental market. The housing provider seeks in good faith to take action to terminate a tenancy in order to remove the rental unit permanently from residential rental housing use pursuant to State law.

- J. Compliance with a governmental order. The housing provider seeks in good faith to take action to terminate a tenancy to comply with a government agency's order to vacate, or any other order that necessitates the vacating of the building, housing or rental unit as a result of a violation of the City of Alameda's Municipal Code or any other provision of law.
 - a. The housing provider shall offer the rental unit to the tenant who vacated the unit when the housing provider has satisfied the conditions of the governmental agency that caused the governmental agency to order the unit vacated and at the same rent the tenant was paying at the time of the eviction.
 - b. The housing provider shall pay to the tenant all reasonable expenses incurred in moving out of the unit, as provided in Section 6-58.110 and all reasonable expenses incurred in moving into the unit should the tenant do so.

6-58.105. Limitations as to the Use of a Notice to Vacate

As to a housing provider taking any action to terminate any tenancy utilizing a notice to vacate, a housing provider shall not take any such action:

- A. As to more than 10% of all rental units in any month nor to more than 50%

of all rental units in any consecutive twelve month period (rounded up to the nearest whole number if 0.5 or more and down if 0.4 or less) as to any building or buildings housing 15 or more rental units.

- B. As to more than 20% of all rental units in any month nor to more than 50% of all rental units in any consecutive twelve month period (rounded up to the nearest whole number if 0.5 or more and down if 0.4 or less) as to any building or buildings housing more than four but less than 15 rental units.
- C. As to no more than one rental unit in any month nor to more than two rental units in any consecutive twelve month period, as to any building or buildings housing four or fewer units.

6-58.110. Required Payment of Relocation Fee.

- A. If the housing provider has taken any action to terminate a tenancy on the grounds set forth in subsections A, F, G, H, I or J of Section 6-58.100, the housing provider shall pay a relocation fee in an amount of one month's rent that the tenant was paying (as averaged over the twelve months preceding the serving of the notice to vacate) for each year, or portion thereof, to a maximum of four months' rent, plus \$1500. The \$1500 will be adjusted on January 1 of each year based in the change of the Consumer Price Index from the previous January 1.
- B. The housing provider shall pay the relocation fee as follows:
 - 1. The entire fee shall be paid to a tenant who is the only tenant in the rental unit and if the rental unit is occupied by two or more tenants, then each tenant who is on the lease or has written proof of financial responsibility to pay the rent shall be paid a pro-rata share of the relocation fee; provided, however, if a tenant or tenants receive, as part of the eviction, relocation assistance from a governmental agency, then the amount of relocation assistance shall operate as a credit against any relocation fee to be paid to the tenant under this subsection.
 - 2. One half of the relocation fee when the tenant has informed the housing provider in writing of the date when the tenant will vacate the rental unit and the other half upon certification that the tenant has vacated the rental unit.
- C. Notwithstanding subsection A, as to any rental unit to be vacated under subsection A, G, H or I of Section 6-58.100, a tenant has the choice to remain in the rental unit, from the eviction date in the notice to vacate, an additional month for every year, or portion thereof, up to a maximum of four months if the tenant has lived in the rental for four or more years, but the housing provider's requirement to pay relocation assistance will be reduced by one month's rent for every month, or portion thereof, the tenant remains in the rental unit beyond the date on which the tenant was required to vacate. Nothing provided herein prohibits a housing provider and a tenant from agreeing to relocation assistance different than as provided in this section.

6-58.120. Service and Contents of the Written Notices to Terminate a Tenancy

- A. In any notice purporting to terminate a tenancy the housing provider shall state in the notice the cause for the termination, if any.
- B. If the cause for terminating the tenancy is for the grounds in subsections B, C, D or E of Section 6-58.100, 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 ground in subsections A, F, G, H, I or J of Section 6-58.100, the notice shall also inform the tenant that the tenant is entitled to a relocation fee in the amount then in effect.
- D. If the cause for terminating the tenancy is for the grounds in subsection H of Section 6-58.100, the notice shall state the housing provider has complied with that subsection by obtaining a City approved Capital Improvement Plan and a copy of the Capital Improvement Plan shall accompany the notice.
- E. The housing provider shall file with the Housing Authority within five business days after having served any notice required by Section 6-58.100 a copy of such notice, except a three day notice to pay rent or vacate.

6-58.130. Retaliation Prohibited.

No housing provider shall take any action to terminate a tenancy, reduce any housing services or increase the rent where the housing provider's intent is to retaliate against the tenant (i) for the tenant's assertion or exercise of rights under this Article, Article XIV, or under state or federal law, (ii) for the tenant's request to initiate, or the tenant's participation in, the rent review procedures under Article XIV or (iii) for the tenant's participation in litigation arising out of this Article XIV. 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, Article XIV or under state or federal law within 180 days prior to the alleged act or retaliation shall create a rebuttable presumption that the Housing Provider's act was retaliatory; provided, however, a tenant may assert retaliation affirmatively or as a defense to the housing provider'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 or Article XIV and the alleged action of retaliation.

6-58-140. Program Fee

- A. There is hereby imposed on each rental unit in the City a program fee. The program fee shall be paid once annually either at the time at which the business license tax for the rental unit, if applicable, is due and paid under

Chapter 5 of this code or on July 1 of each year for those rental units for which no business license tax is paid. The program fee may be included as a cost of operation.

- B. The Community Development Director shall report to the City Council no less than once each year a recommendation as to the amount of the program fee necessary to recover the costs of administering this Article and Article XIV. The amount of the fee shall be determined by resolution of the City Council adopted from time to time. The fee shall not exceed the amount found by the City Council to be necessary to administer the costs of this Article and Article XIV, and the City Council's finding in this regard shall be final.
- C. Any housing provider who fails, for more than thirty days after the due date to pay the program fee, to pay the program fee shall, in addition to the program fee, pay an additional penalty assessment as determined by resolution of the City Council adopted from time to time.

6-58.150. Actions to Recover Possession

In any action brought to recover possession of a rental unit, the housing provider shall allege and prove by a preponderance of evidence compliance with this Article.

6-58.160. Housing Provider's Failure to Comply.

A housing provider's failure to comply with any requirement of this Article may be asserted as an affirmative defense in an action brought by the housing provider 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 housing provider 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.

6-58.170. Penalties for Violations.

- A. The City may issue an administrative citation to any housing provider and to the housing provider's agent for a violation of this Article. The fine for such violations shall be \$250 for the first offense, a fine of \$500 for a second offense within a one year period and a fine of \$1000 for a third offense within a one year period. In addition, the first two violations of this Article shall be deemed infractions and the fines therefor for the first and second offenses shall be as set forth in the previous sentence. A third violation in any one year period shall constitute a misdemeanor, punishable as set forth

in Chapter I of this Code.

- B. Notwithstanding subsection A, it shall constitute a misdemeanor for any housing provider to have demanded, accepted, received or retained any rent in excess of the maximum rent allowed by a decision of a rent dispute hearing officer under this Article, or by a final judgment of a court of competent jurisdiction should the hearing officer's decision be challenged in court.
- C. In addition to all other remedies provided by law, including those set forth above, as part of any civil action brought by the City to enforce this Article, a court may assess a civil penalty in an amount up to the greater of \$2500 per violation per day or \$10,000 per violation, payable to the City, against any person who commits, continues to commit, operates, allows or maintains any violation of this Article. The prevailing party in any such civil action shall be entitled to its costs and attorneys fees.

6-58.180. 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 housing provider 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.

6-58.190. Annual Review

The Community Development Director shall annually prepare a report to the Council assessing the effectiveness of the rent stabilization program under this Article and recommending changes as appropriate.

6-58.200. Repeal of Ordinance

By operation of law, this Ordinance shall be repealed in its entirety unless by December 31, 2019, the City Council by an affirmative vote has taken action to retain the Ordinance and any amendments thereto, or portions thereof."

Section 2. Sections 6-57.5 of the Alameda Municipal Code is hereby amended as follows:

"Section 6-57.5 Form and Contents of Notice

In addition to all other information provided in the notice of availability of rent review established by this Chapter, if the rent increase is at or below the maximum allowable increase (as defined in subsection R of Section 6-58.15 of

this Code), such notice shall state:

NOTICE: Under Civil Code, section 827(b), a Housing Provider must provide a Tenant with 30 days notice prior to a rent increase of 10% or less and must provide a tenant with 60 days notice of a rent increase of greater than 10%. Because the Housing Provider proposes a Rent Increase that is at or below the maximum allowable increase (as defined in subsection R or Section 6-58.15 of the Alameda Municipal Code), under Article XIV of Chapter VI of the Alameda Municipal Code, a Housing Provider must at the same time provide this Notice of the availability of the City's rent review procedures before imposing any such Rent Increase.

You may request the Rent Review Advisory Committee to review the increase by submitting the request for review in writing within fifteen calendar days of your receipt of the notice of Rent Increase by personally delivering or mailing the request to the Housing Authority of the City of Alameda, 701 Atlantic Avenue, Alameda, CA 94501, or emailing the request to the Housing Authority of the City of Alameda at rrac@alamedahsg.org. You must submit along with your request a copy of the Notice of Rent Increase.

You and your Housing Provider will be required to appear before the Committee for a hearing concerning the Rent Increase. Following the hearing, the Committee will make a non-binding recommendation to you and your Housing Provider concerning your request.

It is illegal for a Housing Provider to retaliate against a Tenant for lawfully and peacefully exercising his or her legal rights including your request for the Committee to review the Rent Increase. Civil Code, section 1942.5. A Housing Provider's efforts to evict a Tenant within six months of a Tenant's requesting a hearing may be used as evidence of a retaliatory eviction."

Section 3: Section 6-57.6 of the Alameda Municipal Code is hereby amended to read as follows:

"Section 6-57.6. Request for Review

- A. A tenant may request the Committee to hear a proposed rent increase when the Housing Provider proposes to increase the base rent at or below the maximum allowable increase (as defined in subsection R or Section 6-58.15 of this Code).
- B. The tenant requesting review must within fifteen calendar days of the tenant's receipt of the notice of rent increase either (a) deliver, mail or e-mail the written request for review to the Housing Authority or (b) call the housing authority and request a review. In either event, the tenant must submit a copy of the notice of rent increase."

Section 4: 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 5: This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

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 by the Council of the City of Alameda in a regular meeting assembled on the ____ day of _____, 2016, 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 _____, 2016.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Janet C. Kern, City Attorney
City of Alameda