

ORDINANCE NO.

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 FEBRUARY 1, 2021, CONTINGENT UPON EXPIRATION OF THE  
STATEWIDE EVICTION MORATORIUM

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY  
ORDAIN AS FOLLOWS:

Section 1. Findings and Declarations. The City Council finds and declares as follows:

a. The Mountain View City Charter, Section 514, authorizes the City Council, with a four-fifths (4/5) vote, to adopt an urgency measure for the immediate protection of the public health or safety without following the procedures otherwise required to adopt an ordinance.

b. Government Code Sections 36394 and 36937 allow a city, including a charter city, to adopt an urgency ordinance to take effect immediately upon its adoption for the preservation of the public peace, health, or safety upon a finding of facts constituting the urgency thereof.

c. International, national, State, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named COVID-19.

d. On March 4, 2020, the Governor of the State of California proclaimed a state of emergency to make additional resources available, formalize emergency actions already under way across multiple State agencies and departments, and help the State prepare for the broader spread of COVID-19.

e. On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic.

f. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the Federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.

g. On March 12, 2020, the City Manager, as the Director of Emergency Services, proclaimed the existence of a local emergency pursuant to Section 11.6, Article 1, Chapter 11, of the Mountain View City Code to ensure an effective response by the City to the COVID-19 pandemic.

h. On March 17, 2020, the City Manager's/Director of Emergency Services' March 12, 2020 proclamation was ratified by the City Council. The local emergency was deemed by the City Council to continue to exist until its termination is proclaimed by the City Manager/Director of Emergency Services.

i. On March 16, 2020, the Health Officer of the County of Santa Clara issued an Order directing all individuals living in the County to shelter in their place of residence, except that they may leave to provide or receive certain essential services or engage in certain essential activities and work for essential businesses and governmental services; exempting individuals experiencing homelessness from the Shelter-in-Place order but urging them to find shelter and government agencies to provide it; directing all businesses and governmental agencies to cease nonessential operations at physical locations in the County; prohibiting all nonessential gatherings of any number of individuals; and ordering cessation of all nonessential travel.

j. On March 27, 2020, the City Council adopted an urgency ordinance that temporarily suspended residential evictions for nonpayment of rent by tenants impacted by COVID-19, which was extended on May 29, 2020.

k. As part of the State's emergency response to the pandemic, the Judicial Council of California adopted Emergency Rule 1, effective April 6, 2020, which temporarily halted evictions and supported public health efforts to slow the spread of COVID-19 by ensuring that tenants remained housed and court personnel were not placed at unnecessary risk of exposure. Emergency Rule 1 expired on September 1, 2020.

l. On August 22, 2020, the City Council further extended its urgency ordinance, but the State Legislature adopted AB 3088 on August 31, 2020, a Statewide eviction moratorium, which preempted any local ordinances regulating residential evictions in response to the COVID-19 pandemic that went into effect from August 19, 2020 through January 31, 2021.

m. AB 3088 preempted the City's urgency ordinance in its entirety, but it included the COVID-19 Tenant Relief Act of 2020 (Code of Civil Procedure, Part 3, Title 3, Chapter 5, Sections 1179.01-1179.07, referred to in this ordinance as the "Statewide Eviction Moratorium"), which provides critical protections from eviction for tenants to help prevent mass evictions in the midst of the COVID-19 pandemic. The Statewide Eviction Moratorium is currently scheduled to expire on February 1, 2021.

n. The COVID-19 pandemic and the associated crisis has not ended. The Health Officer of the County of Santa Clara issued subsequent orders directing all individuals living in the County to continue to shelter in their place of residence subject to certain exceptions, thus continuing the hardships on residential tenants.

o. The State of California issued a Regional Stay-at-Home Order and, as of December 4, 2020, the County of Santa Clara, including the City, has been subject to the State's restrictions under that order and will continue to be subject to them until the State declares the County of Santa Clara no longer subject to the Regional Stay-at-Home Order.

p. As a result of the public health emergency and the precautions recommended by health authorities, many tenants and commercial enterprises in Mountain View have experienced or expect to experience sudden income loss, layoffs, and business closure, thereby placing increased demands on already strained regional and local health and safety resources.

q. During this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City's affordable housing stock, and to prevent housed individuals from falling into homelessness.

r. School closures require parents to adjust work schedules leading to time off work, whether paid or unpaid, and an inability to work will continue to economically strain families.

s. Due to the order for County residents to shelter in their places of residence and the Governor's call for certain businesses to close, employees of businesses that rely on customer patronage may face economic hardship as pandemic conditions continue.

t. The City Council finds and determines that, if a temporary suspension on evictions from residential units due to a resident's loss of substantial income arising out of the consequences of the COVID-19 pandemic were not imposed now, the public health, safety, and welfare will be immediately threatened because landlords could initiate action to evict tenants who were unable to pay rent due to a substantial loss of income.

u. For the 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 findings and declaration contained herein constitute the City Council's statements of the reasons constituting such necessity and urgency.

v. This ordinance intends to prevent mass evictions that would threaten the public health by increasing housing instability, contributing to overcrowding, and increasing homelessness in the event that is the Statewide Eviction Moratorium is not extended. To comply with the preemption provisions of AB 3088 and provide tenant protections as soon as the Statewide Eviction Moratorium's protections are due to expire, the City's residential tenant eviction moratorium will take effect no earlier than February 1, 2021.

Section 2. Beginning on February 1, 2021 and continuing through December 31, 2021, unless extended by the City Council or terminated in accordance with Section 3 of this ordinance, a temporary suspension of evictions for nonpayment of rent by residential tenants impacted by the COVID-19 pandemic is imposed as follows:

a. Pursuant to the general police power of the City to protect the health, safety, and welfare of its citizens, no landlord of any residential rental property, including mobile homes and mobile home lots, shall commence evictions on any residential tenants within the City of Mountain View for nonpayment of rent due from February 1, 2021 through December 31, 2021 until January 1, 2022 or later.

1. No residential tenant shall be evicted for nonpayment of rent due from February 1, 2021 through December 31, 2021 unless and until a landlord has provided the tenant with notice as required by Section 2.b.

2. A residential tenant, subject to limitations defined in Section 2.a.3., that has delivered to their landlord a signed declaration under penalty of perjury of COVID-19-related financial distress, as defined by Code of Civil Procedure Section 1179.02(d), and who has paid twenty-five percent (25%) of each outstanding rental payment due from February 1, 2021 through December 31, 2021 by December 31, 2021, may not be evicted for nonpayment of rent due during that time frame.

3. A "high-income tenant" shall have the meaning defined in Code of Civil Procedure Section 1179.02.05. If a landlord has evidence that a tenant is a high-income tenant before providing notice required in Section 2.b., the landlord may require, together with a declaration of COVID-19-related financial distress, documentation supporting the claim that the tenant has suffered COVID-19-related financial distress. Any form of objectively verifiable documentation that demonstrates the COVID-19-related financial distress the tenant has experienced is sufficient to satisfy the requirements of this subdivision, including those methods defined in Code of Civil Procedure Section 1179.02.05. A high-income tenant that does not provide documentation of COVID-19-related financial distress shall be ineligible for the protection from eviction provided by this ordinance.

b. Landlord Notice. A landlord may not pursue an unlawful detainer action for nonpayment of rent for the time period of February 1, 2021 through December 31, 2021 unless notice demanding payment is provided that includes the following:

1. The time period in which the tenant may pay the amount due or deliver possession of the property shall be no shorter than fifteen (15) days, excluding Saturdays, Sundays, and other judicial holidays.

2. The notice shall set forth the amount of rent demanded and the date each amount became due.

3. The notice shall advise the tenant that the tenant cannot be evicted for failure to comply with the notice if the tenant delivers a declaration of COVID-19-related financial distress that complies with Section 2.a. of this ordinance.

c. Repayment. The balance of any unpaid rent originally due between February 1, 2021 and December 31, 2021 shall be due from a tenant to their landlord on January 1, 2022; provided, however, that nonpayment of this balance shall not provide the basis for eviction of a residential tenant. Nothing in this ordinance shall relieve the tenant of the obligation to pay rent due after December 31, 2021, nor restrict a landlord's ability to recover rent due as permitted under applicable law. Nothing herein prevents landlords and tenants from negotiating a longer repayment period for past due rent. Landlords and tenants are strongly encouraged to mutually agree to a repayment plan for past due rent.

d. A landlord may not charge or collect a late fee for rent that is delayed pursuant to this ordinance.

e. This ordinance applies to nonpayment eviction notices and unlawful detainer actions based on such notices served or filed on or after the date written below. This ordinance shall be liberally construed to provide the broadest possible protection.

f. This ordinance may be asserted as an affirmative defense in any unlawful detainer action.

g. Landlords and tenants may request mediation services through the Mountain View Mediation Program to facilitate discussions or to address any disputes that may arise from the implementation of this ordinance, including, but not limited to, assistance in structuring timely and manageable rent repayment plans.

h. Violations of this ordinance may also be subject to administrative penalties and enforcement in accordance with Section 1.7 (Code Enforcement—Violations) and Sections 1.17 to 1.29 (Administrative Penalties) of the Mountain View City Code.

Section 3. Pursuant to Mountain View City Charter Section 514 and Government Code Sections 36934 and 36973, the provisions of this ordinance shall be effective immediately. This ordinance shall remain in effect until the earlier of December 31, 2021 or the effective date of State legislation that extends the expiration of the Statewide Eviction Moratorium. Upon such date, this ordinance shall be automatically repealed and will have no further force or effect.

Section 4. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 5. This ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Guidelines Sections 15060(c)(2) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment); and 15060(c)(3) because the activity is not a project as defined in Guidelines Section 15378 because it has no potential for resulting in physical change to the environment, directly or indirectly.

-----

KC-DF/6/ORD  
011-01-26-21o