

DRAFT 3/25/20 *MC7*

ORDINANCE NO. _____

**AN EMERGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SUNNYVALE ENACTING A
MORATORIUM ON EVICTIONS FOR NONPAYMENT OF
RENT BY RESIDENTIAL TENANTS IMPACTED BY THE
COVID-19 PANDEMIC**

WHEREAS, the novel coronavirus (COVID-19) is a respiratory disease that may result in serious illness or death and is easily transmissible from person to person; and

WHEREAS, the City makes the following recitals and findings with respect to the COVID-19 outbreak:

1. On January 31, 2020, the United States Department of Public Health and Human Services Secretary Alex Azar declared a public emergency for the novel coronavirus (COVID-19) beginning on January 27, 2020.
2. On February 3, 2020, the Santa Clara County Director of Emergency Services proclaimed a state of emergency due to the COVID-19 outbreak, which was ratified by the Santa Clara County Board of Supervisors on February 10, 2020, thus enabling Santa Clara County to take extraordinary measures.
3. On March 4, 2020, Governor Gavin Newsom declared a state of emergency in the State of California due to the number of confirmed cases of COVID-19 in the State. Santa Clara County issued updated guidance for workplaces and businesses, stating that employers should take steps to make it more feasible for their employees to work in ways that minimize close contact with large numbers of people, including suspending nonessential employee travel and minimizing the number of employees working within arm's length of one another, particularly by canceling large in-person meetings and conferences. Santa Clara County also recommended that persons at higher risk of severe illness should stay home and away from crowded social gatherings of people as much as possible such as parades, conferences, sporting events, and concerts where large numbers of people are within arm's length of one another.
4. On March 9, 2020, the Santa Clara County Department of Public Health issued a mandatory order prohibiting public gatherings of more than 1000 people, effective March 11, 2020.
5. On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic; Santa Clara County announced that the number of confirmed COVID-19 cases in the County had increased to 48 from 24 on March 6, 2020; and the CDC and Governor of the State of California issued recommendations to cancel or postpone gatherings of more than 20 people.
6. On March 12, 2020, the City Manager acting as the Director of Emergency Services

- proclaimed the existence of a local emergency within the City related to the COVID-19 outbreak.
7. On March 13, 2020, the Santa Clara County Department of Public Health issued a new Order mandating a countrywide moratorium on gatherings of more than 100 persons and a conditional countywide moratorium on gatherings of between 35-100 persons to mitigate the spread of COVID-19.
 8. On March 16, 2020, the Health Departments for the six Bay Area counties jointly issued a “shelter in place” order, mandating the closure of all non-essential businesses. Where possible, employees must work from home. Further, the Santa Clara County Superintendent of Schools and all district superintendents in the County closed schools to students. These school closures have caused children to have to remain at home, and consequently required parents to adjust their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot work from home or cannot afford to take off time from work to stay at home.
 9. On March 16, 2020, the Governor issued Executive Order N-28-20. Among other emergency actions related to the COVID-19 outbreak, that Order suspended any state law that would preempt or otherwise restrict the City’s exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19.
 10. On March 19, 2020, the Governor of the State of California issued Executive Order N-33-20 ordering all Californians to stay home for an undetermined period of time.
 11. The City of Sunnyvale has been impacted by the health crisis of this global pandemic. The Centers for Disease Control and Prevention, the California Department of Health, and the Santa Clara County Department of Public Health have issued recommendations and orders including but not limited to social distancing, staying home if sick, self-quarantining if exposed to COVID-19, canceling or postponing group events, working from home, and various other precautions to protect public health and prevent transmission of this communicable virus. Sporting events, concerts, plays, and conferences have been cancelled. Non-essential services are closed. Schools are closed.
 12. The Governor has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19, and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks.
 13. As a result of these recommendations and orders, restaurant and retail business has significantly declined, and workers have been and will continue to be impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age

children. As the virus spreads, workers may have to stay home for extended periods.

14. As a further result of these recommendations and orders, many tenants in Sunnyvale have experienced or expect to soon experience sudden income loss. Further income impacts are anticipated. The loss of income caused by the effects of COVID-19 may impact tenants' ability to pay rent when due, leaving tenants vulnerable to eviction.
15. The City has broad authority under Article XI, Section 7 of the California Constitution to enact ordinances and regulations to promote the public health, safety, and welfare of the City and its residents.
16. Providing tenants with a short-term protection from eviction due to the inability to pay rent will help protect the health, safety and welfare of the Sunnyvale community affected by COVID-19 by avoiding unnecessary housing displacement, protecting the City's affordable housing stock, preventing housed individuals from falling into homelessness, and stabilizing the rental housing market by reducing displacement.
17. Displacement through eviction could destabilize the living situation of tenants and impact the health of Sunnyvale's residents in many ways, including uprooting children from schools, disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City.
18. During this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants. Prohibiting residential evictions on a temporary basis is needed during the COVID-19 pandemic outbreak. Affected tenants who have lost income due to the impacts of COVID-19 on the economy or their employment may be at risk of homelessness if they are evicted for non-payment because they are likely to have little or no income and thus be unable to secure other housing if evicted.
19. Nothing in this Ordinance will waive a tenant's obligations to pay back rent owed once this Ordinance is no longer effective.
20. This Ordinance is temporary and not a general ordinance in force required to be codified pursuant to Section 704 of the City Charter.

WHEREAS, to address the potential impacts discussed in the foregoing recitals and findings, the City of Sunnyvale desires to adopt an uncodified ordinance imposing a temporary moratorium on residential evictions for nonpayment of rent by tenants financially impacted by COVID-19.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. INCORPORATION OF FINDINGS AND RECITALS. The City Council hereby finds, determines, and declares that (1) all the foregoing recitals and findings and the staff

report presented with this Ordinance are true and correct and incorporates and adopts them as findings of the City Council as if fully set forth herein, and (2) this emergency ordinance adopted pursuant to Sunnyvale City Charter Section 701 is necessary for all the reasons stated such recitals and findings.

SECTION 2. URGENT NEED. Based on the foregoing recitals and findings, all of which are deemed true and correct, the City Council hereby this Ordinance is urgently needed to temporarily suspend residential evictions for nonpayment of rent related to the COVID-19 emergency, for the immediate preservation of the public peace, health, and safety. This emergency ordinance shall take effect immediately upon adoption in accordance with the provisions set forth in Sunnyvale City Charter Section 701.

SECTION 3. ORDINANCE ENACTING TEMPORARY MORATORIUM ON EVICTIONS FOR NONPAYMENT OF RENT BY RESIDENTIAL TENANTS IMPACTED BY THE COVID-19 PANDEMIC. A moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 pandemic is adopted as follows:

1. Policy and Purpose. This Ordinance is designed to promote housing stability during the COVID-19 pandemic and to prevent avoidable homelessness due to impacts from the COVID-19 pandemic. It is intended to enable tenants in the City whose employment and income have been affected by the COVID-19 pandemic to be temporarily exempt from eviction for non-payment of rent, and to reduce the risk that impacts of COVID-19 will create anxiety, stress and potential homelessness for the affected City residents and their communities, thereby serving the public peace, health, safety, and welfare.
2. Definitions. The following terms are defined for purposes of this Ordinance:
 - (a) "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any rental unit, mobile home, or mobile home lot, and the agent, representative, or successor of any of the foregoing.
 - (b) "Mobilehome" means a structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit, to be used with or without a foundation system.
 - (c) "Mobilehome Park" means any area or tract of land where two or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate mobilehomes used for human habitation for permanent, as opposed to transient, occupancy.
 - (d) "Mobilehome Owner" means a person who owns a mobilehome and rents or leases the mobilehome Park space on which the mobilehome is located.
 - (e) "Mobilehome Resident" means a person who rents a mobilehome from a mobilehome Owner.
 - (f) "Rental Unit" means a structure or the part of a structure, including a mobilehome or mobilehome space, that is 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, and which household pays rent for the use and occupancy for periods in excess of seven days whether or not the residential use is a conforming use permitted under the Sunnyvale Municipal Code.
 - (g) "Tenant" means a residential tenant, subtenant, lessee, sublessee, household,

mobilehome resident, mobilehome owner or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of a Rental Unit.

3. Applicability. This Ordinance applies to tenants affected by financial impacts related to COVID-19, as defined in Section 4 of this Ordinance, in any Rental Unit and Landlords of such tenants. This Ordinance applies to nonpayment eviction notices and unlawful detainer actions based on such notices, served or filed on or after March 12, 2020.
4. Moratorium on residential evictions.
 - (a) During the term of this ordinance, no landlord shall terminate or attempt to terminate the tenancy of a tenant in a rental unit or mobilehome located in the City of Sunnyvale where the basis for eviction is non-payment of rent, and the tenant's nonpayment of rent was due to financial impacts related to COVID-19. "Financial impacts related to COVID-19" include, but are not limited to lost household income as a result of any of the following:
 - (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 - (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19;
 - (3) compliance with a recommendation or order from a government health authority to stay home, self-quarantine, avoid congregating with others, or take other precautions recommended or ordered pursuant to the COVID-19 state of emergency;
 - (4) extraordinary out-of-pocket medical expenses;
 - (5) childcare needs arising from school or childcare closures related to COVID-19; or
 - (6) other similarly-caused reason resulting in a loss of income due to COVID-19.
 - (b) A landlord who has received notice that a tenant cannot pay some or all of the rent temporarily for the reasons set forth in Section (a) above shall not serve a notice pursuant to CCP Section 1161(2), file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise seek to evict that tenant for non-payment of rent.
 - (c) Nothing in this Ordinance prohibits evictions for reasons other than those specified in subsection (a) of this section.
5. Documentation of inability to pay rent due to COVID-19.
 - (a) A landlord knows of a tenant's inability to pay rent due to financial impacts related to COVID-19, if the tenant notifies the landlord in writing of lost income or inability to pay full rent due to financial impacts related to COVID-19 within 30 days after the date rent is due, and provides documentation sufficient to support the claim.
 - (1) Written notification includes email or text message communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text.
 - (2) Documentation sufficient to demonstrate impacts to income due to COVID-19 may include, but is not limited to, notification from an employer citing COVID-19 as a reason for reduced work hours or termination, employer paycheck stubs, bank or medical billing statements, or notification from a school related to school

closure due to COVID-19.

- (b) A landlord shall hold in confidence all medical or financial information a tenant provides to support claiming an inability to pay rent due to financial impacts related to COVID-19, and only use such information to evaluate the tenant's claim or enforcing this Ordinance.

6. Six-month payback requirement.

- (a) Tenants who are afforded eviction protection pursuant to this Ordinance shall have up to one hundred eighty (180) days after the City of Sunnyvale proclaims the termination the local public health emergency declared on March 12, 2020, to pay their landlord all unpaid rent and monies owed. During that 180-day period, the protections against eviction in this Ordinance apply for such tenants.
- (b) No landlord may charge or collect a late fee for rent or any portion of that is delayed for the reasons stated in this Ordinance.
- (c) Nothing in this Ordinance relieves a tenant of liability for any unpaid rent or other monies owed, nor restricts the ability of any landlord to collect rent and other lawful amounts due following the termination of the local emergency.

7. Affirmative defense to eviction; civil penalties and remedies.

- (a) Affirmative defense. Each Landlord that seeks to terminate a tenancy of a tenant to whom this Ordinance applies must comply with this Ordinance. This Ordinance may be asserted as a complete affirmative defense in any unlawful detainer eviction action under California Code of Civil Procedure Section 1161, as amended for nonpayment of rent or, as to a Section 8 Program tenant, for non-payment of the tenant's share of the contract rent, where the notice to quit or pay rent was served on or after March 12, 2020.
- (b) Civil Remedies.
 - (1) Any landlord that fails to comply with this Ordinance may be subject to civil proceedings for displacement of tenants initiated by such tenant for actual and exemplary damages.
 - (2) Whoever is found to have violated this Ordinance shall be subject to appropriate injunctive relief and shall be liable for damages, costs and reasonable attorneys' fees.
 - (3) Treble damages shall be awarded for a landlord's willful failure to comply with the obligations established under this Ordinance.
 - (4) Nothing herein shall be deemed to interfere with the right of a Landlord to file an action against a tenant or non-tenant third party for the damage done to said landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

SECTION 4. EFFECTIVE DATE. This Urgency Ordinance shall be effective immediately upon adoption pursuant to section 701 of the City Charter and shall remain in effect until the regular non-urgency Ordinance No. ____ considered at the same time and first approved by the Council on March 31, 2020 becomes effective.

SECTION 5. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the

California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it can be seen with certainty it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 6. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 7. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this Ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on March 31, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney