

CITY OF ALAMEDA ORDINANCE NO. _____

New Series

AN URGENCY UNCODIFIED ORDINANCE AMENDING IN PART
UNCODIFIED ORDINANCE NO. 3275 AND IMPOSING AND
EXTENDING WITHIN THE CITY OF ALAMEDA A TEMPORARY
MORATORIUM ON RENT INCREASES FOR FULLY REGULATED
RESIDENTIAL RENTAL UNITS UNTIL JUNE 30, 2021

WHEREAS, Section 3-12 of the City Charter authorizes the City Council, with a 4/5 vote, to adopt, as an urgency measure, an ordinance for the immediate preservation of the public health or safety without following the procedures otherwise required prior to adoption of an ordinance; 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 the urgency thereof; and

WHEREAS, conditions of extreme peril to the health, safety and welfare of persons have arisen in the world, the nation, the State, the County of Alameda and the City of Alameda due to the following:

A novel coronavirus (named COVID-19 by the World Health Organization) was first detected in December 2019. The Center for Disease Control and Prevention (CDC) has stated that COVID-19 is a serious public health threat, based on current information. Cases of COVID-19 have been diagnosed throughout the world, the United States, the State of California, the County of Alameda and the City of Alameda.

The exact modes of transmission of COVID-19, the factors facilitating human to human transmission, the extent of asymptomatic viral shedding, the groups most at risk of serious illness, the attack rate, and the case fatality rate all remain active areas of investigation. The CDC believes, at this time, the symptoms appear two to fourteen days after exposure. Currently, there are no approved vaccine or specific anti-viral treatment for COVID-19 in the United States. While there are vaccines in the final approval stages, the CDC has stated that production and distribution of the vaccines may take several months and that it will be imperative to continue preventive actions, such as social distancing, to reduce the spread of COVID-19 during that time.

Actions are being taken to protect public health and limit the spread of COVID-19 but whether those actions will be successful is unknown at this time.

Due to the COVID-19 pandemic, the Governor of the State of California has declared a State of Emergency for the State and issued numerous Executive Orders to protect the public, County Health Officers throughout the State, including the County of Alameda, have also issued orders and directives in an effort to protect the public, and, on March 17, 2020, in response to the COVID-19 pandemic, the City Council of the City of Alameda declared

a local emergency as set forth in Ordinance No. 3267, which declaration of a local emergency continues to this day; and

WHEREAS, as a result of these various declarations, orders and directives, and the threat to public health and safety due to the contagious nature of COVID-19, residents Statewide have been ordered not to gather, public and private gatherings of persons have been limited, many schools, kindergartens, and day care centers have been closed, non-essential service businesses are restricted operationally, and essential service businesses have had their hours or means of operation impacted, all of which have had significant financial impacts to residents and businesses in the community; and

WHEREAS, many employers have laid off or will need to lay off employees, working Alameda residents with children may be compelled not to work in order to provide care for their children, and many Alameda residents who are working and become ill due to COVID-19, or who must self-quarantine due to COVID-19 because they have been exposed to COVID-19, do not have paid sick leave; and

WHEREAS, those residents financially impacted due to the COVID-19 pandemic may not be able to pay rent, or be faced with the Hobson's Choice of paying rent and not having sufficient funds for food, medical care or other necessities for themselves and their families; and

WHEREAS, residents unable to pay rent under these circumstances, or tenants subject to no fault evictions, would be faced with the prospect of being evicted from their homes; and

WHEREAS, due to the COVID-19 pandemic in the City of Alameda, the public health, safety and welfare are not adequately protected from the possibility of evictions for the failure of a residential tenant to pay rent, for evictions following a foreclosure of a mortgage or for no fault evictions, and it is in the interest of the City, all residential tenants, and of the community as a whole, that the City adopt an ordinance to protect residential tenants, who may face eviction due to a substantial loss of income or other adverse economic circumstances, arising out of the COVID-19 pandemic, and to protect residential tenants from no-fault evictions during the COVID-19 pandemic; and

WHEREAS, in light of the numerous serious concerns set forth herein, including but not limited to the current and immediate threat to the health, safety, and welfare of the City's residential tenants, and the adverse impacts that would result from evictions due to a residential tenant's loss of substantial income or other adverse financial circumstances arising out of or during the COVID-19 pandemic, the City Council determines it is in the interest of immediately preserving the public health, safety and general welfare to adopt this urgency ordinance; and

WHEREAS, in response to community concern that rents in Alameda were rising at a rate greater than household income, the City Council has adopted a number

of rent control ordinances, the most recent of which was adopted on September 17, 2019 (Ordinance No. 3250); and

WHEREAS, Ordinance No. 3250 in part provides that (a) for rental units subject to local rent control, e.g., multi-family units for which a certificate of occupancy was issued prior to February 1, 1995, landlords shall not increase rents by more than the Annual General Adjustment (AGA), (b) the AGA means 70% of the percentage change in the Consumer Price Index for the 12-month period ending April of each year, (c) the AGA between September 1, 2019 and August 31, 2020 is 2.8%, and (d) the AGA between September 1, 2020 and August 31, 2021 is 1%; and

WHEREAS, on April 21, 2020, City Council adopted an urgency ordinance (Ordinance No. 3275) that, in part, placed a temporary moratorium on rent increases for fully regulated rental units until January 1, 2021; and

WHEREAS, given that many Alameda tenants have suffered or will suffer significant financial impacts resulting from the COVID-19 pandemic, whether directly or indirectly, which impacts are likely to last for months beyond the rescission of the Declaration of the State and/or Local Emergency, and that any rent increases during the remainder of 2020 and for the first six months of 2021 therefore threaten the public health, safety and welfare of Alameda tenants, including seniors, those on fixed incomes, those with very low, low or moderate incomes, and those with special needs, to the extent that such persons may be forced to choose between paying rent, even after the Declaration of the State and/or Local Emergency has been rescinded, and providing food, clothing, medical care or child care for themselves and their families; and

WHEREAS, rent increases during the remainder of 2020 and for the first six months of 2021 threaten to displace households at a time when households are being directed to shelter in place, thereby making it extremely difficult for households to find alternative housing and, even when the shelter in place directives are lifted, rent increases during the remainder of 2020 and for the first six months of 2021 would still threaten to displace households because many households may not have employment for some time and even those households who do return to work will need time to recover financially; and

WHEREAS, for reasons set forth above, this ordinance is declared by the City Council to be necessary for preserving the public welfare, health, or safety and to avoid a current, immediate and direct threat to the health, safety, or welfare of the community, and the recitals above taken together constitute the City Council's statements of the reasons constituting such necessity and urgency; and

WHEREAS, adoption of this ordinance is exempt from review under the California Environmental Quality Act: Section 15378 (not a project); and Section 15061(b)(3) (no significant environmental impact); and

WHEREAS, by the staff reports, testimony, and documentary evidence presented at the March 17, 2020, April 7, 2020, April 21, 2020 and December 15, 2020 City Council meetings, the City Council has been provided with additional information upon which the findings and actions set forth in this ordinance are based.

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. From the effective date of this urgency ordinance the following is adopted: Paragraph 7 of Section 2 of Ordinance No. 3275 is amended to read as follows

“7. For fully regulated residential rental units, between April 22, 2020 and June 30, 2021, no landlord shall increase the rent in effect on April 21, 2020. Any notice of a rent increase served prior to December 15, 2020, which increase was to take effect on or after April 22, 2020, shall be void and have no force or effect. This provision shall not be construed to preclude any landlord affected by this Section 7 from banking rent increases for future implementation on or after July 1, 2021, following the procedures set forth in Section 6-58.70 of the Alameda Municipal Code and as further explained by implementing regulations.”

SECTION 3: Waiver.

A landlord may request that the requirements of this Ordinance be waived or modified by filing a petition with the Program Administrator as set forth in Alameda Municipal Code Section 6-58.75.

SECTION 4: Remedies and Penalties for Violations

In the event of a violation of this Ordinance:

1. An aggrieved tenant may institute a civil proceeding for injunctive and/or declaratory relief, money damages of not less than three times actual damages (including damages for mental or emotional distress as specified below) and what other relief that a Court deems appropriate. If there is an award of damages based on mental or emotional distress, the award shall be trebled if the trier of fact finds the landlord acted in knowing violation of, in reckless disregard of, this Ordinance.
2. The City may issue an administrative citation, the fine for which shall be \$250 for the first offense, \$500 for the second offense within a one year period, and \$1000 for a third offense within one year.
3. A person shall be guilty of an infraction punishable by a fine not to exceed \$250 or a misdemeanor punishable by a fine not to exceed \$1000 per violation, or by

imprisonment in the County jail for a period not exceeding six months, or by both a fine and imprisonment.

4. Any aggrieved person, including the City and the People of the State of California may enforce, and seek to enjoin, a violation of this Ordinance by means of a civil action. The burden of proof in such cases shall be the preponderance of evidence. As part of any civil action brought by the City or the People of the State of California to enforce this Ordinance a court shall assess against any person who commits, continues to commit, allows or maintains any violation of this Ordinance a civil penalty in an amount up to the greater of \$2500 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. In addition, any violator shall be liable for an additional civil penalty of up to \$5000 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.

SECTION 5: The Community Development Director may adopt administrative regulations to effectuate and implement this Ordinance.

SECTION 6: This 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 7. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

SECTION 8. As an emergency ordinance, this Ordinance becomes effective immediately upon its adoption at a first reading by a four-fifths vote of the City Council.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

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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 _____ 2020, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSECTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____ 2020.

Lara Weisiger, City
Clerk City of Alameda

APPROVED AS TO FORM:

Yibin Shen, City Attorney
City of Alameda