

COVID-19 URGENCY ORDINANCE REGULATION 20-01

IMPLEMENTING REGULATIONS CONCERNING THE TEMPORARY MORATORIUM ON RESIDENTIAL EVICTIONS DUE TO THE COVID-19 PANDEMIC

Whereas, as a result of the serious public health issue caused by the COVID-19 virus, Governor Newsom has ordered all residents of California to stay at home except for conducting essential business and has issued an Executive Order giving cities broad authority to enact legislation concerning evictions; and

Whereas, on March 17, 2020, the City of Alameda declared a local state of emergency based on the COVID-19 pandemic; and

Whereas, on March 17, 2020, as a result of the local state of emergency and government ordered directives, the City Council adopted an urgency ordinance to help protect residential tenants who have experienced, or who may experience, sudden income loss, leaving such tenants vulnerable to eviction; and

Whereas, on April 7, 2020, as a result of the continuing local state of emergency and government ordered directives, the City Council adopted another urgency ordinance (Ordinance No. 3275) to broaden the protection from eviction to residential tenants; and

Whereas, Section 5 of Ordinance No. 3275 provides that the Community Development Director has the authority to promulgate regulations to implement the requirements and fulfill the purposes of the Ordinance.

NOW, THEREFORE, under Section 5 of Ordinance No. 3275, the Community Development Director adopts the following implementing regulations concerning the temporary moratorium on the eviction of residential tenants due to the COVID-19 pandemic.

Section 1. Capitalized terms shall have the same meaning as Capitalized terms as defined in Ordinance No. 3275. In addition, the following definitions are adopted:

- A. "Delayed Payment" means all or part of a Tenant's rent payment that, beginning March 1, 2020 and continuing until 30 days after the City Council rescinds the Declaration of Local Emergency, the Tenant does not make to a landlord as a result of the Tenant's Substantial Loss of Income as that term is defined in Ordinance No. 3275.
- B. "Declaration of Local Emergency" shall mean the declaration of a local state of emergency adopted by the City Council on March 17, 2020.
- C. "Tenant" includes any member of a tenant's household who is legally responsible for paying rent.
- D. "Utilities" include water, gas, electricity, sewer, refuse service, cable television, internet services and laundry facilities.
- E. "Writing" may include email or text communications to a landlord or the landlord's representative with whom the Tenant has previously communicated or corresponded.

Section 2. Nothing in Ordinance No. 3275 shall relieve a residential Tenant of liability for unpaid rent, payment of which a landlord may seek no sooner than 30 days after the City Council's rescission of the Declaration of Local Emergency. With respect to any Delayed Payment, a Tenant shall be deemed not to be in default of rent payment obligations unless the Tenant fails to tender the full amount of the Delayed Payment within 180 days after 30 days following the City Council's rescission of the Declaration of Local Emergency. A landlord shall not charge, impose or collect from a Tenant a late fee, penalties, fines or interest for a Delayed Payment, nor impose an additional security deposit due to a Delayed Payment.

Section 3. Tenants are encouraged to notify the landlord in Writing of any Delayed Payment on or before their rent is due but a Tenant's failure to so notify does not forfeit the Tenant's affirmative defense under Ordinance No. 3275. A form of a notice that a Tenant may provide to the Tenant's landlord concerning a Delayed Payment is available [here](#) or by contacting the City Attorney's Office at cityattorney@alamedacityattorney.org (510-747-4700).

Section 4. During the time the Declaration of Local Emergency is in effect plus 30 days following the rescission of the Declaration of Local Emergency, and for 180 days thereafter, when serving a Tenant with a notice informing the Tenant of the termination of the Tenant's right to occupy the rental unit in accordance with applicable California law, including but not limited to a three-day notice to pay or quit, a landlord must also provide to a Tenant the following notice in at least 12 point font:

NOTICE: THE CITY OF ALAMEDA ADOPTED A TEMPORARY MORATORIUM ON EVICTIONS FOR NON-PAYMENT OF RENT BECAUSE OF A TENANT'S SUBSTANTIAL LOSS OF INCOME DUE TO THE COVID-19 PANDEMIC. A COPY OF THE CITY ORDINANCE IS AVAILABLE [HERE](#) AND IMPLEMENTING REGULATIONS ARE AVAILABLE [HERE](#) or by contacting the City Clerk at cityclerk@alamedaca.gov (510-747-4700)

Section 5. A Tenant may rely on the following non-exclusive list of documents to create a rebuttable presumption that the Tenant has suffered a Substantial Loss of Income: A letter from the employer of, or other source of income to, the Tenant; paycheck information, for example, pay stubs, on or after March 1, 2020; bank statements after March 1, 2020; documentation demonstrating extraordinary out-of-pocket medical expenses; documentation demonstrating extraordinary child care needs; or documentation showing the closure of a School where a child in the Tenant's care would otherwise be present during the Tenant's working hours. If a Tenant has provided medical or financial information to the landlord in support of the Tenant's claims of Substantial Loss of Income, the landlord shall hold such information in confidence and use it only for the purpose of evaluating a Tenant's claim of Substantial Loss of Income.

Section 6. During the Declaration of Local Emergency, no landlord shall shut off, discontinue, or interrupt any utilities, including laundry facilities, serving a Tenant's rental unit except (a) for emergency repairs and then, only for the duration of the repairs or (b) as part of an "Essential Activity" as defined by the Alameda County Public Health Officer Order No. 20-04, dated March 31, 2020, and then, only for the shortest time necessary to conduct the Essential Activity. As to common laundry facilities, nothing prohibits a landlord from imposing rules and regulations concerning their use so that social distancing is maintained.

Section 7. During the Declaration of Local Emergency plus 30 days following the rescission of the Declaration of Local Emergency, and for 180 days after the rescission thereof, any agreement between

the landlord and the Tenant, or a landlord's unilateral decision, to reduce temporarily the Base Rent for the rental unit shall not be grounds for the Program Administrator to establish a lower Base Rent for such unit. If the Base Rent has been temporarily reduced as provided in the previous sentence, the restoration of the Base Rent shall not be considered a rent increase. During the Declaration of Local Emergency, a landlord's discontinuance of certain housing services in order to comply with State or County directives, such as prohibiting the use of a pool or recreational facilities, shall not be grounds for a downward adjustment of rents.

Section 8. Landlords are encouraged to utilize the banking of rent increase provisions under City Ordinance No. 3250.

Section 9. No landlord shall retaliate against a Tenant for non-payment of rent due to a Substantial Loss of Income or for exercising their rights under Ordinance No. 3250, including, but not limited to, shutting off, discontinuing or interrupting any utilities except (a) for emergency repairs and then, only for the duration of the repairs or (b) as part of an "Essential Activity" as defined by the Alameda County Public Health Officer Order No. 20-04, dated March 31, 2020, and then, only for the shortest time necessary to conduct the Essential Activity.

Dated: April 10, 2020

Debbie Potter, Community Development Director