



DATE: June 22, 2021

CATEGORY: Consent

DEPT.: City Attorney's Office

TITLE: **Urgency Ordinance Extending Residential Eviction Protections**

RECOMMENDATION

Adopt an Urgency Ordinance of the City of Mountain View Temporarily Suspending Evictions for Nonpayment of Rent by Residential Tenants Impacted by the COVID-19 Emergency, Effective from July 1, 2021 through August 31, 2021, to be read in title only, further reading waived, effective on July 1, 2021 upon adoption (Attachment 1 to the Council report). (Five votes required)

BACKGROUND

As directed by Council on June 8, 2021, this item is an urgency ordinance that would ensure uninterrupted eviction protections for Mountain View residential tenants. The ordinance is designed to address the possibility that the current Statewide eviction moratorium is not extended past June 30, 2021.

On March 12, 2020, the City proclaimed a local emergency due to COVID-19, and the Council later ratified the emergency on March 17, 2020. The State and Federal governments similarly declared a state of emergency related to the COVID-19 pandemic. The COVID-19 pandemic has continued, and both its health impacts and associated Shelter-in-Place and regional Stay-at-Home orders, intended to slow the spread of transmission, have had a significant impact on local businesses and caused significant unemployment.

As a result, residential tenants continue to experience a severe loss of income needed to pay rent. At the same time, many residential tenants face increased medical costs, child-care costs, and other unexpected cost increases related to the ongoing COVID-19 pandemic. The income reductions, exacerbated by ongoing or increased costs, in turn create a risk of eviction by landlords. Unchecked evictions would exacerbate the public health risks caused by the pandemic by increasing housing instability, contributing to overcrowding, and increasing homelessness.

To address these concerns and protect the public health, safety, and welfare, Council adopted an initial urgency ordinance protecting residential tenants impacted by COVID-19 from evictions for nonpayment of rent on March 27, 2020 and extended the ordinance on May 29, 2020 and again on August 22, 2020. The City's ordinance imposed notice and proof of financial hardship requirements and City-specific enforcement mechanisms. The repayment period for the balance of rent was 180 days after expiration of the City's ordinance. The City's ordinance covered all residential units in Mountain View, including apartments, mobile homes, and mobile home lots.

On August 31, 2020, the California State Legislature adopted Assembly Bill 3088 (AB 3088), which established a Statewide eviction moratorium ("Statewide Eviction Moratorium") for residential tenants, including those who rent mobile homes and mobile home lots, and preempted any local ordinance that was adopted, was extended, or otherwise takes effect from August 19, 2020 through January 31, 2021. Because the City's original eviction moratorium was extended during that time frame, the extension did not take effect, and the Statewide Eviction Moratorium applied to tenants and landlords in Mountain View. On January 29, 2021, Senate Bill 91 (SB 91) extended the Statewide Eviction Moratorium through June 30, 2021. Now, the Statewide Eviction Moratorium is set to expire on June 30, 2021, unless the State Legislature takes action to extend it.

ANALYSIS

State Legislation

The Statewide Eviction Moratorium prohibits tenants from being evicted for failure to pay rent or other charges (COVID-19 rental debt) originally due between March 1, 2020 and August 31, 2020. The Statewide Eviction Moratorium also prohibits eviction for nonpayment of rent that was originally due, between September 1, 2020 and June 30, 2021, provided that the tenant pays 25% of the amount owed by June 30, 2021. Tenants who fail to pay this 25% can be evicted, beginning on July 1, 2021. Payment of any outstanding rent due can be collected in small claims court starting on August 1, 2021.

As of the date of this report, the State Legislature has not announced a plan to extend the Statewide Eviction Moratorium. If the Statewide Eviction Moratorium expires, then a tenant who has not paid at least 25% of the rent that became due, between September 1, 2020 and June 30, 2021, can face eviction as of July 1, 2021. In addition, tenants could face eviction for nonpayment of rent that becomes due starting July 1, 2021. Finally, the Statewide Eviction Moratorium permits landlords to begin seeking the recovery of unpaid rental debt as of August 1, 2021, although the County of Santa Clara's

Countywide eviction moratorium gives tenants in the City through August 31, 2021 to repay rental debts that accrued while the County's eviction moratorium was in place.

In sum, on July 1, if the State does not extend the Statewide Eviction Moratorium, residential tenants in Mountain View experiencing financial hardship as a result of COVID-19 would be without eviction protection for nonpayment of rent. The urgency ordinance is designed to provide tenants with uninterrupted protection through the end of August to provide more time for COVID-19 relief funds to be distributed and for tenants' incomes to stabilize.

City Ordinance

The urgency ordinance would enact substantially similar protections to those that currently exist in the Statewide Eviction Moratorium. The urgency ordinance would prohibit evictions for nonpayment of rent that becomes due on or after July 1, 2021 through August 31, 2021, provided that the tenant pays at least 25% of the rent due during this time frame. This two-month extension of eviction protections would provide coverage for Mountain View residential tenants if the Statewide Eviction Moratorium is not extended. The urgency ordinance allows additional time for funds from State and Federal relief programs to reach tenants and for tenants to return to work as California reopens without an immediate threat of eviction.

Staff evaluated a more open-ended term for the moratorium that would keep eviction protections in place for the duration of the Statewide or local emergency. However, the emergency declaration may remain in place for an as-of-yet undetermined period of time, and it may exceed the duration of the most urgent housing needs. To balance tenants' needs for some additional time to adjust to the changing economic landscape in the City and landlords' needs for certainty surrounding income, staff recommends a relatively short two-month extension of COVID-19-related eviction protections. For comparison purposes, at the City of San Jose's June 22, 2021 meeting, the City of San Jose also plans to introduce an urgency ordinance implementing an eviction moratorium through August 31, 2021 for tenants financially impacted by COVID-19.

If the urgency ordinance is adopted, all outstanding rent which has accumulated since the beginning of the various eviction moratorium regulations that initially would have been due between July 1, 2021 and August 31, 2021, would be due on September 1, 2021. In addition, landlords could collect rent due on or after September 1, 2021 when that rent is due. To avoid eviction for nonpayment of rent if the urgency ordinance is adopted, a tenant must sign a declaration of COVID-19-related financial distress, as defined by the Statewide Eviction Moratorium, and pay 25% of each rental payment due during that time frame by August 31, 2021. If 25% of rent is not paid then, landlords may pursue

eviction actions starting on September 1, 2021. Any other outstanding rent due from July 1, 2021 through August 31, 2021 can be collected as consumer debt starting on September 1, 2021; however, as long as 25% of rent for this time frame is paid, nonpayment of the balance would not provide a basis for eviction.

The City's ordinance would not go into effect until July 1, 2021 in order to comply with the preemption clauses set forth in the Statewide Eviction Moratorium, which states that any local action that takes effect between August 19, 2020 and June 30, 2021 is void.

It is possible the State Legislature will extend the Statewide Eviction Moratorium before it expires on June 30, 2021, but after the City's ordinance takes effect. Likewise, Santa Clara County may enact an eviction moratorium that applies to all cities and unincorporated areas within the County. To avoid confusion with the administration of overlapping State law, the City ordinance will automatically be repealed if the State extends the protections of the Statewide Eviction Moratorium at any time after the City takes action. Likewise, if the County adopts an ordinance which provides protection to tenants in Mountain View, then the City ordinance will automatically be repealed.

Uncertainty as to whether the Statewide Eviction Moratorium will be extended has made accurate public outreach challenging. However, staff initiated broad notification to tenants and landlords groups to inform them of Council's consideration of the urgency ordinance. In addition, the City will conduct broad outreach to educate tenants and landlords regarding the parameters of any City, County, or State eviction moratorium that is in effect.

CONCLUSION

The urgency ordinance contains requisite findings that the regulation is necessary for the immediate preservation of the public peace, health, or safety and contains a declaration of the facts constituting the urgency. As set forth in this report, the severe potential impacts of the COVID-19 crisis continue to create significant financial hardships for residential tenants in the City. The consequences of potential mass evictions if the Statewide Eviction Moratorium is not extended justify the adoption of this urgency ordinance. Adoption requires five votes per City Charter Section 514, and the ordinance takes effect immediately. To comply with the Statewide Eviction Moratorium, the eviction moratorium will not go into effect until July 1, 2021.

FISCAL IMPACT

Costs associated with this item include administrative staff and enforcement costs, including staff costs and outreach. The City's initial urgency ordinance estimated such costs at \$5,000 per month, and staff estimates the same amount for this ordinance.

ALTERNATIVES

1. Do not adopt the resolution.
2. Provide other direction.

PUBLIC NOTICING

Agenda posting and email notification to landlords and tenants who have registered for information and/or on the Community Stabilization and Fair Rent Act distribution list.

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MJM-KC/KB/1/CAM
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Attachment: 1. Urgency Ordinance