

ORDINANCE NO. 2024-35

AN ORDINANCE AMENDING CHAPTER 3.68 OF THE ALAMEDA COUNTY ORDINANCE CODE TO ESTABLISH A RENTAL HOUSING DISPUTE RESOLUTION PROCESS IN THE UNINCORPORATED AREAS OF ALAMEDA COUNTY AND TO ELIMINATE THE EXISTING RENT REVIEW AND MEDIATION PROCESS

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

Chapter 3.68 of the Alameda County Ordinance Code is amended to read as follows:

Chapter 3.68 – RENTAL HOUSING DISPUTE RESOLUTION PROCESS

Article I - General

3.68.010 – Findings and Purpose

The Board of Supervisors finds that critical housing problems exist within the unincorporated area of Alameda County and numerous disputes have arisen between landlords and tenants of such units on issues of rental increases and rental housing habitability. This board finds:

- A. That such disputes frequently may be resolved if there exists a formal means of communication and a dispute resolution mechanism;
- B. That harmony in the relationships between tenants and rental property owners is essential for the public health, safety and welfare;
- C. That public policy favors the resolution of disputes between these parties through voluntary agreement without resort to formal court proceedings; and
- D. That it is proper for the county to mandate participation in the process for resolution of such disputes between landlords and tenants.

It is the purpose of this chapter to increase certainty and fairness in the residential rental market within unincorporated Alameda County, and to promote the health, safety, and general welfare of landlords and tenants within the county. This chapter governs rent and other disputes between landlords and tenants of all rental dwelling units located within the unincorporated areas of Alameda County.

3.68.020 – Applicability

The provisions of this chapter shall apply to all rental dwellings in the unincorporated area of Alameda County used for residential purposes, whether or not the residential use is a conforming use and including live-work spaces. Notwithstanding the foregoing, this chapter shall not apply to any dwelling unit that is owned or operated by a government agency.

3.68.030 - Definitions

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

"Base rent" means the rental amount, including any amount paid to the landlord for parking, storage, utilities or any other fee or charge associated with the tenancy, required to be paid by the tenant to the landlord in the month immediately preceding the effective date of the rent increase.

"Board of supervisors" means the board of supervisors of the county of Alameda.

"Community development director" or "CDA director" means the director of the community development agency of the county of Alameda, or the director's designated representative.

"County" means the county of Alameda.

"Designated service provider" means a party or organization, which may include a County agency or department, designated by the board of supervisors to provide rent review and mediation services in the unincorporated county and to perform other tasks necessary to implement the program and procedures contained in this chapter and any associated guidelines.

"Dwelling" means any building or portion of a building which contains one or more dwelling units. The term includes one-family dwelling, two-family dwelling and multiple dwelling.

"Dwelling unit" means a structure or the part of a structure used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, as defined in California Civil Code section 1940(c), which is hired, rented, or leased to a household. The term "dwelling unit" shall also include, for the purposes of this chapter, a one-family mobilehome as defined in section 3.32.020 of chapter 3.32 of the Alameda County General Ordinance Code.

"Good faith participation" includes the affirmative duty of a landlord to refrain from initiating an unlawful detainer proceeding while the parties are engaged in proceedings under this chapter, excepting only those actions authorized by subsections (3) and (4) of California Code of Civil Procedure section 1161 (unlawful detainer) or any successor provisions, and the affirmative duty of a tenant to abide by the terms of the lease or rental agreement and to pay all lawful rent owed.

"Guidelines" means written regulations for the administration and implementation of this chapter adopted by the CDA director. All forms and notices needed to facilitate the administration and implementation of this chapter shall be adopted by the CDA director and may be included in the guidelines.

"Housing director" means the housing and community development director of the county of Alameda or their designated representative.

"Landlord" means any person, partnership, corporation, or other business entity offering for rent or lease any residential property in the unincorporated county. Landlord shall include the agent or representative of the landlord, provided that such agent or representative shall have full authority to answer for the landlord and enter into binding agreements on the landlord's behalf.

"Mediation" means one or more meetings in which a landlord and tenant have the opportunity to directly communicate with a mediator and each other in a face-to-face setting at

a neutral location to resolve a rental housing dispute under ground rules designed to protect the confidentiality and neutrality of the communications.

"Mediator" means a person who is employed or retained by the designated service provider and who meets any criteria for conducting mediations that may be established in the guidelines.

"Rent" means a fixed periodic compensation paid by a tenant at fixed intervals to a landlord for the possession and use of property, including any amount paid to the landlord for parking, storage, utilities, or any other fee or charge associated with the tenancy.

"Rent increase" means any upward adjustment of the rent from the base rent amount.

"Rental housing dispute" means a fact-based grievance raised by any tenant or landlord regarding the occupancy or use of residential property including rental rate increases, deposits, habitability, repairs and maintenance, utilities, occupants, parking and storage facilities, privacy, quiet enjoyment, or use of common areas but excluding disputes that are the subject of a lawful eviction (unlawful detainer) proceeding in a court of competent jurisdiction.

"Residential property" means any dwelling unit offered for rent or lease in the unincorporated county and mobilehomes if a tenant rents the mobile housing unit itself. Mobilehome spaces in mobilehome parks are regulated under Chapter 3.32 of this code and are explicitly excluded from this chapter.

"Tenant" means any person having the legal responsibility for the payment of rent for residential property in the unincorporated area of Alameda County. "Tenant" includes the agent or representative of the tenant, provided that such agent or representative shall have full authority to answer for the tenant and enter into binding agreements on the tenant's behalf.

Article II – Notice of Availability of Mediation

3.68.040 – Notice of availability of mediation required

- A. Landlords must provide to each of their tenants a notice of tenant rights under Article III of this chapter that describes the mediation and how to request service; a form for providing such notice may be issued in the guidelines.
- B. Landlords must provide to their tenants the notice of tenant rights under subsection (A):
 - 1. Within thirty (30) calendar days of enactment of this chapter;
 - 2. When entering a lease or rental agreement;
 - 3. When renewing a lease or rental agreement;
 - 4. When providing notice of a rent increase; and
 - 5. Upon receipt of written notice of untenable conditions as defined by California Civil Code section 1941.1.

3.68.050 - Contents of notice.

All notices of the availability of mediation shall be in writing, shall provide the name, address and phone number of the landlord and shall be personally delivered to the tenant or posted and mailed

to the tenant at the address of the tenant's rental unit by first class mail, postage pre-paid. Service by mail shall be presumed complete within five (5) calendar days of mailing. This presumption may be rebutted by the tenant.

Article III – Rental Housing Dispute Mediation

3.68.060 – Eligibility for Mediation.

A. Tenant-Requested Mediation. A tenant residing in a dwelling unit may file a request and receive mediation services under the following circumstances:

1. Within ninety (90) calendar days of enactment of this chapter, and thereafter;
2. Within forty-five (45) calendar days of providing written notice to the landlord of untenable conditions as defined by California Civil Code section 1941.1;
3. Within twenty-one (21) calendar days of receipt of a proposed rent increase that (a) raises the rent to an amount more than five percent (5%) greater than the base rent, or (b) follows a prior rent increase imposed within the previous twelve (12) month period; and
4. Within fourteen (14) calendar days of learning the facts that give rise to a dispute for any other rental housing dispute.

B. Landlord-Requested Mediation. A landlord may file a request and receive mediation services under the following circumstances:

1. Within ninety (90) calendar days of enactment of this chapter, and thereafter;
2. Within forty-five (45) calendar days of receiving written notice of untenable conditions as defined by California Civil Code section 1941.1;
3. Within twenty-one (21) days of serving a notice of rent increase that (a) raises the rent to an amount more than five percent (5%) greater than the base rent, or (b) follows a prior rent increase imposed within the previous twelve (12) month period; and
4. Within fourteen (14) calendar days of learning the facts that give rise to a dispute for any other rental housing dispute.

3.68.070 - Mediation Process.

A. Designated Service Provider. The county shall contract with or designate one or more designated service providers to provide mediation services. The guidelines may include a description of minimum qualifications for the designated service provider and mediators.

B. Mediation Requests.

1. Any tenant or landlord eligible for mediation under this Article III may request mediation services from a designated service provider.

2. Each landlord or tenant requesting mediation services must complete and sign a form under penalty of perjury that demonstrates eligibility for mediation and includes other information as may be specified in the guidelines.
 3. Separate requests for mediation services that involve one or more of the same parties may be consolidated with the consent of the landlord and the other tenants, but consolidation is not required and shall not affect individuals' ability to be separately represented or to bring a separate legal action.
 4. If an eligible tenant has requested mediation as a result of receiving one or more notices in accordance with California Civil Code section 827 that individually or cumulatively increase rent more than five percent (5%) within any twelve-month period, unless the parties otherwise agree in writing, such noticed rent increase will not be effective until the mediation concludes.
- C. Mediation Process. The designated service provider shall assign a mediator within ten (10) calendar days of receiving a complete request for mediation services. The assigned mediator shall offer a mediation process as follows:
1. Within two (2) business days of receiving a mediation assignment from the designated service provider, the mediator shall provide notice of the mediation to the landlord and tenant. The mediation notice shall, at a minimum, inform each party of their obligation to appear at the mediation and participate in the mediation in good faith. The mediator shall make reasonable efforts to schedule mediation sessions at times that are mutually convenient for the landlord and the tenant, which may include times that are outside of business hours. The mediation process shall commence upon notification of the landlord and tenant by the mediator.
 - (a) A mediator may notify the landlord and tenant of the mediation process via telephone, email, or any other form of communication, but the mediator must notify each party in writing via first-class mail, postage prepaid to each parties' address of record.
 - (b) Following the mediator sending such notification, both the landlord and the tenant have an affirmative obligation to participate in the mediation in good faith until the mediation concludes.
 2. The mediation process shall conclude upon the earlier of: (a) the execution of a legally enforceable, written agreement signed by all parties to the mediation; (b) the mediator's determination that no further progress is likely to result from continued mediation; or (c) all of the parties to the mediation indicate in writing that the mediation has concluded to their satisfaction. In no event shall a mediation process last longer than thirty (30) calendar days after an initial mediation session is held unless the parties agree in writing to extend the mediation term.
- D. Mandatory Participation. Every party to a mediation is affirmatively obligated to participate in such mediation in good faith until the mediator determines the mediation has concluded (as provided in C.2. above).
1. For purposes of this section, in addition to the definition in section 3.68.030, good faith participation also includes the mutual obligation of the landlord and tenant to meet on each occasion when notified of mediation proceedings, provide

relevant information, exchange proposals, timely consider and respond to proposals by opposing parties, and engage in meaningful discussion on the subject of proposed rent increases, issues related to the rent increase, and the rental housing dispute.

2. Failure to participate in good faith.

- (a) No rent increase will be effective unless or until the landlord of the dwelling unit complies with the provisions of this chapter by participating in good faith for the entirety of a mediation process.
- (b) If a tenant fails to participate in good faith, the mediator at their discretion may determine that the tenant has withdrawn their request for mediation service and conclude the mediation process, allowing any rent increase to be implemented in accordance with the notice requirements in California Civil Code section 827.

E. Mediation Agreements. No party shall be obligated to reach any specific agreement, or to reach any agreement at all, as a result of participating in mediation.

1. Any agreement reached by the parties in mediation must:

- (a) Be made in writing and signed by the parties;
- (b) State the specific terms of the mediation agreement including the duration and conditions of the agreement;
- (c) State the effective date of any agreed-upon rent increase and stipulate to the adequacy of notice for any rent increase in accordance with California Civil Code section 827;
- (d) Be legally enforceable against the parties to the agreement;
- (e) Provide that the agreement may be enforced via civil action by any party and by the county or its designee as third-party beneficiaries; and
- (f) Provide that any agent or representative signing a mediation agreement on behalf of other persons shall be responsible for promptly providing a copy of the agreement to the parties they represent.

2. A tenant bound by a mediation agreement may not request further mediation concerning any rent increase covering the same time period included in the mediation agreement but may request mediation concerning an additional rent increase that is first noticed or occurs after the mediation agreement is signed by both parties.

3. Mediation Statements. If a mediation does not result in a mediation agreement, then the designated mediator shall produce a nonbinding mediation statement. The guidelines shall include form mediation agreements and mediation statements that include, without limitation, the name of each party that appeared for and participated in good faith in the mediation service, and a concise summary of the dispute.

Article IV - Miscellaneous

3.68.080 – Rights Not Affected.

- A. Nothing in this chapter shall be deemed to affect any rights or remedies of a tenant provided by state or federal law, including but not limited to:
 - 1. Tenant's right to quiet enjoyment of the rental premises.
 - 2. The duty of a landlord to make a dwelling unit tenantable and repair all dilapidations that render it untenable.
 - 3. Prohibited landlord conduct including discrimination in housing; retaliation, threats or other coercive conduct; unauthorized entry into a tenant's unit, and unauthorized taking of tenant's personal property.
 - 4. Rights concerning payment and return of rent and security deposits.
 - 5. Rights to required notice prior to termination of a rental agreement.
 - 6. Rights under unlawful detainer statutes.
- B. Nothing in subsection A of this section prohibits the lawful eviction of a tenant in accordance with California Civil Code section 1946.1 or by any other appropriate legal means.
- C. Nothing in this chapter shall be deemed to affect any duties or obligations of a landlord to comply with applicable housing, building, or zoning codes, including compliance with valid code enforcement orders and notices.

3.68.090 – Retaliation

Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising the tenant's legal rights. Commencement of eviction proceedings against a tenant for exercising his or her rights under this chapter shall be considered a retaliatory eviction.

3.68.100 – Annual review.

The housing director shall annually prepare and present a report to the board of supervisors assessing the effectiveness of the rental housing dispute mediation program established under this chapter and recommend changes as may be appropriate. Annual assessment of the program shall include factors such as rent levels and trends, number of requests for mediation, and types of reported disputes.

3.68.110 - Civil remedies.

- A. Injunctive relief. Any aggrieved person may enforce the provisions of Article III of this chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of Article III of this chapter may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this section may be

brought by any aggrieved person, by county counsel, or by any person or entity which will fairly and adequately represent the interests of the protected class.

- B. Civil Liability. Any person who violates any of the provisions of Article III of this chapter or who aids in the material violation of any provisions of Article III of this chapter is liable for, and the court may award to the individual whose rights are violated special and general damages. The court may award attorney's fees, costs of action, and punitive damages. Civil actions filed pursuant to this section must be filed within one (1) year of the events giving rise to the alleged cause of action.

3.68.120 – Initial Cost of Program

For the first year during which Article III of this chapter is in effect, the county shall pay the cost of any rental housing dispute mediation required by Article III of this chapter to the extent funds are available. Thereafter the costs of the rental housing dispute mediation shall be allocated among the parties or paid with other available funding sources, as determined by the CDA director.

SECTION II

If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions, and to this end, the provisions of this Chapter 3.68 are declared to be severable, and the Board of Supervisors hereby declares that it would have adopted this Chapter and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION III

This Ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the 12th day of November 2024, by the following called vote:

AYES: Supervisors Carson, Márquez, Tam & President Miley - 4

NOES: None

EXCUSED: None

ABSTAINED: Supervisor Haubert - 1

NATE MILEY

President of the Board of Supervisors

ATTEST:

Anika Campbell-Belton,

Clerk of the Board of Supervisors

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: Caitlyn M. Gulyas, Deputy County Counsel