CITY OF ALAMEDA ORDINANCE NO. 3131

New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY ADDING ARTICLE XIV TO CHAPTER VI CONCERNING THE REVIEW OF RENT INCREASES

WHEREAS, there is a strong demand for rental housing in the City of Alameda which may result in a shortage of rental housing; and

WHEREAS, such shortage may result in an imbalance of bargaining power between housing providers and tenants; and

WHEREAS, when a housing provider has informed a tenant about a rent increase which the tenant asserts is and/or poses an unreasonable financial hardship on the tenant and when the tenant and his/her housing provider have been unable to work out a satisfactory arrangement concerning the rent increase, the City has had in place for a number of years a committee of residents representing housing providers and tenants that provides a process in a neutral forum for a tenant to voice a concern about the rent increase and for a housing provider to respond, and through which process the committee may make a non-binding recommendation to the housing provider and the tenant concerning the rent increase; and

WHEREAS, the availability of this process may not be well known in the tenant community; and

WHEREAS, this process provides a fair and reliable process to resolve disputes concerning rent increases; and

WHEREAS, in order for the process to be effective, it is essential not only that a housing provider provide written notice of this process to the tenant (which currently is not required) but also that the housing provider and the tenant both participate in the process; and

WHEREAS, it is important that a tenant be protected from retaliation for utilizing this process; and

WHEREAS, it is important to monitor and improve on a periodic basis the processes established in this Article; and

WHEREAS, the City Council finds and determines that the health, safety and general welfare of Alameda will be served by adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda as follows:

Section 1. Article XIV is hereby added to Chapter VI of the Alameda Municipal Code to read as follows:

"**Article XIV. Rent Review**

6-57.1 Short title and Applicability of the Ordinance.

This ordinance shall be known as the Rent Review Ordinance. It shall apply to all Residential Property in the City except (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.

6-57.2 Definitions

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

(a) Base Rent. "Base rent" means the rental amount, including any amount paid directly to the Housing Provider for parking, storage or any other fee or charge associated with the tenancy (other than fees or charges for utilities paid directly to the housing provider), that the Tenant is required to pay to the Housing Provider in the month immediately preceding the effective date of the rent increase.

(b) City. "City means the City of Alameda.

(c) Committee. "Committee" means the Rent Review Advisory Committee as defined below.

(d) Community Development Director. "Community Development Director" means the Director of the Community Development Department of the City of Alameda, or his/her designated representative.

(e) Council. "Council" means the City Council of the City of Alameda.

(f) Executive Director. "Executive Director" shall mean the Executive Director the Housing Authority of the City of Alameda, or his/her designated representative.

(g) Housing Authority. "Housing Authority" shall mean the Housing Authority of the City of Alameda.

(h) 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.

(i) Party. "Party" means a Housing Provider or Tenant who participates in the rent review program of this Chapter.

(j) Rent. "Rent" means a fixed periodic compensation including any amount paid directly for parking, storage or any other fee or charge associated with the tenancy (other than utilities) that a Tenant pays at fixed intervals to a Housing Provider for the possession and use of property.

(k) Rent Increase. "Rent increase" means any upward adjustment of the Rent from the Base Rent.

(l) Rent Review Advisory Committee. "Rent Review Advisory Committee" means the Committee established under Article II of the Alameda Municipal Code.

(m) Residential Property. "Residential property" means any housing unit, including a room or group of rooms designed and intended for occupancy by one or more persons, or a mobile home, offered for rent or lease in the City except for (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.

(n) Tenant. "Tenant" means any person having the legal responsibility for the payment of Rent for Residential property 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.

6-57.3 Notice of Availability of Review of a Rent Increase

In addition to the notice of rent increase required by Civil Code, section 827(b) and, at the time when a Housing Provider provides such notice to the Tenant, the Housing Provider shall also provide to the Tenant a notice of availability of the rent review procedures established by this Chapter regardless of the percentage Rent Increase over the Base Rent or if the Rent Increase is within 12 months of the immediately preceding Rent Increase. Any rent increase accomplished in violation of this section of the Ordinance shall be void and no Housing Provider shall take any action to enforce such an invalid rent increase. Any rent increase in violation of this section of the Ordinance may be used as evidence in a Tenant's defense to an unlawful detainer action based on a Tenant's failure to pay an illegal rent increase.

6-57.4 Form and Contents of Notice

All notices of the availability of rent review procedures shall be in writing and shall provide the name, address, phone number and email address of the Housing Provider. The Housing Provider shall either personally deliver the notice to the

Tenant or shall mail to the Tenant by first class mail, postage pre-paid, the notice, addressed to the Tenant's Residential Property. Service by mail shall be presumed complete within five days of mailing but the Tenant may rebut that presumption.

6-57.5 Text of Notice

In addition to all other information provided in the notice of availability of rent review established by this Chapter, each 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 or because the Housing Provider proposes a Rent Increase within 12 months of the immediately preceding Rent Increase, 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 seven 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.

6-57.6 Request for Rent Review

A. A Tenant may request the Committee to hear a proposed Rent Increase when the Housing Provider proposes to increase the Base Rent or proposes to increase the Base Rent within 12 months of the immediately preceding Rent Increase.

B. The Tenant requesting review must within seven 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.

6-57.7 Notice to Parties

After determining a proposed Rent Increase meets the criteria for the Committee to review the Rent Increase, the Executive Director shall schedule a hearing and provide notice to the Housing Provider and the Tenant of the hearing date, time and location at least seven calendar days prior to the hearing date. The hearing date shall be scheduled at the next regularly scheduled meeting of the Committee (which shall schedule meetings monthly) unless the Housing Provider and Tenant consent to a later date. The notice shall encourage the Housing Provider to contact the Tenant directly to seek a mutually satisfactory resolution of the request prior to the hearing and shall encourage the Housing Provider and Tenant to consider using a neutral third party mediator to arrive at a satisfactory resolution of the request prior to the hearing.

6-57.8 Rent Increase Pending the Hearing

If the effective date of the Rent Increase occurs before the Committee's hearing, unless the Housing Provider otherwise agrees, the Rent Increase will become effective.

6-57.9 Hearing and Recommendation

A. At the hearing, the Committee will afford the Housing Provider and the Tenant the opportunity to explain their respective positions. Neither the Committee as a whole nor any individual member of the Committee will act as an advocate for either the Housing Provider or the Tenant. The Committee will take into consideration such factors as the financial hardship to the Tenant, the frequency and amount of prior Rent Increases, the Housing Provider's costs associated with owning and maintaining the Residential Property, the Housing Provider's interest in earning a reasonable rate of return on the Housing Provider's investment and any other factors that may assist the Committee in determining a fair resolution to the request. The Committee will make a recommendation to the Parties concerning the Rent Increase. If the Parties agree to the recommendation made by the Committee, they may formalize the agreement in a standard form signed by both Parties. Neither the City nor the Committee shall be a signatory to such an agreement and neither the City nor the Committee shall assume any obligation or responsibility to enforce the terms of the agreement.

B. If the parties do not concur with the Committee's recommendation, either may request the City Council to review the Committee's recommendation as set forth in Section 6-57.11.

6-57.10 A Party's Failure to Appear for the Hearing

If a Tenant appears at a noticed Committee hearing and the Committee finds the Housing Provider either failed to appear without notifying the Executive Director prior to the hearing and providing a good reason for not appearing or appears at the hearing but does not have the full authority to answer for the Housing Provider or enter into binding agreements on behalf of the Housing Provider, the Rent Increase shall be void and the Housing Provider shall neither take any action to enforce such Rent Increase nor notice another Rent Increase for one year from the date that the proposed Rent Increase was to become effective. If the Tenant fails to appear at a noticed Committee hearing without notifying the Executive Director prior to the hearing and providing a good reason for not appearing and the Housing Provider appears, or if both the Tenant and the Housing Provider fail to appear without providing notice to the Executive Director and providing a good reason for not appearing, the Committee shall take no action on the request and the Tenant will be precluded from subsequently seeking further or additional review of the particular Rent Increase.

6-57.11. City Council Review of the Committee's Recommendation

A. After the Committee has issued its recommendation, if the parties do not concur, either the Housing Provider or the Tenant may within seven calendar days following the Commission's recommendation request the City Council to review the recommendation by filing such request with the Community Development Director.

B. The City Council's review will occur as soon as practicable and be limited to reviewing the Committee's recommendation and then issuing a letter, under the Mayor's signature, encouraging both parties to agree to the Committee's recommendation.

6-57.12. Violations

Any Rent Increase accomplished in violation of this Ordinance shall be void, and no Housing Provider shall take any action to enforce such an invalid Rent Increase. A violation of this Ordinance may be used as evidence in a Tenant's defense to an unlawful detainer action based on a Tenant's failure to pay any Rent Increase accomplished in violation of this Ordinance.

6-57.13 Annual Review

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

Section 2. 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 or unconstitutional, such decision shall not affect the validity of the remaining portions

of the Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, regardless of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 3. This Ordinance shall be in full force and effect from and after the expiration of 30 days from the date of its final passage.

Mayor of the City of Alameda

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 1st day of September, 2015, by the following vote to wit:

AYES:	Councilmembers Daysog, Ezzy Ashcraft, Matarrese, Oddie and Mayor Spencer – 5.
NOES:	None.
ABSENT:	None.
ABSTENTIONS:	None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 2nd day of September, 2015.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Janet C. Kern, City Attorney
City of Alameda