

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 FROM JULY 1, 2021 THROUGH AUGUST 31, 2021

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. 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 continuing to respond to an outbreak of respiratory disease caused by a novel coronavirus named COVID-19 and the attendant social and economic effects that continue to linger even as progress is made against slowing the spread of COVID-19 itself.

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 12, 2020, the City Manager, as the Director of Emergency Services, proclaimed the existence of a “local emergency” pursuant to Mountain View City Code Chapter 11, Article 1, Section 11.6 to ensure an effective response by the City to the COVID-19 pandemic. On March 17, 2020, the City Manager/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 termination is proclaimed by the City Manager/Director of Emergency Services.

g. 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.

h. 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. Although the Shelter-in-Place Order has been lifted, many residents and business continue to suffer economic hardship that began while the Shelter-in-Place Order was in effect.

i. As of the date of this Urgency Ordinance, the California “state of emergency” and the City’s “local emergency” remain in effect. Although much of California is on pace to reopen as of June 15, 2021, the Governor has announced that the “state of emergency” will remain in place to allow ongoing aid programs and recovery efforts to continue without interruption.

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 the urgency ordinance, but the State Legislature adopted Assembly Bill 3088 (“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 to 1179.07, referred to in this Urgency 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.

n. On January 29, 2021, Senate Bill 91 ("SB 91") extended the Statewide Eviction Moratorium through June 30, 2021. Under SB 91, the Statewide Eviction Moratorium prohibits new local eviction moratoria related to the COVID-19 pandemic from taking effect until July 1, 2021.

o. 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 sudden income loss, layoffs, and business closure, thereby placing increased demands on already strained regional and local health and safety resources.

p. Although deferral and State resources have been identified to help repay landlords for rent lost during the pandemic and to provide tenants with financial assistance to continue making rent payments, many of these resources have not yet been able to distribute funds. Delays in the distribution of financial assistance may contribute to increased eviction risk for those households that are still waiting for their claims to be processed.

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. 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, upon the expiration of the Statewide Eviction Moratorium on July 1, 2021, landlords could initiate action to evict tenants who were unable to pay rent due to a substantial loss of income.

s. For the reasons set forth above, this Urgency 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.

t. The pandemic appears to be slowly coming under control, but it is not yet over, and the threat of mass evictions starting July 1, 2021 is a looming crisis for tenants who

could be directly affected as well as for the City of Mountain View as a whole. The City has a shortage of affordable rental housing, a significant percentage of the City's households are renters, and many potentially impacted renters are both at risk of permanent displacement, should they be forced to leave their current homes, and also, essential workers who will be needed immediately if the pandemic takes a turn for the worse. Moreover, the same communities that faced the highest exposure to COVID-19, such as essential workers working for low wages, now face an epidemic of evictions, which are deeply tied to higher suicide rates, heart disease, and hypertension.¹ Eviction protections can help prevent the direct and indirect public health effects associated with COVID-19 and housing insecurity.

u. State and Federal relief programs have been delayed and only began processing Mountain View applications in May 2021, and these funding delays have in turn impacted the City's efforts to administer relief to landlords and tenants.² A short-term extension of eviction protections is necessary to help tenants during this transitional phase. Extending the moratorium will give renters time to access rent relief programs and will allow nurses and public health practitioners to focus attention on healing individuals and communities.

v. This Urgency Ordinance intends to prevent mass evictions that would threaten the public health by increasing housing instability, contributing to overcrowding, and increasing homelessness while landlords and tenants await relief funds and adjust to a COVID-recovery landscape. To comply with the preemption provisions of SB 91 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 July 1, 2021. Nothing in this Urgency Ordinance shall affect or impair the application of any other City law or the Statewide Eviction Moratorium with respect to rent payments that came due before July 1, 2021.

Section 2. Pursuant to the general police power of the City, to protect the health, safety, and welfare of the City's citizens, beginning on July 1, 2021 and continuing through August 31, 2021, unless extended by the City Council or terminated in accordance with Section 3 of this Urgency Ordinance, a temporary suspension of

¹ *Extend the Eviction Moratorium to Ward off Another Public Health Crisis*, CalMatters, June 9, 2021, <https://calmatters.org/commentary/my-turn/2021/06/extend-the-eviction-moratorium-to-ward-off-another-public-health-crisis-2>.

² *Cash to Help California Renters Goes Unspent with Eviction Protections Expiring Soon*, Los Angeles Times, May 20, 2021, www.latimes.com/california/story/2021-05-20/california-renters-unspent-financial-assistance-eviction-protections-expiring.

evictions for nonpayment of rent by residential tenants impacted by the COVID-19 pandemic is imposed as follows:

a. Limitation on Residential Evictions. A landlord of any residential rental property within the City of Mountain View, including mobile homes and mobile home lots, may not commence evictions on any residential tenants or otherwise seek to recover possession of a residential unit for the tenant's nonpayment of rent if the rent payment originally became due on or after July 1, 2021, provided that the residential tenant, subject to limitations defined in Section 2.c., 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 has paid twenty-five percent (25%) of each outstanding rental payment that has come due from July 1, 2021 onward.

b. Landlord Notice Requirements. In no event may a landlord pursue an unlawful detainer action for nonpayment of rent for the tenant's nonpayment of rent if the rent payment originally became due on or after July 1, 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 Urgency Ordinance.

c. High-Income Tenant Requirements. 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 Urgency Ordinance.

d. Repayment. The balance of any unpaid rent originally due on or after July 1, 2021 shall be due from a tenant to their landlord on September 1, 2021; provided,

however, that nonpayment of this balance shall not provide the basis for eviction of a residential tenant if the tenant has complied with Section 2.a. of this Urgency Ordinance. Nothing in this Urgency Ordinance shall relieve the tenant of the obligation to pay rent due on or after September 1, 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.

e. A landlord may not charge or collect late fees, penalties, interest, liquidated damages, or similar charges for nonpayment of rent that originally became due on or after July 1, 2021 through August 31, 2021 if the tenant has complied with Section 2.a. of this Urgency Ordinance.

f. This Urgency Ordinance applies to nonpayment eviction notices and unlawful detainer actions based on such notices served or filed on or after July 1, 2021. This Urgency Ordinance shall be liberally construed to provide the broadest possible protection.

g. This Urgency Ordinance may be asserted as an affirmative defense in any unlawful detainer action.

h. 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 Urgency Ordinance.

i. Violations of this Urgency 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 Urgency Ordinance shall be effective immediately. This Urgency Ordinance shall remain in effect until the earlier of: (a) August 31, 2021; (b) the effective date of a County of Santa Clara eviction moratorium that is effective within the City; or (c) the effective date of State legislation that extends the expiration of the Statewide Eviction Moratorium. Upon such date, this Urgency 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 Urgency Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this Urgency Ordinance. The City Council hereby declares that it would have passed this Urgency 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 Urgency 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 and because it has no potential for resulting in physical change to the environment, directly or indirectly.

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