

ORDINANCE NO.

AN URGENCY ORDINANCE REGULATING CERTAIN
RESIDENTIAL RENT INCREASES IN THE CITY OF MOUNTAIN VIEW

WHEREAS, Government Code Section 36937 allows a city, including a charter city, to adopt, as an urgency measure, an interim ordinance for the immediate preservation of the public health or safety; and

WHEREAS, Section 514 of the City charter allows the City Council to introduce and adopt an ordinance it declares to be necessary as an emergency measure to preserve the public peace, health, or safety at one and the same meeting if passed by at least five affirmative votes; and

WHEREAS, the urgency ordinance shall be of no further force and effect forty-five (45) days from its date of adoption; and

WHEREAS, as published in a July 2015 Trends Report by RealFacts, a rental market data provider, the average monthly asking rent within the City of Mountain View has risen 52.7 percent from 2011 to 2015,¹ while the median household income in Santa Clara has only risen 1.2 percent during that same period;² and

WHEREAS, almost one-third of Mountain View households (32 percent or 10,155 Mountain View households) have incomes less than 80 percent of the area median income (AMI),³ the low-income threshold as defined and annually published by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, Mountain View's 2015-2020 Consolidated Plan data, derived from HUD-provided data, indicated that the most common housing problem is that households are cost burdened,⁴ with 36 percent of renter households (6,485 households) paying more than 30 percent of their income toward housing costs. Additionally, 18 percent of renter households (3,265 households) in Mountain View are severely cost burdened, paying more than 50 percent of their income toward rent; and

¹ RealFacts July 2015 Trends Report.

² 2012 (\$105,000) and 2015 (106,300) HUD published median incomes for Santa Clara County.

³ 2015-20 Consolidated Plan (Page 11): 13 percent (3,950 households) at 0 percent to 30 percent AMI; 32 percent or 10,155 total households earn less than 80 percent AMI broken down as follows: 13 percent/3,950 households at 0 percent to 30 percent AMI; 11 percent/2,595 households at 30 percent to 50 percent AMI; and 8 percent/2,320 households at 50 percent to 80 percent AMI.

⁴ 2015-20 Consolidated Plan (Page 48).

WHEREAS, high rents could impact the finances of all households, the 2015-2020 Consolidated Plan documents that lower-income renter households are much more likely than higher-income groups to experience cost burden, with 35 percent of low-income renter households (2,250 households) paying more than 30 percent of their income toward their housing costs, compared to 14 percent of lower-income ownership households (580 households). Additionally, 61 percent of renter households (1,980 households) who pay more than 50 percent of their income toward housing costs are lower income, compared to 29 percent of owner households (480 households); and

WHEREAS, according to the Cities Association of Santa Clara County and Housing Trust Silicon Valley, the Association of Bay Area Governments (ABAG) projects that over the next 25 years, 57 percent of all household growth in the Bay Area, which includes the City of Mountain View, will consist of very low- and low-income households; and

WHEREAS, according to the U.S. Census Bureau 2009-2013 American Community Survey, a majority, 57 percent,⁵ of all units in the City are occupied by renter households; and

WHEREAS, according to U.S. Census Bureau 2009-2013 American Community Survey, in 2010, 3 percent of families and 6.8 percent of all people in Mountain View lived below the poverty level and by 2013, the number of households that had fallen into poverty had increased substantially with 5.7 percent of families and 8.1 percent of all people living below the poverty level; and

WHEREAS, the implementation of rent relief strategies is supported by the City's adopted 2014-23 Housing Element: Goal 2, to provide assistance to households at different income levels to address their housing needs; Policy 2.1, to assist extremely low-, very low-, low-, and moderate-income households in renting a home in Mountain View; and Program 2.4, promoting anti-displacement strategies; and

WHEREAS, excessive rental increases could result in homelessness and the displacement of low-income families; and

WHEREAS, members of the community have expressed their concerns to the City Council regarding the rental housing situation in the City of Mountain View and reported significant/excessive rental increases and the issuance of eviction notices on September 8, September 15, October 6, October 19, October 27, and December 1, 2015; and

⁵ 2015-20 Consolidated Plan (Page 81) and 2009-2013 American Community Survey data.

WHEREAS, the City Council's discussion of relief options has created market uncertainty and concern among some landlords that if they do not increase rents now, they could face income and property value losses; and

WHEREAS, the City Council studied the rental housing situation and rent relief options on a number of occasions, including October 19, 2015; October 27, 2015; December 1, 2015; and March 15, 2016; and

WHEREAS, the City Council introduced a Rental Housing Dispute Resolution Program Ordinance on March 15, 2016; and

WHEREAS, increasing poverty in Mountain View, decreasing AMI, and increasing rents have created a growing "affordability gap" between incomes and rents demonstrated by the increase in "overpaying renter households" and overcrowded households; and

WHEREAS, given this increased housing cost burden and poverty faced by many Mountain View residents, excessive rental increases threaten the public health, safety, and welfare of Mountain View residents, including seniors, children, those on fixed incomes, those with very low- to moderate-income levels, 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, the City of Mountain View currently does not restrict rental increases; and

WHEREAS, the City Council finds and determines that if a temporary regulation restricting residential rental increases were not imposed now, the public health, safety, and welfare will be immediately threatened because landlords would have an immediate incentive to increase rents to even higher levels before the Rental Housing Dispute Resolution Program can be implemented; and such increases would defeat the intent and purpose of the program and substantially impair its effective implementation; and

WHEREAS, in light of the numerous concerns noted herein, including, but not limited to, the current and immediate threat to the health, safety, and welfare of the City's residents and the adverse impacts that would result from a substantial decrease of affordable housing within the City, the City Council declares this emergency measure is necessary to preserve the public health, safety, and general welfare of the community by adopting this urgency ordinance in order to prevent further escalation of rents while the Rental Housing Dispute Resolution Program is being implemented; and

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

WHEREAS, adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to the following, each a separate and independent basis: CEQA Guideline Section 15183 (action consistent with the general plan and zoning); Section 15378; and Section 15061(b)(3) (no significant environmental impact); and

WHEREAS, by the staff presentations, testimony, and documentary evidence presented at the October 19 and 27, 2015; December 1, 2015; and March 15, 2016 City Council meetings, the City Council has been provided with additional information upon which the findings and actions set forth in this ordinance are based; and

WHEREAS, this ordinance allows up to a ____ percent annual increase in rent during the forty-five (45) day moratorium period, and such figure (which is based upon the percent change in the Consumer Price Index for the Bay Area of California), is found and determined to provide a just and reasonable return, and has been calculated to encourage good management, reward efficiency, and discourage the flight of capital, to be commensurate with returns on comparable investments, but not so high as to defeat the purpose of preventing excessive rents while the Rental Housing Dispute Program is being implemented. Rent is defined as the consideration, including any bonus, benefits, or gratuity, demanded or received by a landlord for or in connection with the use or occupancy of a rental unit;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW does ordain as follows:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby incorporates them into this ordinance.

Section 2. From the effective date of this urgency ordinance and continuing for a period of forty-five (45) days, unless extended, or until such time as the City's Rental Housing Dispute Resolution Program is implemented, no landlord shall increase rent by more than ____ percent per annum during the moratorium period.

Section 3. Exceptions and Exemptions. The following are exempt from the moratorium established under this urgency ordinance:

1. Units with a Certificate of Occupancy issued on or after February 1, 1995; a dwelling or unit that was already exempt from local rent control in place prior to February 1, 1995;
2. Government-owned housing units;
3. Housing units whose rents are controlled, regulated (other than by this ordinance), or subsidized by any governmental unit, agency, or authority;
4. Accommodations in motels, hotels, inns, tourist houses, rooming houses, and boarding houses, provided that such accommodations are not occupied by the same tenant for thirty (30) or more days;
5. Units that are separately alienable from the title of any other dwelling (single-family homes and condominiums);
6. Commercial units;
7. Housing accommodation in any hospital, convent, monastery, extended-care facility, convalescent home, nonprofit home for the aged, or dormitory operated by an educational institution; and
8. Any other units exempt pursuant to the Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.52) or any other applicable State or Federal law.

This moratorium does not regulate the initial rent at which a unit is offered.

Section 4. Enforcement. In any action by a landlord to recover possession of a rental unit, the tenant may raise as an affirmative defense any violation or noncompliance with the provisions of this ordinance.

Section 5. Petition for Relief from Rent Regulation. This moratorium, without extension, is only effective for a period of forty-five (45) days. Given that a ___ percent annual increase is allowed, the City Council finds that this moratorium does not deny any owner a fair and reasonable return. However, prior to extending this moratorium beyond the forty-five (45) day period, the City Council shall consider and adopt a procedure allowing any landlord claiming that the regulation's permitted rental rate is insufficient to provide a just and reasonable return to file a petition requesting relief from the extended moratorium by way of an additional rental increase, as well as procedures for hearings and appeals of such petitions.

Section 6. Authority. This ordinance is enacted pursuant to the City of Mountain View's general police powers, Article 514 of the Charter of the City of Mountain View, Article XI of the California Constitution, and Government Code Section 36937.

Section 7. California Environmental Quality Act (CEQA). The City Council hereby finds and determines that this ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15183 (action consistent with general plan and zoning); Section 15378 (no project); and Section 15061(b)(3) (no significant environmental impact).

Section 8. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

Section 9. Effective Date. All rental increases on or after the date of final passage and adoption of this ordinance shall be subject to this ordinance. As an urgency ordinance, this ordinance becomes effective immediately upon its adoption at a first reading by a vote of five members of the City Council.

Section 10. Publication. The City Clerk shall publish the ordinance in a newspaper of general circulation once within fifteen (15) days after its adoption.

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