CITY OF ALAMEDA RESOLUTION NO. 15190

CALLING AN ELECTION TO BE CONSOLIDATED WITH THE CITY'S NEXT GENERAL MUNICIPAL ELECTION ON NOVEMBER 8, 2016, AND SUBMITTING TO THE VOTERS AT THAT ELECTION A MEASURE, THE RENT STABILIZATION ACT, THAT PROPOSES TO HAVE THE VOTERS CONFIRM ORDINANCE 3148, WHICH AMENDED THE ALAMEDA MUNICIPAL CODE BY (A) ADDING ARTICLE XV TO CHAPTER VI CONCERNING (1) REVIEW OF RENT INCREASES APPLICABLE TO ALL RENTAL UNITS AND RENT STABILIZATION APPLICABLE TO CERTAIN RENTAL UNITS AND (2) LIMITATIONS ON EVICTIONS AND THE PAYMENT OF RELOCATION ASSISTANCE APPLICABLE TO ALL RENTAL UNITS; (B) AMENDING SECTION 2-23.4 CONCERNING THE DUTIES OF THE RENT REVIEW ADVISORY COMMITTEE AND (C) SUSPENDING IN ITS ENTIRETY ARTICLE XIV OF CHAPTER VI IN ITS ENTIRETY

WHEREAS, for more than a year, community members 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 terminations of tenancies 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/or loss of property value; 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-, or moderate-incomes, 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 have any limitations on 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 then-current rent review procedures using the Rent Review Advisory Committee but include limitations on evictions and require 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, on January 5, 2016, the City Council heard more than five hours of testimony from members of the public concerning the proposed ordinances and thereafter

the City Council deliberated for another three and half hours; and

WHEREAS, after such deliberation, the City Council reached consensus on some, but not all, elements of the proposed ordinances and therefore directed staff to draft a new ordinance based on the consensus reached and to return a proposed ordinance to the City Council on February 16, 2016 for further Council consideration; and

WHEREAS, the moratorium ordinances that the City Council had adopted in November 2015 and December 2015 (Ordinance Nos. 3140 and 3143, respectively) were set to expire on January 9, 2016, and therefore the City Council on January 5, 2016 adopted an urgency ordinance (Ordinance No. 3144) extending the moratorium to March 9, 2016; and

WHEREAS, following the City Council meeting on January 5, 2016, City staff prepared and provided to the Council certain "Principles of Agreement" that were intended to reflect those items on which the City Council had reached consensus and those items on which the Council had not; and

WHEREAS, City staff determined that it would be in the best interest of the public for the City Council to discuss those Principles of Agreement at the Council's regular meeting on February 2, 2016 so that staff would have clear direction from the Council as to what elements it wanted included in the draft ordinance to be presented to the Council on February 16, 2016; and

WHEREAS, the City Council on February 2, 2016, received a staff report on the Principles of Agreement, took public comment thereon, deliberated among themselves as to what elements should be in a draft ordinance and then provided direction to staff concerning the draft ordinance; and

WHEREAS, the City Clerk published and posted a notice of public hearing for the City Council's regular meeting on February 16, 2016 for the purpose of considering a draft ordinance concerning rent stabilization, limiting evictions and other tenant protection measures; and

WHEREAS, the City Council considered the information and reports in its agenda packets dated November 4, 2015, December 1, 2015, January 5, 2016, February 2, 2016 and February 16, 2016, and public testimony received at its meetings of November 4, 2015, December 1, 2015, January 5, 2016, February 2, 2016 and February 16, 2016; and

WHEREAS, the City Council found and determined that if it did not enact Ordinance 3148 limiting the percentages and frequency of rent increases, as to those rental units to which the City may impose such limitations, the public peace, health and safety would be threatened because landlords 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 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 found and determined that if it did not enact Ordinance 3148 limiting the grounds for evictions without cause, the public peace, health and safety would be threatened because landlords will have an immediate incentive to serve termination of tenancy 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 found and determined that if it did not enact Ordinance 3148 compelling the payment of relocation assistance to certain displaced tenants, 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 enacting Ordinance 3148 provided a process that protects and satisfies those rights; and

WHEREAS, adoption of Ordinance 3148 was exempt from review under the California Environmental Quality Act (CEQA) pursuant to the following, each a separate and independent basis: CEQA Guidelines, Section 15378 and Section 15061(b)(3) (no significant environmental impact); and

WHEREAS, the City Council adopted Ordinance 3148 on March 1, 2016 and it became effective on March 31, 2016; and

WHEREAS, the City Council may submit to the qualified voters of the City of Alameda a measure to confirm Ordinance 3148 at an election consolidated with a regularly scheduled municipal election for approval by a majority vote; and

WHEREAS, pursuant to California Elections Code sections 9222, the City Council may submit to the qualified voters of the City a measure proposing the voters confirm the Rent Review, Rent Stabilization and Limitations on Evictions Ordinance; and

WHEREAS, the City intends to hold a General Municipal Election on November 8, 2016; and

WHEREAS, the City Council desires to submit to the qualified voters of the City of Alameda the Rent Stabilization Act that proposes to have the voters confirm Municipal Code Article XV to Chapter VI, Section 2-23.4 and suspension of Article XIV of Chapter VI in its entirety, while retaining the authority for Council to amend or repeal provisions of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALAMEDA THAT:

SECTION 1. Calling the Election. Pursuant to California Elections Code section 10403,

the City Council hereby calls an election to be consolidated with the General Municipal Election and the statewide general election on November 8, 2016, for the purpose of submitting the Rent Stabilization Act to a vote of the qualified voters of the City of Alameda, and hereby requests the Board of Supervisors of the County of Alameda to consolidate this election with the November 8, 2016, statewide general election to be held on that date. The Consolidated General Municipal Election shall be held and conducted in the manner prescribed by California Elections Code section 10418.

SECTION 2. Submission of Measure to the Voters. Pursuant to Elections Code sections 9222, 9255, 10201, and 10403, the City Council hereby orders the measure known as the Rent Stabilization Act to be submitted to the qualified voters of the City of Alameda at the next General Municipal Election on November 8, 2016. The full text of the Rent Stabilization Act that shall be voted on is attached hereto as Exhibit A.

SECTION 3. Ballot Question. The City Council, pursuant to California Elections Code sections 13247 and 10403, hereby orders that the abbreviated form of the measure as it shall appear on the ballot is as follows:

> **City of Alameda Measure:** Shall the voters adopt the City's March 31, 2016 Rent Stabilization Ordinance, which (a) limits residential rent increases to once annually, (b) requires mediation for all residential rent increases above 5%, including binding decisions on rent increases for most rental units, (c) restricts reasons for evictions, (d) requires landlords to pay relocation fees when terminating certain tenancies, and (e) permits the City Council to amend the ordinance to address changing concerns and conditions?

SECTION 4. Impartial Analysis by City Attorney. The City Clerk is hereby directed to transmit a copy of the measure attached hereto as Exhibit A to the City Attorney, who shall prepare an impartial analysis of the measure in accordance with California Elections Code section 9280. The City Attorney shall issue the impartial analysis within ten (10) days of receipt of the measure from the Clerk.

SECTION 5. Written Arguments by Council. Pursuant to California Elections Code sections 9282 and 9285 and City of Alameda Resolution 12317, the City Council, or any members of the City Council authorized by the City Council, shall file the direct argument in favor of the measure and rebuttal arguments. Pursuant to California Elections Code section 9285(b), the City Council hereby permits rebuttal arguments if arguments have been filed in favor of or against the measure.

SECTION 6. City Clerk. The City Clerk is hereby directed to file a certified copy of this resolution with the Alameda County Clerk of the Board of Supervisors and the County Registrar of Voters in sufficient time so that the measure may be included in the November 8, 2016 Consolidated General Municipal Election ballot. The City Clerk is hereby directed

to perform all other acts that are required for submitting the measure to be voted on at the November 8, 2016 Consolidated General Municipal election;

SECTION 7. Notice. Notice of the time and place of the election on these proposed City Charter and Municipal Code amendments is hereby given, and the City Clerk is authorized, instructed and directed to give further or additional notice of the calling of the Consolidated General Municipal Election, in the time, form and manner as required by law.

SECTION 8. Majority Vote. This measure adopts Ordinance 3148 and shall be approved if a majority (50% +1) of those voting on the measure approve it.

SECTION 9. Effective Date. This Resolution shall become effective upon its adoption.

THE RENT STABILIZATION ACT

The people of the City of Alameda do ordain as follows:

SECTION 1. Title.

This measure shall be known and may be cited as “The Rent Stabilization Act.”

SECTION 2. Purpose and Intent.

In enacting this measure, the people of the City of Alameda find and declare as follows:

(a) On March 1, 2016, the City Council adopted the Rent Stabilization and Limitations on Evictions Ordinance. The ordinance, which took effect on March 31, 2016, limits the percentages and frequency of rent increases to protect tenants against escalating rents that (a) impose an undue burden on the finances of many Alameda residents and (b) compel such residents either to pay the increased rent or face the 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.

(b) The Ordinance also limits the grounds for evictions without cause, thereby preventing landlords from terminating tenancies without cause and displacing many tenants in the City who, because of a critically low vacancy factor in the City, would be compelled to find housing elsewhere possibly at a higher rent or causing a long commute.

(c) In addition, the Ordinance provides for the payment of relocation assistance to certain displaced tenants intended to help offset costs of relocation, such as first and last month’s rent at a different rental unit or for moving expenses.

(d) Finally, the Ordinance recognizes the right of landlords to receive a fair, just and reasonable return on their properties by providing a process that protects and satisfies those rights.

(f) The voters’ confirmation of the Ordinance will allow the City to continue to implement the law, including the City Council having the ability to modify it if necessary to respond to concerns and changing conditions.

SECTION 3. Rent Stabilization and Limitations on Evictions Ordinance. Article XV to Chapter VI of the Alameda Municipal Code reads 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 Review, 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. Base Rent. "Base Rent" is the Rent that the Tenant is required to pay to the Landlord in the month immediately preceding the effective date of the Rent Increase.

B. Base Rent Year. "Base Rent Year" means 2015.

C. 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.

D. Capital Improvement Plan. "Capital Improvement Plan" means a plan that meets the criteria of a Capital Improvement and meets the following four criteria: (1) is submitted by a Landlord (a) on the Landlord's own initiative or (b) as a result of the Landlord'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 (c) in order for the Landlord to repair damage to the property as a result of fire, flood, earthquake or other natural disaster, (2) the cost of which improvement is not less than the product of eight times the amount of the monthly Rent multiplied by the number of Rental Units to be improved, (3) the implementation of which may render one or more Rental Units uninhabitable and (4) is approved by the City.

E. City. "City" means the City of Alameda.

F. Committee. "Committee" means the Rent Review Advisory Committee created in Article II of Chapter II of the Alameda Municipal Code.

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

H. 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.

I. Costs of Operation. "Costs of Operation" means all reasonable expenses 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, but Costs of Operation exclude Debt Service, depreciation and Capital Improvements.

J. Council. “Council” means the City Council of the City of Alameda.

K. 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 of which it is a part, including any fees, commissions or other charges incurred in obtaining such financing.

L. Housing Authority. “Housing Authority” is the Housing Authority of the City of Alameda.

M. 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.

N. Housing Unit. “Housing Unit” means a room or group of rooms that includes a kitchen, bathroom and sleeping quarters, designed and intended for occupancy by one or more persons as separate living quarters, but does not mean a room or rooms in a single family residence.

O. Landlord. “Landlord” means any person, partnership, corporation or other business entity offering for rent or lease any Rental Unit in the City and shall include, except as set forth in subsection D of Section 6-58.90 and in subsection F of Section 6-58.140, 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.

P. Maximum Increase. “Maximum 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 5%.

Q. 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.

R. Notice to Vacate. “Notice to Vacate” means a notice to vacate a Rental Unit that a Landlord serves on a Tenant under Section 1946.1 of the California Civil Code and Section 1162 of the California Code of Civil Procedure.

S. Party. “Party” means a Landlord or Tenant.

T. Programs. “Programs” mean the programs created by this Article.

U. Program Administrator. “Program Administrator” is a person designated by the City or the Housing Authority to administer one or more of the Programs.

V. Program Fee. “Program Fee” means the fee the City imposes on each property owner or Landlord of a Rental Unit to cover the costs to provide and administer the Programs.

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 Landlord for the possession and use of a Rental Unit and related Housing Services; as to any Landlord whose Rental Unit was but is no longer exempt from this Article under paragraph (i) of subsection Z of Section 6.58.15, 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 Program Administrator 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 offered or available for Rent in the City of Alameda, and all Housing Services in connection with the use or occupancy thereof, other than (i) Housing Units, regardless of ownership, for which the Rents are regulated by federal law or by regulatory agreements between a Landlord and (a) the City, (b) the Housing Authority or (c) any agency of the State of California or the Federal Government; provided, however, if the Housing Unit no longer qualifies for the exemption, for example, the Landlord withdraws from a subsidy program or a regulatory agreement expires, the Housing Unit will immediately cease to be exempt, (ii) Housing Units that are rented or leased for 30 days or less, (iii) accommodations in hotels, motels, inns, 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, such as office condominiums or commercial storage units, (v) housing accommodations in any hospital, convent, monastery, extended care facility, convalescent home, home for the aged or dormitory operated by an education institution or (vi) mobile homes or mobile home lots.

AA. Tenant. "Tenant" means any person having the legal responsibility for the payment of Rent for a Rental Unit and shall include a person's conservator or legal guardian.

6-58.20. Notices and Materials to be Provided to Current and Prospective Tenants

A. In addition to any other notice required to be given by law or this Article, a Landlord shall provide to a current Tenant and 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 City provides that explains this Article.

B. For leases that begin on or after the effective date of this Ordinance, a Landlord shall comply with the requirements of subsection A of this Section 6-58.20 no later than the date on which the Landlord receives the first payment of Rent from the Tenant. For month to month tenancies in existence as of the effective date of this Ordinance, a Landlord shall comply with the requirements of subsection A of this Section 6-58.20 no later than the day following the expiration of the current month

of the tenancy. For a prospective Tenant, a Landlord shall comply with the requirements of subsection A of this Section 6-58.20 prior to, or concurrently with, the Landlord's offering the Tenant a one year lease as required by Section 6-58.35.

6-58.25. 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 this Article and all regulations that the City promulgates to implement this Article.

B. The failure of a Landlord to make the disclosure set forth in subsection A of this Section 6-58.25 shall not in any manner excuse a purchaser of such Rental Unit or property of any of the obligations under this Article.

6-58.30 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. The notice to the Tenant that the Landlord is proposing a Rent Increase of more than 5% and has initiated the process to have the Committee review the Rent Increase as required by Section 6-58.75;

B. The terms of any settlement as to the Rent Increase reached between the Landlord and the Tenant when either the Tenant or the Landlord has requested the Committee to review the Rent Increase but settlement is reached before the Committee's hearing (Sections 6-58.75 D);

C. The petition when the Landlord disagrees with the decision of the Committee and files a petition with the Program Administrator (Section 6-58.100);

D. Certain notices to terminate a tenancy (Section 6-58.140 A, F, G, H, I and J; Section 6-58.155);

E. The amount of the Rent for the new Tenant when the current tenancy is terminated for no cause (Section 6-58.140 A 2);

F. 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 6-58.140 F);

G. Written notice that the Landlord or the enumerated relative who was intended to move into a Rental Unit either 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 one year (Section 6-58.140 F. 6.).

H. The requisite documents initiating the process to withdraw the Rental Unit from rent or lease permanently under Government Code, section 7060 et seq. (Section 6-58.140 I); and

I. Written proof of the relocation assistance provided to the Tenant if different than as provided in Section 6-58.150 (Section 6-58.150 D).

J. Requests for a Rent Increase in Conjunction with a Capital Improvement Plan

6-58.35. Offer of a One Year Lease

A Landlord shall offer one time a one year lease to:

A. Any prospective Tenant.

B. Any current Tenant with a lease at the first time the Landlord serves a notice of Rent Increase following the effective date of this Ordinance unless (1) the current lease is not a fixed term lease and the Landlord has served on the Tenant a Notice to Vacate or (2) the Tenant is in default under the lease and offering a lease to the Tenant may waive any claims the Landlord has regarding the default. If the current lease is not a fixed term lease, the Landlord shall not offer the Tenant a fixed term lease unless the Tenant requests such a lease. The Landlord must offer a Tenant a lease that has terms materially the same as the terms in the current lease as to duration, Housing Services and household composition provided such terms do not conflict with this Article.

C. Any current Tenant on a month to month tenancy at the first time the Landlord serves a notice of Rent Increase following the effective date of this Ordinance unless the Landlord has notified the Tenant that the Tenant is in default under the month to month tenancy and offering a lease to the Tenant may waive any claims the Landlord has regarding the default.

6-58.40. Limitations on Revising What is Included in the Rent

A. 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 Landlord for the possession and use of the Rental Unit that are not identified separately within the lease, a Landlord shall not unbundle or increase any of such charges during the term of the lease 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. As to the terms of a new or renewed lease, to the extent a Landlord unbundles any of such charges or fees and lists them separately within a new or renewed lease, the amount of such charges or fees shall be included in calculating the Maximum Increase except for 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 Ratio Utility Billing System or similar cost allocation system.

B. Notwithstanding subsection A of section 6-58.40, to the extent that a Tenant requests Housing services that were not included in an existing lease, 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 Increase.

6-58.45. Limitations on the Frequency of Rent Increases

No Landlord shall increase the Rent of any Rental Unit more than once in any twelve month period.

6-58.50 Notice of Review Procedures for Rent Increases; Exceptions

A. In addition to the notice of a Rent Increase required by Civil Code, section 827 (b), at the time a Landlord provides such notice to the Tenant, the Landlord shall also provide to the Tenant a notice of availability of the rent review procedures established by this Article when the Rent Increase is equal to or less than the Maximum Increase and a notice that the Landlord has requested the Committee to review the Rent Increase when the Rent Increase is more than the Maximum Increase.

B. Notwithstanding subsection A of this section 6-58.50, a Landlord is not required to provide the notice described in subsection A of this section 6-58.50 when the Landlord has submitted a Capital Improvement Plan that includes as part of that Plan a proposed Rent Increase that exceeds the Maximum Increase.

C. Any notice of Rent Increase or a Rent Increase in violation of Sections 6-58.50, 6-58.55, 6-58.60 or 6-58.65 shall be void and a Landlord shall take no action to enforce such an invalid Rent Increase; provided, however, a Landlord may cure the violation by re-serving the Tenant with the notice that complies with the provisions of Sections 6-58.50, 6-58.55, 6-58.60 or 6.58.65. A Tenant may use as evidence in a Tenant's defense to an unlawful detainer action based on the Tenant's failure to pay the illegal Rent Increase of the Landlord's violation of Sections 6-58.50, 6-58-55, 6-58.60 or 6-58.65, or any other violation of this Article.

6-58.55 Information in and Service of the Notice.

All notices of the availability of rent review procedures under this Article shall be in writing and shall provide the name, address, phone number and email address of the Landlord. The Landlord shall serve notice of the availability of the rent review procedures or that the Landlord has requested the Committee to review the Rent Increase concurrently with, and in the same manner as, the notice of Rent Increase.

6-58.60 Text of Notice to Tenant When Rent Increase is Equal to or less than the Maximum Increase.

In addition to all other information that the Landlord must provide to a Tenant in a Rental Unit in the notice of the availability of rent review procedures established by this Article, if the rent increase is at or below the Maximum Increase, the notice of the availability of rent review procedures shall state:

"**NOTICE: Under Civil Code, section 827 (b), a Landlord 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 greater than 10%. Because your Landlord proposes a Rent Increase that is at or below the Maximum Increase (as defined in subsection P of Section 6-58.15 of the Alameda Municipal Code), under Article XV of Chapter VI of the Alameda Municipal Code your Landlord must at the same time provide this Notice that advises you of the availability of the City's rent review procedures.**

You may request the City's Rent Review Advisory Committee to review the increase by submitting in writing a request for review within 15 calendar days of your receipt of the notice of the Rent Increase either by mailing the request to the Program Administrator, 701 Atlantic Avenue, Alameda, CA 94501, or emailing the request to the Program Administrator at rrac@alamedahsg.org. You must submit along with your request a copy of the notice of the Rent Increase. If you do not submit a request within 15 calendar days, the Committee will not have the authority to review the Rent Increase.

If you submit such a request, the Program Administrator will advise you of the date, time and place of the hearing concerning the Committee's review of the Rent Increase. If the effective date of the Rent Increase is before the date of the hearing, you must nevertheless pay the Rent Increase. If you and your Landlord reach agreement as to the Rent Increase before the hearing, you and your Landlord must provide written confirmation to the Program Administrator concerning the terms of such agreement. If no agreement is reached, you and your Landlord must appear before the Committee concerning the Rent Increase. If you fail to appear at the hearing, the Committee will not consider your request and you will be precluded from seeking further or additional review of the particular Rent Increase under the City's rent review procedures.

At the hearing, the Committee will make a decision concerning your request. You and your Landlord may agree to accept the Committee's decision even though the Committee's decision will be non-binding on you and your Landlord. If you and your Landlord agree to a Rent Increase less than the Rent Increase your Landlord requested and you have already paid the Rent Increase, your Landlord must provide you with a refund or a credit against future rents.

It is illegal for a Landlord to retaliate against a Tenant for the Tenant's lawfully and peacefully exercising his or her rights including a request for the Committee to review a Rent Increase. Civil Code, section 1942.5. A Landlord's efforts to

evict a Tenant within six months of a Tenant's requesting a hearing or otherwise participating in any way in the City's rent review process may be used as evidence of a retaliatory eviction."

6.58.65 Text of Notice When Rent Increase is Greater than the Maximum Increase.

In addition to all other information that the Landlord is required to provide to a Tenant in a Rental Unit in the notice of availability of rent review procedures established by this Article, if the Rent Increase is greater than the Maximum Increase, the notice shall state:

"NOTICE: Under Civil Code, section 827 (b), a Landlord 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 greater than 10%. Because your Landlord proposes a Rent Increase that is greater than the Maximum Increase (as defined in subsection P of Section 6-58.15 of the Alameda Municipal Code), under Article XV of Chapter VI of the Alameda Municipal Code your Landlord must at the same time provide this Notice that advises you that the Landlord has requested the City's Rent Review Advisory Committee to review the Rent Increase.

If your Rental Unit is not exempt from certain provisions of the City's Rent Review, Rent Stabilization and Limitations on Evictions Ordinance, the Rent Increase will not go into effect until the Committee reviews the Rent Increase, unless you and your Landlord agree otherwise. If your Rental Unit is exempt from certain provisions of the City's Rent Review, Rent Stabilization and Limitations on Evictions Ordinance and if the effective date of the Rent Increase is before the date of the Committee's hearing, you must pay the Rent Increase. You will need to contact the Program Administrator (rrac@alamedahsg.org) as to whether your Rental Unit is or is not exempt from certain provisions of the City's Rent Review, Rent Stabilization and Limitations on Evictions Ordinance.

The City's Program Administrator (rrac@alamedahsg.org) will advise you of the date, time and place of the Committee's hearing concerning its rent review. If you and your Landlord reach agreement as to the Rent Increase before the hearing, you and your Landlord must provide written confirmation to the Program Administrator concerning the terms of such agreement. If no agreement is reached, you and your Landlord must appear before the Committee concerning the Rent Increase. If you fail to appear at the hearing, the Committee will not consider the matter and you will be precluded from seeking further or additional review of the particular Rent Increase under the City's rent review procedures.

At the hearing, the Committee will make a decision concerning the Rent Increase. You and your Landlord may agree to accept the Committee's decision. Depending on whether your Rental Unit is or is not exempt from certain provisions of the City of Alameda's Rent Review, Rent Stabilization and

Limitations on Evictions Ordinance, the decision of the Committee may be non-binding or may become binding on you and your Landlord.

If your Rental Unit is not exempt from certain provisions of the City's Rent Review, Rent Stabilization and Limitations on Evictions Ordinance, and if you or your Landlord do not agree with the Committee's decision, you or your Landlord may file a petition with the Program Administrator within seven calendar days of the Committee's decision and have the determination of the Rent Increase decided by a neutral Rental Dispute Hearing Officer whose decision is final and binding. If you or your Landlord do not agree with the Committee's decision and do not file a timely petition, the Committee's decision will be binding on you and your Landlord. You will need to contact the Program Administrator (rrac@alamedahsg.org) concerning whether the Committee's decision will be binding on you and your Landlord if you or your Landlord do not file a timely petition.

If your Rental Unit is exempt from certain provisions of the City's Rent Review, Rent Stabilization and Limitations on Evictions Ordinance, the Committee's decision as to the Rent Increase is non-binding on you and your Landlord. You will need to contact the Program Administrator concerning whether the Committee's decision will be non-binding on you and your Landlord.

It is illegal for a Landlord to retaliate against a Tenant for the Tenant's lawfully and peacefully exercising his or her rights including a request for the Committee to review a Rent Increase. Civil Code, section 1942.5. A Landlord's efforts to evict a Tenant within six months of a Tenant's participating in the City's rent review process may be used as evidence of a retaliatory eviction."

6-58.70 Tenant's Request for Rent Review

A. A Tenant may request the Committee to hear a proposed Rent Increase when the Landlord proposes to increase the Base Rent at or below the Maximum Increase.

B. The tenant requesting review must within fifteen calendar days of the Tenant's receipt of the notice of Rent Increase either (a) mail or email the written request for review to the Program Administrator (rrac@alamedahsg.org) or (b) call the Program Administrator and request a review. In either event, the Tenant must submit to the Program Administrator a copy of the notice of Rent Increase.

6-58.75 Landlord's Request for Rent Review

A. A Landlord must comply with all the notice and participation provisions of this Article and must request the Committee to review a Rent Increase when the Landlord proposes to increase the Base Rent by more than the Maximum Increase.

B. A Landlord must within 15 calendar days from the date the Landlord serves on the Tenant the notice of Rent Increase either (a) mail or e-mail the written request for review to the Program Administrator (rrac@alamedahsg.org) or (b) call the Program

Administrator and request a review. In either event, the Landlord must submit to the Program Administrator a copy of the notice of Rent Increase.

C. A Landlord's failure to comply with subsections A and B of Section 6-58.75 shall render the Rent Increase null and void; provided, however, a Landlord may cure the violation by re-serving the Tenant with the notice that complies with the provisions of Sections 6-58.50, 6-58.55, 6-58.60 or 6-58.65..

D. If, prior to the hearing (whether the Landlord or the Tenant has requested the Committee to review the Rent Increase), the Landlord and Tenant reach agreement as to the Rent Increase, the Landlord and the Tenant must inform the Program Administrator in writing concerning the terms of the agreement as to the Rent Increase.

6-58.80 Effective Date of Rent Increases

A. If the Rent Increase is equal to or less than the Maximum Increase and the effective date of the Rent Increase occurs before the Committee's hearing, unless the landlord and the tenant agree, the rent increase will become effective as provided in the notice of Rent Increase but subject to subsection A of Section 6-58.90 (a Landlord's failure to appear at the Committee's hearing renders the Rent Increase void.

B. If the Rent Increase is more than the Maximum Increase,, the Rent Increase will be effective only as provided in subsections D, E, F or G of Section 6-58.85.

6-58.85 Committee's Hearing and Decision

A. At the hearing, the Committee will afford the Landlord and the Tenant the opportunity to explain their respective positions as to the Rent Increase. Neither the Committee as a whole nor any individual member of the Committee will act as an advocate for either the Landlord or the Tenant.

B. The Committee may take into consideration any factors that may assist the Committee in determining a fair resolution concerning the Rent Increase including, but not limited to, such factors as the financial hardship to the Tenant, the frequency, amount and the presence or absence of prior Rent Increases including any Rent increases that the Landlord was prevented from noticing or imposing during the moratorium (November 5, 2015 through April 1, 2016), the Landlord's Costs of Operation including, as to historic buildings, that costs to repair or maintain may be higher than comparable costs for non-historic buildings, any increases or decreases in Housing Services since the last Rent Increase, and the Landlord's interest in earning a just and reasonable rate of return on the Landlord's property.

C. The Committee will render a decision concerning the Rent Increase.

D. If the parties agree with the Committee's decision, the Landlord and all Tenants who have financial responsibility for the Rent shall formalize and sign an agreement, in a form to be provided by the City, to that effect. Neither the City, the Program

Administrator nor the Committee shall be a signatory to such an agreement and neither the City, the Program Administrator nor the Committee shall assume any obligation or responsibility to enforce the terms of the agreement, except as provided in this Article.

E. If the Tenant has requested the Committee to review the Rent Increase pursuant to Section 6-58.70, the Committee's decision will be non- binding on the parties.

F. If the Landlord has requested the Committee to review the Rent Increase and either the Landlord or the Tenant does not agree with the Committee's decision, unless the Rental Unit is an exempt Rental Unit under Section 6-58.135, either party may file a petition for further review of the Rent Increase as set forth in Section 6-58.100 or Section 6-58.105. If neither party files a petition, the Committee's decision will be binding on the parties and the Rent Increase shall be effective upon the expiration of the time to file the petition. If either party files a petition, the Rent Increase shall take effect only as provided in subsection D of Section 6-58.100 or subsection D of Section 6-58.105.

G. If the Landlord has requested the Committee to review the Rent Increase and either the Landlord or the Tenant does not agree with the Committee's decision, and the Rental Unit is an exempt Rental Unit under Section 6-58.135, the Committee's decision is non-binding on the parties and the Rent Increase shall be effective as provided in the notice of Rent Increase but subject to subsection A of Section 6-58.90 (a Landlord's failure to appear at the Committee's hearing renders the Rent Increase void).. Either the Landlord or the Tenant may request the City Council to review the Committee's decision as set forth in Section 6-58.95 but such request shall not delay the effective date of the Rent Increase.

6-58.90. A Party's Failure to Appear for the Hearing

Regardless of whether a Landlord or a Tenant has requested the Committee to review the Rent Increase:

A. If the Tenant appears at a noticed Committee hearing and the Committee finds the Landlord failed to appear without notifying the Program Administrator prior to the hearing and providing a good reason for not appearing, the Rent Increase shall be void and the Landlord shall neither take action to enforce such Rent Increase nor notice another Rent Increase for one year from the date the proposed rent increase was to become effective.

B. If the Landlord appears at a noticed Committee hearing and the Committee finds the Tenant failed to appear without notifying the Program Administrator prior to the hearing and providing a good reason for not appearing, the Committee shall take no action and the Landlord's Rent Increase will be effective as of the effective date of the Rent Increase in the notice of Rent Increase.

C. If both the Tenant and the Landlord fail to appear at a noticed Committee hearing without providing notice to the Program Administrator prior to the hearing and providing good reasons for not appearing, the Committee shall take no action, the Rent Increase shall be void and the Landlord shall neither take action to enforce

such Rent Increase nor notice another Rent Increase for one year from the date the proposed Rent Increase was to become effective.

D. For purposes of this Section 6-58.90, when the Landlord has requested the Committee to hear the Rent Increase, "Landlord" shall mean a person who has an ownership interest in the Rental Unit or the property in which the Rental Unit is located or, if an entity owns the Rental Unit or the property in which the Rental Unit is located, then a person from that entity who has the lawful authority to bind the entity must appear at the hearing and the failure of such person to attend the hearing will constitute a failure to appear as set forth in subsections A and C of this Section 6-58.90.

6-58.95 City Council Review of the Committee's Decision

A. After the Committee has made its decision, if the Rental Unit is an exempt Rental Unit under Section 6-58.135, either the Tenant or the Landlord may within seven calendar days following the Committee's decision request the City Council to review the decision by filing such request with the Program Administrator.

B. The City Council's review of the Rent Increase under subsection A of this Section 6-58.95 will occur as soon as practicable and be limited to reviewing the Committee's decision and then issuing a letter, under the Mayor's signature, as to the Council's non-binding recommendation as to the Rent Increase.

6-58.100. Petitions Filed by Landlords Following the Committee's Decision

A. Any Landlord whose Rental Unit is not an exempt Rental Unit under Section 6-58.135 and who does not agree with the Committee's decision under Section 6-58.85 may initiate a hearing process by filing a petition with the Program Administrator provided that the Landlord shall also notify in writing all Tenants subject to such proposed Rent Increase that the Landlord has filed such petition. The Landlord shall include with the petition a list of names and addresses of all such Tenants.

B. Petitions must be filed on a form prescribed by the Program Administrator and must be accompanied by such supporting material as the Program Administrator shall prescribe including, but not limited to, a copy of the Landlord's notice of the Rent Increase.

C. If the Landlord does not file the petition and the prescribed documentation within 15 calendar days of the date of the Committee's decision, and if the Tenant has not filed a petition as provided under Section 6-58.105, the Committee's decision will be binding on the parties.

D. Provided that a petition has been filed as provided in this Section 6-58.100, the Rent 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.

6-58.105 Petitions Filed by Tenants Following the Committee's Decision

A. A Tenant whose Rental Unit is not an exempt Rental Unit under Section 6-58.135 and who does not agree with the Committee's decision under Section 6-58.85 may initiate a hearing process by filing a petition with the Program Administrator and notifying the Landlord in writing that the Tenant has filed such petition.

B. Petitions must be filed on forms as prescribed by the Program Administrator and must be accompanied by such supporting material as the Program Administrator shall prescribe including, but not limited to, a copy of the Landlord's notice of the Rent Increase.

C. A Tenant must file the petition and the prescribed documentation within 15 calendar days of the date of the Committee's decision. If a Tenant does not file the petition within 15 calendar days of the date of the Committee's decision, and if the Landlord has not filed a petition under Section 6-58.100, the Committee's decision will be binding on the parties.

D. Provided that a petition has been filed as provided in this Section 6-58.105, the Rent Increase shall not take effect until 60 days after a decision by the 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.

6-58.110. Burden of Proof

The party who files the petition shall have the burden of proof. As to the burden of proof, the Hearing Officer will 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 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 petitioner did not prove it.

6-58.115. Hearing Process

A. The Program Administrator 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 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. The hearing will be reported by a certified court reporter for purposes of judicial review.

6-58.120. 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 6-58.125, 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, the Program Administrator and the City.

6-58.125. Criteria to be applied to rent increases

In determining whether or not a Rent Increase is reasonable, the Hearing Officer shall take into account the purposes of this Article to eliminate imposing excessive Rent Increases while providing Landlords with a just and reasonable return on property, the non-exclusive factors that the Committee considered in making its decision as set forth in subsection B of Section 6-58.85, the existing market value of rents to Rental Units similarly situated, the vacancy rate in the building or complex in comparison to comparable buildings or complexes in the same general area, the physical condition of the Rental Unit or building/complex of which the Rental Unit is part, and the quality and quantity of maintenance and repairs to the Rental Unit or the building/complex of which the Rental Unit is part. 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 Landlord with a just and reasonable rate of return on property.

6-58.130. Rent Dispute Hearing Officer's Decision—Final Unless Judicial Review is Sought

The 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.

6-58.135. Exemptions

The following Rental Units shall be exempt from the provisions of Sections 6-58.100, 6-

58.105, 6-58.110, 6-58.115, 6-58.120, 6-58.125 and 6-58.130 but are subject to all other Sections of this Article: 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 Rental 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 6-58.140. 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. Notice to Vacate. A Landlord may terminate a tenancy under Civil Code, section 1946.1 (a termination of tenancy for "no cause") but the following provisions shall apply:

1. The Landlord shall not impose on a new Tenant Rent that exceeds more than 5% of the amount of the Rent in effect at the time the Tenant was served with a Notice to Vacate, and the Landlord shall inform the new Tenant in writing of the amount of the Rent that was in effect at the time the prior Tenant was served with a Notice to Vacate and that the Rent imposed on the new Tenant does not exceed the prior Rent by more than 5%.

2. The Landlord must provide to the Program Administrator a copy of the Notice to Vacate served on the Tenant and the amount of the Rent in effect at the time the Notice to Vacate was served and the amount of the Rent that the new Tenant will be charged.

3. Except for Rent Increases as provided in this Article, if it is determined the Landlord imposes Rent on the new Tenant that exceeds that allowable under paragraph 1 of subsection A of this section 6-58.140, in addition to any other penalties or remedies available to the existing Tenant, the City or the previous Tenant, the Landlord shall reduce the Rent to that allowable under paragraph 1 of subsection A of this Section 6-58.140 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 paragraph 1 of subsection A of this Section 6-58.140 and the Rent in effect when the previous Tenant was served with a Notice to Vacate, retroactive to the date when the excessive Rent was first paid.

4. As to any building or buildings with five or more Rental Units, a Landlord may use this subsection A of Section 6-58.140 for no more than 10% of all Rental Units in any month, and no more than 25% of all Rental Units (rounded up to the nearest whole number if 0.5 or more or rounded down to the nearest whole number if 0.4 or less) in any consecutive twelve month period.

5. As to any building or buildings with no more than four Rental Units, a Landlord may

use this subsection A of Section 6-58-140 for only one rental unit in any consecutive twelve month period.

B. Failure to pay rent. The Tenant upon proper notice has failed to pay the Rent to which the Landlord is entitled under a written or oral 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.

C. Breach of lease. 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 6-58.140, a Landlord 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 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.

D. 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.

E. 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.

F. 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 the Landlord, or the Landlord's spouse, domestic partner, children, parents, grandparents, grandchildren, brother, sister, father-in-law, mother-in-law, son-in- law, or daughter-in-law.

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 and the vacant Rental Unit is comparable in size and amenities 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 Landlord of the person intended 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 one year.

5. If the Landlord or enumerated relative specified on the notice terminating the tenancy 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 for one year, the Landlord shall:

   a) Offer the Rental Unit to the Tenant who vacated it and at the same Rent that was in effect at the time the Tenant vacated the Rental Unit; and

   b) Pay to the Tenant all reasonable and documented expenses incurred in moving to and from the Rental Unit, to the extent such expenses exceed the relocation assistance the Landlord has already paid to the Tenant as provided in Section 6-58.150.

G. Demolition. The Landlord seeks in good faith 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.

H. 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.

I. Withdrawal from the rental market. The Landlord seeks in good faith to take action to terminate a tenancy by filing with the Program Administrator the requisite documents to initiate the process to withdraw the Rental Unit from rent or lease under Government Code, section 7060 et seq. with the intent of completing the withdrawal process and going out of the residential rental business permanently.

J. Compliance with a governmental order. The Landlord 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 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.

   b. The Landlord shall pay to the Tenant all reasonable expenses incurred in vacating the Rental Unit, as provided in Section 6-58.150 and all reasonable and documented expenses incurred in moving into the Rental Unit should the Tenant do so.

6-58.150. Required Payment of a Relocation Fee.

A. If the Landlord has taken any action to terminate a tenancy on the grounds set forth in subsections A, F, G, H, I or J of Section 6-58.140, the Landlord shall pay a relocation fee in an amount of one month's Rent, 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 if the tenant has lived in the Rental Unit for four or more years, 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 Landlord 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 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 that relocation assistance shall operate as a credit against any relocation fee to be paid to the Tenant(s) under this subsection 6-58.150.

   2. After taking into account any adjustments in the amount of the relocation fee under subsection C of Section 6-58.150, the Landlord shall pay one half of the applicable relocation fee when the Tenant has informed the Landlord 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 on the date provided in the notice, as permissibly extended by subsection C of Section 6-58.150.

C. Notwithstanding subsection A of Section 6-58.150, as to any Rental Unit to be vacated under subsections A, G or I of Section 6-58.140, a Tenant has the choice to remain in the Rental Unit, starting 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 Unit for four or more years, but the Landlord's requirement to pay the relocation fee 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.

D. Nothing provided herein prohibits a Landlord and a Tenant from agreeing to relocation assistance different than as provided in this Section, provided the Landlord and Tenant provide to the Program Administrator written proof of the alternative relocation assistance within 21 days of the Tenant's vacating the Rental Unit.

6-58.155. 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, if any.

B. If the cause for terminating the tenancy is for the grounds in subsections B, C, D or E of Section 6-58.140 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 A, F, G, H, I or J of Section 6-58.140, 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 6-58.140, 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.

E. The Landlord shall file with the Program Administrator within seven calendar days after having served any notice required by Section 6-58.140 a copy of such notice.

6-58.160. 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 (i) for the Tenant's assertion or exercise of rights under this Article 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 this Article or (iii) for the Tenant's 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.

6-58-170. Program Fee

This section intentionally left blank

6-58.175. 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.

6-58.180. 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.

6-58.185. Penalties 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, 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 of Section 6-58.185 it shall constitute a misdemeanor for any Landlord to have demanded, accepted, received or retained any Rent in excess of the Maximum Rent allowed by a binding decision of the Committee, a decision of a Rent Dispute Hearing Officer, or by a final judgment of a court of competent jurisdiction should the Rent Dispute 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 attorney's fees.

6-58.190. 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.

6-58.195. Annual Review

The Community Development Director shall annually prepare a report to the Council assessing the effectiveness of the Programs 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 2-23.4 of the Alameda Municipal Code reads as follows:

2-23.4 Duties of the Committee

It shall be the duty of the Committee to hold hearings in response to a request for a rent increase review. The Committee will afford the parties involved in the request the opportunity to explain their respective positions. The Committee as a whole and individual members of the Committee shall not act as an advocate of either the Landlord or the tenant. As to its review of a rent increase, the provisions of Section 6-58.85 of this Code shall apply.

Article XIV of Chapter VI of the Alameda Municipal Code [Rent Review] (Sections 6-57.1 through 6-57.13) is hereby suspended in its entirety but the suspension shall be lifted if Ordinance No. 3148 is repealed by operation of law or otherwise.

SECTION 4. Future Amendment or Repeal of the Ordinance.

The City Council of the City of Alameda may amend or repeal the provisions of this City Council-sponsored measure in response to changing conditions and concerns, without a future vote of the people to amend or repeal such provisions.

SECTION 5. Conflicting Law.

If this City Council-sponsored measure and any other ballot measure or measures, whether a proposed City Charter amendment or otherwise, addressing rent, eviction, and/or relocation assistance appear on the same ballot, and a majority of the voters vote in favor of both or all measures but this City Council-sponsored measure receives more votes than the other measure or measures, this City Council-sponsored measure alone shall become valid and binding in its entirety, and the other measure or measures shall be null and void in its/their entirety and without any legal effect. If a majority of the voters vote in favor of this City Council-sponsored measure and also in favor of the other measure or measures, but this City Council-sponsored measure receives fewer votes than the other measure or measures, only those provisions of the other measure or measures that are in direct and irreconcilable conflict with the provisions of this measure shall control, and all other provisions of this City Council-sponsored measure shall become valid and binding. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure or measures.

SECTION 6. Severability.

This measure shall be interpreted and applied so as to be consistent with all federal, state, and local laws, rules, and regulations. If any provision of this Act or part thereof, or any application thereof, is for any reason held to be invalid or unconstitutional, the remaining sections and applications shall not be affected but shall remain in full force and effect, and to this end, the provisions of this initiative measure are severable.

SECTION 7. Execution.

The Mayor is hereby authorized to attest to the adoption of this Ordinance by signing where indicated below.

I hereby certify that the foregoing ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Alameda voting on the 8th day of November, 2016.

_____
Presiding Officer of the City Council

ATTEST:

_____
Lara Weisiger, City Clerk

* * * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 8th day of August 2016, by the following vote to wit:

AYES:	Councilmembers Daysog, Matarrese and Mayor Spencer – 3.
NOES:	Councilmembers Ezzy Ashcraft and Oddie – 2.
ABSENT:	None.
ABSTENTIONS:	None.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the seal of said City this 9th day of August 2016.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Janet C. Kern, City Attorney
City of Alameda