

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MOUNTAIN VIEW ESTABLISHING JUST CAUSE EVICTIONS
IN THE CITY OF MOUNTAIN VIEW

WHEREAS, the City of Mountain View is a Charter City; and

WHEREAS, the City of Mountain View has adopted procedures for the adoption of ordinances, including urgency ordinances; and

WHEREAS, Section 514 of the City Charter authorizes the City Council to introduce and adopt an ordinance it declares to be necessary as an emergency measure to preserve the public peace, health, and safety at one and the same meeting if passed by at least five (5) affirmative votes; and

WHEREAS, California Government Code Section 65858 sets forth a separate procedure for zoning urgency ordinances, and this procedure does not apply to this urgency ordinance because it is not a zoning regulation; and

WHEREAS, the City of Mountain View currently does not regulate the reasons for evictions from residential rental housing; and

WHEREAS, an initiative known as Measure V, entitled the Community Stabilization and Fair Rent Act ("CSFRA"), qualified for placement on the November 8, 2016 ballot, requiring just cause to evict tenants; and

WHEREAS, the City Council placed Measure W, entitled An Ordinance Amending Article II of Chapter 43 of the Mountain View City Code Related to Rent Regulation, Dispute Resolution, and Just Cause Eviction ("Measure W"), on the November 8, 2016 ballot, also requiring just cause to evict tenants; and

WHEREAS, the voters approved the CSFRA, also known as Measure V, on November 8, 2016 by a majority vote; and

WHEREAS, the CSFRA will not go into effect until ten (10) days after the vote is declared by the City Council; and

WHEREAS, the County of Santa Clara Registrar of Voters must certify the election results before the City Council can declare these results, and the earliest this is scheduled to occur is December 8, 2016; and

WHEREAS, the placement of Measure V and Measure W on the November 8, 2016 ballot created market uncertainty and concern among some landlords that if they do not evict tenants prior to the effective date of CSFRA, they will be precluded later by new regulations and such actions would defeat the intent and purpose of CSFRA and substantially impair its effective implementation; and

WHEREAS, Project Sentinel received fourteen (14) cases in response to members of the community who reported an increase in the issuance of no cause eviction notices in anticipation of the November 8, 2016 election and information that other tenants in the same buildings have also received eviction notices; and

WHEREAS, City staff have received five (5) interactions from tenants about eviction notices in the past week and information that other tenants in the same buildings have also received eviction notices; and

WHEREAS, no cause evictions will be permitted until the CSFRA becomes effective; and

WHEREAS, certain aspects of public peace, health, and safety are not adequately protected due to the lack of regulation of the reason for evictions from residential rental housing in the City of Mountain View, and the voters have declared it to be in the interest of the City, of owners and residents of rental units, and of the community as a whole to protect affordable housing within the City, including, but not limited to, requiring just cause to evict tenants by this ordinance until the CSFRA becomes effective; and

WHEREAS, in light of the numerous concerns noted herein, including, but not limited to, the current and immediate threat to the public peace, health, and safety of the City's residents and the adverse impacts that would result from no cause evictions within the City and displacement of City residents, the City Council declares this emergency measure is necessary to preserve the public peace, health, and safety of the community by adopting this urgency ordinance in order to prevent further evictions of tenants without cause prior to the effective date of the CSFRA; and

WHEREAS, staff discussions, testimony, and documentary evidence presented at the October 19, 2015, December 1, 2015, March 15, 2016, March 22, 2016, July 14, 2016, August 9, 2016, and September 27, 2016 City Council meetings, support the basis of the findings and actions set forth in this ordinance; and

WHEREAS, for reasons set forth above, this ordinance is declared by the City Council to be necessary for immediate preservation of the public peace, health, and

safety, 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);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY 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 until such time as the CSFRA becomes effective, whichever occurs first, no landlord shall be entitled to recover possession of a rental unit covered by the terms of this ordinance unless said landlord shows the existence of "just cause" as defined within Section 5 below while this urgency ordinance is in effect.

Section 3. Definitions. For the purpose of this Ordinance, the following terms shall have the definitions below:

a. **Covered Rental Units.** All Rental Units not specifically exempted by this Ordinance.

b. **City Council.** The term "City Council" refers to the City Council of the City of Mountain View.

c. **Disabled.** The term "Disabled" is defined in Government Code Section 12955.3.

d. **Landlord.** An owner, lessor, sublessor, or any other person entitled to receive Rent for the use and occupancy of any Rental Unit, or an agent, representative, predecessor, or successor of any of the foregoing.

e. **Primary Residence.** The occupant's usual place of return. To classify a unit as an occupant's Primary Residence does not require that the occupant be physically present in the unit at all times or continuously, but does require that the unit be the occupant's usual place of return. Factors that are indicative of Primary Residence include, but are not limited to:

1. The occupant carries on basic living activities at the subject premises for extended periods;

2. The subject premises are listed with public agencies, including, but not limited to, Federal, State, and local taxing authorities, as the occupant's primary residence;

3. Utility Charges and other charges and fees associated with usage of the structure are billed to and paid by the occupant at the subject premises;

4. The occupant does not file for a homeowner's tax exemption for any different property;

5. The occupant is not registered to vote at any other location; and

6. Ownership is held in the name of the occupant claiming Primary Residence and not held by a Limited Liability Corporation or other corporate or business entity structure.

f. **Property.** All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.

g. **Recognized Tenant Organization.** Any group of Tenants residing in Rental Units in the same building or in different buildings operated by the same management company, agent, or Landlord, who choose to be so designated. This shall also include any other at-large organization that represents the interest of Tenants.

h. **Relocation Assistance.** Financial assistance in the amounts set forth in Mountain View City Code, Article XIII, Sections 36.38.15, including, without limitation, Subsection 36.38.15(d) regarding "Special-Circumstances" households as defined in Mountain View City Code, Article XIII, Section 36.38.05(g).

i. **Rent.** All periodic payments and all nonmonetary consideration, including, but not limited to, the fair market value of goods, labor performed, or services rendered to or for the benefit of the Landlord under a Rental Housing Agreement concerning the use or occupancy of a Rental Unit and premises and attendant Housing Services,

including all payment and consideration demanded or paid for parking, Utility Charges, pets, furniture, and/or subletting.

j. **Rental Housing Agreement.** An agreement, oral, written, or implied, between a Landlord and Tenant for use or occupancy of a Rental Unit and for Housing Services.

k. **Rental Unit.** Any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, together with all Housing Services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the Tenant.

l. **Single-Family Home.** A detached building containing a single residential dwelling unit separately alienable from any other dwelling unit.

m. **Tenant.** A Tenant, subtenant, lessee, sublessee, or any other person entitled under the terms of a Rental Housing Agreement or this Ordinance to the use or occupancy of any Rental Unit.

n. **Written Notice to Cease.** A written notice provided by a Landlord that gives a Tenant an opportunity to cure an alleged violation or problem prior to service of a notice to terminate tenancy. Any Written Notice to Cease must:

1. Provide the Tenant a reasonable period to cure the alleged violation or problem;
2. Inform the Tenant that failure to cure may result in the initiation of eviction proceedings;
3. Inform the Tenant of the right to request a reasonable accommodation;
4. Inform the Tenant of the contact number for the Committee; and
5. Include sufficient details about the conduct underlying the Written Notice to Cease that allow a reasonable person to comply.

Section 4. Exemptions.

a. **Exempt from Just Cause for Eviction.** The following Rental Units are exempt from all provisions of this Ordinance:

1. Units in hotels, motels, inns, tourist homes, and rooming and boarding houses which are rented primarily to transient guests for a period of fewer than thirty (30) days as defined in Mountain View City Code Section 33.1(d);

2. Rental Units in any hospital, convent, monastery, extended medical care facility, asylum, nonprofit home for the aged, or dormitory owned and operated by an accredited institution of higher education;

3. Rental Units owned or operated or managed by a not-for-profit organization pursuant to a tax credit program;

4. Rental Units which a government unit, agency, or authority owns, operates, or manages, or in which governmentally subsidized Tenants reside, if applicable Federal or State law or administrative regulation specifically exempt such units from municipal rent control;

b. **Additional Homeowner Protections.** Homeownership is of great importance to the residents of the City of Mountain View. In addition to the Rental Units exempted in Subsection (a) above, the following Rental Units are also Fully Exempt from this Ordinance:

1. **Single-Family Homes and Condominiums.** Single-family homes, condominiums, and other Rental Units specified in Civil Code Section 1954.52(a)(3)(A).

2. **Companion Units.** A Rental Unit that is permitted and in compliance with Mountain View City Code Chapter 36, Article IV, Division 10.

3. **Duplexes.** Rental Units in a single structure with fewer than three (3) dwelling units being used as residential housing, as defined in Mountain View City Code Section 36.60.11.

c. **Just Cause for Eviction Applies.** The following Rental Units are not exempt from Just Cause for Eviction Protections:

1. Rental Units with an initial certificate of occupancy dated between February 1, 1995 and the effective date of CSFRA; and

2. Rental Units governed by Mountain View City Code Chapter 36, Article XIV (“Affordable Housing Program”) to the extent permissible by law.

Section 5. Just Cause for Eviction Protections.

a. No Landlord shall take action to terminate any tenancy, including, but not limited to, making a demand for possession of a Rental Unit, threatening to terminate a tenancy orally or in writing, serving any notice to quit or other eviction notice, or bringing any action to recover possession, or be granted recovery of possession of a Rental Unit unless at least one (1) of the following conditions exists:

1. **Failure to Pay Rent.** The Tenant has failed, after three (3) days’ written notice as provided by law, to pay the amount stated in the notice, so long as the amount stated does not exceed the Rent to which the Landlord is legally entitled under the Rental Housing Agreement, this Ordinance, State, and any other local law.

2. **Breach of Lease.** The Tenant has continued, after the Landlord has served the Tenant with Written Notice to Cease, to substantially violate any of the material terms of the Rental Housing Agreement, except the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the Tenant; and provided further that, where such terms have been accepted by the Tenant or made part of the Rental Housing Agreement subsequent to the initial creation of the tenancy, the Landlord shall have first notified the Tenant in writing that he or she need not accept such terms.

i. Notwithstanding any contrary provision in this Section, a Landlord shall not take any action to terminate a tenancy based on a Tenant’s sublease of the Rental Unit if the following requirements are met:

(1) The Tenant continues to reside in the Rental Unit as his, her, or their Primary Residence;

(2) The sublessee replaces one (1) or more departed Tenants under the Rental Housing Agreement on a one-for-one basis; and

(3) The Landlord has unreasonably withheld the right to sublease following written request by the Tenant. If the Landlord fails to respond to the Tenant in writing within fourteen (14) days of receipt of the Tenant’s written request, the Tenant’s request shall be deemed approved by the Landlord. A Landlord’s reasonable refusal of the Tenant’s written request may not be based on the proposed additional occupant’s lack of creditworthiness, if that person will not be legally obligated to pay some or all of the Rent to the Landlord. A Landlord’s reasonable refusal of the Tenant’s

written request may be based on, but is not limited to, the ground that the total number of occupants in a Rental Unit exceeds the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by Health and Safety Code Section 17922.

ii. **Protections for Families.** Notwithstanding any contrary provision in this Section, a Landlord shall not take any action to terminate a tenancy as a result of the addition to the Rental Unit of a Tenant's child, parent, grandchild, grandparent, brother, or sister, or the spouse or domestic partner (as defined in California Family Code Section 297) of such relatives, or as a result of the addition of the spouse or domestic partner of a Tenant, so long as the number of occupants does not exceed the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code as incorporated by California Health and Safety Code 17922.

3. **Nuisance.** The Tenant has continued, after the Landlord has served the Tenant with a Written Notice to Cease, to commit or expressly permit a nuisance in the Rental Unit.

4. **Criminal Activity.** The Tenant has continued, after the Landlord has served the Tenant with a Written Notice to Cease, to be so disorderly as to destroy the peace, quiet, comfort, or safety of the Landlord or other tenants at the Property. Such disorderly conduct includes violations of State and Federal criminal law that destroy the peace, quiet, comfort, or safety of the Landlord or other tenants at the Property.

5. **Failure to Give Access.** The Tenant has continued to refuse, after the Landlord has served the Tenant with a Written Notice to Cease and without good cause, to grant the Landlord reasonable access to the Rental Unit as required by State or local law.

6. **Necessary and Substantial Repairs Requiring Temporary Vacancy.** The Landlord, after having obtained all necessary permits from the City, and having provided written notice to the Tenant pursuant to State law, seeks in good faith to undertake substantial repairs that are necessary to bring the Rental Unit into compliance with applicable codes and laws affecting the health and safety of tenants of the building, provided that:

i. The repairs necessitate that the Tenant vacate the Rental Unit because the work will render the rental unit uninhabitable for a period of not less than thirty (30) days;

ii. The Landlord gives advance notice to the Tenant of the Tenant's right to elect between:

(1) The right of first refusal to any comparable vacant Rental Unit owned by the Landlord at the same Rent, if such comparable vacant unit exists; or

(2) The first right of return to reoccupy the unit upon completion of the repairs at the same Rent charged to the Tenant before the Tenant temporarily vacated the Rental Unit.

(3) In the event that the Tenant elects to accept an offer to move to a comparable vacant Rental Unit at the same Rent, the Tenant is not eligible for any Relocation Assistance.

iii. In the event the Landlord files a Petition for Individual Rent Adjustment under CSFRA within six (6) months following the completion of the work, the Tenant shall be party to such proceeding as if he or she were still in possession, unless the Landlord shall submit with such application a written waiver by the Tenant of his or her right to reoccupy the premises pursuant to this Subsection.

7. **Owner Move-In.** The Landlord seeks, after providing written notice to the Tenant pursuant to State law, to recover possession of the Rental Unit in good faith for use and occupancy as a Primary Residence by the Landlord, or the Landlord's spouse, domestic partner, children, parents, or grandparents.

i. As used in this Subsection "Landlord," shall only include a Landlord that is a natural person and has at least a fifty percent (50%) recorded ownership interest in the Property.

ii. No eviction may take place under this Subsection if the same Landlord or enumerated relative already occupies a unit on the Property, or if a vacancy already exists on the Property. At all times a Landlord may request a reasonable accommodation if the Landlord or enumerated relative is Disabled and another unit in Mountain View is necessary to accommodate the person's disability.

iii. Any notice terminating tenancy pursuant to this Subsection shall contain the name, address, and relationship to the Landlord of the person intended to occupy the Rental Unit.

iv. The Landlord or enumerated relative must intend in good faith to move into the Rental Unit within sixty (60) days after the Tenant vacates and to occupy the Rental Unit as a Primary Residence for at least thirty-six (36) consecutive months. The Committee may adopt regulations governing the determination of good faith.

v. If the Landlord or relative specified on the notice terminating tenancy fails to occupy the Rental Unit within sixty (60) days after the Tenant vacates, the Landlord shall:

(1) Offer the Rental Unit to the Tenant who vacated it at the same Rent in effect when the Tenant vacated; and

(2) Pay to said Tenant all reasonable expenses incurred in moving to and from the Rental Unit.

vi. A Landlord may not evict a Tenant pursuant to this Subsection if the Tenant: (1) has resided in the Rental Unit for at least five (5) years and is either at least sixty-two (62) years old or Disabled; or (2) is certified as being terminally ill by the Tenant's treating physician. Notwithstanding the above, a Landlord may evict a Tenant who qualifies for the exemption herein if the Landlord or enumerated relative who will occupy the Rental Unit also meets the criteria for this exemption and no other units are available.

8. **Withdrawal of the Unit Permanently from Rental Market.** The Landlord seeks in good faith to recover possession to withdraw all Rental Units of an entire Property from the rental market. Tenants shall be entitled to a minimum of one hundred twenty (120) day notice or one (1) year in the case Tenants are defined as senior or Disabled under Government Code Section 12955.3.

9. **Demolition.** The Landlord, having obtained all necessary permits from the City, and having provided written notice to the Tenant pursuant to State law, seeks in good faith to recover possession of the Rental Unit to remove the Rental Unit permanently from rental housing use through demolition.

b. **Relocation Assistance.**

1. A landlord seeking to recover possession under Subsections 6 through 9 herein shall provide Relocation Assistance to affected Tenant households. The Relocation Assistance required herein shall be a minimum amount. The City Council may increase the dollar amounts of Relocation Assistance pursuant to its powers under law. The Landlord shall notify the affected Tenants of their rights under this Subsection, if any, at the time of service of the notice to quit.

2. For purposes of this Ordinance, Relocation Assistance shall be available to all Tenant households eligible under this Ordinance whose household income does not exceed one-hundred twenty percent (120%) of the median household income for Santa Clara County as adjusted for household size according to the United States Department of Housing and Urban Development.

c. **First Right of Return.** All Tenants whose tenancy is terminated based upon a basis enumerated in Subsections 6 to 9 herein shall have the first right of return to the Rental Unit if that Rental Unit is returned to the market by the Landlord or successor Landlord. Rent for the Rental Unit shall be the Rent lawfully paid by the Tenant at the time the Landlord gave notice of termination based upon Subsections 6 to 9 herein.

d. **Retaliation is Barred.** Notwithstanding the above provisions, no Landlord shall take action to terminate any tenancy or otherwise recover possession of a Rental Unit in retaliation for the Tenant reporting violations of this Ordinance, for exercising rights granted under this Ordinance, or for forming or participating in a Recognized Tenant Organization.

e. **Notice to Specify Basis for Termination.** Any notice purporting to terminate tenancy on any of the bases specified in this Section must state with specificity the basis on which the Landlord seeks to terminate the tenancy.

f. **Landlord Compliance with this Ordinance.** In any action brought to recover possession of a Rental Unit, the Landlord shall allege compliance with this Ordinance.

g. **Failure to comply.** A Landlord's failure to comply with any requirement of this Ordinance, including, without limitation, the failure to serve any of the required notices on the City pursuant to Subsection (g) herein, is a complete affirmative defense in an unlawful detainer or other action brought by the Landlord to recover possession of the Rental Unit.

Section 6. Remedies. In addition to any other remedies provided by law, Landlords and Tenants covered by this Ordinance shall have the following remedies for violations of this Ordinance:

a. **Civil Remedies.** A Tenant may bring a civil suit in the courts of the State alleging that a Landlord has violated any of the provisions of this Ordinance or the regulations promulgated hereunder, including that the Landlord has demanded, accepted, received, or retained a payment or payments in excess of the lawful Rent. In a civil suit, a Landlord found to violate this Ordinance shall be liable to the Tenant for all actual damages, including, but not limited to, the damages described in Subsection (a) herein. A prevailing tenant in a civil action brought to enforce this Ordinance shall be awarded reasonable attorney's fees and costs as determined by the court. Additionally, upon a showing that the Landlord has acted willfully or with oppression, fraud, or malice, the Tenant shall be awarded treble damages. No administrative remedy need be exhausted prior to filing suit pursuant to this Subsection.

b. **Additional Relief for Landlord's Violation of Eviction Rules.** If it is shown that the event which the Landlord claims as grounds to recover possession under Section 6(a)(6)-(9) is not initiated within two (2) months after the Tenant vacates the Rental Unit, or it is shown that the Landlord's claim was false or in bad faith, the Tenant shall be entitled to regain possession of the Rental Unit at same Rent that was lawfully in effect when the Tenant vacated, in addition to the relief described in Subsection (a) above.

c. **Defense to Action to Recover Possession.** A Landlord's failure to comply with any of the provisions of this Ordinance shall serve as a complete affirmative defense in an unlawful detainer or other action brought by the Landlord to recover possession of the Rental Unit. Any and all violations of this Ordinance by the Landlord shall constitute such an affirmative defense, including, but not limited to, failure to serve any of the notices required pursuant to this Ordinance on the Tenant. It is the intent of this Ordinance to construe this Subsection to the broadest extent permissible under the law to ensure maximum compliance with this Ordinance and avoid unlawful evictions.

d. **Remedies Not Exclusive.** The remedies available in this Ordinance are not exclusive and may be used cumulatively with any other remedies in this Ordinance or otherwise available at law.

e. **Jurisdiction.** The appropriate court in the jurisdiction in which the Rental Unit is located shall have jurisdiction over all actions brought under this Ordinance.

Section 7. Injunctive and Other Civil Relief. Tenants and Landlords may seek relief from the appropriate court in the jurisdiction where the affected Rental Unit is located to enforce any provision of this Ordinance or to restrain or enjoin any violation of this Ordinance.

Section 8. 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 and Article XI of the California Constitution.

Section 9. 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 10. 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 sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 11. Effective Date. Pursuant to Section 514 of the Mountain View City Charter, as an urgency ordinance, this Ordinance becomes effective immediately upon its adoption by five (5) affirmative votes of the City Council.

Section 12. Publication. Pursuant to Section 522 of the Mountain View City Charter, the City Clerk shall publish this Ordinance at least once in the official newspaper within fifteen (15) days after its adoption.

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