



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Adoption of Emergency Ordinance of the City of Sunnyvale to Temporarily Suspend Evictions for Nonpayment of Rent by Residential Tenants Impacted by the COVID-19 Emergency Effective From July 1, 2021 Through September 30, 2021

#### **BACKGROUND**

On March 12, 2020, in response to the spread of COVID-19, the Sunnyvale City Manager declared a local emergency, which was ratified by the City Council on March 17, 2020. On March 20, 2020, Governor Newsom issued Executive Order N-33-20 which included a 'Stay-at-Home' Order by the State Health Officer to protect the public health from COVID-19.

Many Sunnyvale residents suffered unemployment and a loss of income as a result of the COVID-19 pandemic and related public health orders. On March 31, 2020, the City Council adopted an emergency ordinance (Ordinance No. 3157-20) and introduced a regular ordinance, which was adopted on April 7, 2020 (Ordinance No. 3158-20), enacting a moratorium on evictions for non-payment of rent by residential tenants impacted by the COVID-19 pandemic. The City's eviction moratorium was subsequently superseded by state law. On September 1, 2020, the COVID-19 Tenant Relief Act (AB 3088) was adopted, prohibiting evictions for non-payment of rent of tenants facing financial hardship because of COVID-19 for the time period of March 1, 2020 to August 31, 2020. From September 31, 2020 onward through January 31, 2021, such tenants could not be evicted as long as they paid at least 25% of the rent due during that period. On January 29, 2021, Governor Newsom signed SB 91, the Statewide Eviction Moratorium, which extended the tenant protections in AB 3088 through June 30, 2021. The SB 91 eviction protections for residential tenants, as well as federal protections against evictions, are set to expire on June 30, 2021.

In addition to eviction protections, SB 91 also established a State Emergency Rental Assistance Program (ERAP). Under ERAP, eligible renters can apply for landlords to be reimbursed for up to 80% of each eligible household's unpaid rent due between April 1, 2020, and March 31, 2021 provided that the landlord agrees to waive the remaining 20% of unpaid rent. If a landlord chooses not to participate in the program, the tenant may still apply for rental assistance for up to 25% of unpaid rent due between April 1, 2020, and March 31, 2021. Unfortunately, roll-out of the ERAP program has been slow. Many tenants remain at risk of eviction as they wait for applications and payments to be processed. As a result, evictions that may be preventable could occur starting July 1, 2021, when the State Eviction Moratorium expires.

Although the fact that the State is considering extending the Statewide Eviction Moratorium has been well-publicized, as of the date of this report, the State has not announced a plan to extend eviction protections beyond June 30, 2021. Starting July 1, 2021, without federal and state protections, tenants could face eviction proceedings for lack of payment of ongoing rent. The proposed ordinance

would extend eviction protections through September 30, 2021 for tenants who faced financial hardship related to COVID-19. This time period will allow such tenants and their families to remain in their homes and gain some stability as the economy starts functioning at a normal level and allow them time to access state and local ERAP benefits if qualified.

## **EXISTING POLICY**

### **CHARTER OF THE CITY OF SUNNYVALE**

#### **Article VII Ordinances and Legal Notices**

##### **Section 701 - Emergency Ordinances**

Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes.

## **GENERAL PLAN**

### **Housing Element**

#### **GOAL HE-5 EQUAL HOUSING OPPORTUNITIES**

Promote equal housing opportunities for all residents, including Sunnyvale's special needs populations, so that residents can reside in the housing of their choice.

## **ENVIRONMENTAL REVIEW**

Adoption of an emergency ordinance does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

## **DISCUSSION**

### **1. Necessity for Emergency Ordinance**

The COVID-19 pandemic continues to cause widespread economic stress on Sunnyvale residents who have lost jobs or income because of the wide-ranging impacts of COVID-19. If the Statewide Eviction Moratorium is not extended, beginning on July 1, 2021, tenants facing financial hardship due to COVID-19 will not have protection against eviction for nonpayment of rent. An increase in evictions and related displacement may create undue hardship for renters through stress, anxiety, and additional relocation costs, and will likely intensify pre-existing economic pressures related to the COVID-19 pandemic and may also result in increased homelessness.

The proposed Emergency Ordinance is designed to provide tenants with uninterrupted protection against eviction through the end of September to provide more time for COVID-19 related relief funds to be distributed and for tenants' incomes to stabilize, which could help avert many preventable evictions. Other jurisdictions, both locally and statewide, have adopted or are considering ordinances to extend the protections of the Statewide Eviction Moratorium under SB 91 if the state does not act to do so.

## 2. City's Proposed Ordinance

The proposed Emergency Ordinance is designed to (1) provide tenants affected by COVID-19 with uninterrupted protection from eviction for nonpayment of rent through September 30, 2021; and (2) provide terms that are substantially similar to the eviction protections of SB 91, essentially maintaining the status quo for an additional 90 days and minimizing new rules for landlords and tenants to learn and understand. Staff carefully considered how long the extension for eviction protections should stay in place, and is recommending a 90 day period to align with the Governor's statement that COVID cases will be monitored throughout the summer and the emergency declaration will be evaluated at the end of September. It is possible that emergency declarations may remain in place beyond the duration of the most urgent housing needs. Therefore, to balance tenants' needs for some additional time to adjust to the changing economic landscape with landlords' needs for certainty related to rental payments and income, staff recommends a 90-day extension of COVID-19-related eviction protections that aligns with the State's anticipated timeframe for evaluating the COVID-19 emergency situation.

The proposed Emergency Ordinance explains the facts that justify its adoption and contains required findings that the regulation is necessary for the immediate preservation of the public peace, health, or safety-that the impacts of the COVID-19 crisis continue to create significant financial hardships for residential tenants in the City, and the likely consequences of potential mass evictions if the Statewide Eviction Moratorium is not extended. City Charter Section 701 requires five affirmative votes to adopt an emergency ordinance.

Key elements of the proposed Sunnyvale ordinance include:

- a. Residential tenants who have provided landlords notice of financial impacts of COVID-19 may not be evicted for nonpayment of rent due between July 1, 2021 and September 30, 2021. Evictions for any other reason would be permitted.
- b. 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 October 1, 2021.
- c. Tenants must pay 25% of rental payments due during the extension period by September 30, 2021. If 25% of rent is not paid, landlords may pursue eviction actions starting on October 1, 2021.
- d. Other outstanding rent due from July 1, 2021 through September 30, 2021 can be collected as consumer debt starting on October 1, 2021; however, if 25% of rent for this period is paid, nonpayment of the balance would not provide a basis for eviction.
- e. Rent due on or after October 1, 2021 may be collected when that rent is due.
- f. As an emergency ordinance, it will be adopted immediately and its provisions will take effect on July 1, 2021, when the City is no longer restricted by state law from taking such actions. If the state adopts an extension of the Statewide Eviction Moratorium before July 1, the Emergency Ordinance will not go into effect. Similarly, the Emergency Ordinance will be rescinded if the state adopts an extension after July 1. Staff found that the overlapping and sometimes conflicting State and local rules on this topic early in the pandemic created significant confusion and effort for both landlords and tenants, and believes that a streamlined approach that defers to state law is preferable to a patchwork of regulation at different levels if the state approves an extension and that option is

available.

### 3. Outreach and Next Steps

If the Emergency Ordinance is adopted, the City will provide notice to the community and educate landlords on its details, including that they are prohibited from evicting tenants for nonpayment of rent due to the impact of COVID-19. In addition, the City partners with Project Sentinel for Tenant-Landlord Dispute Resolution Services. The Dispute Resolution Services Program provides counseling and dispute resolution services to renters and landlords, including counseling services on rights and responsibilities, information and referral services, educational services, and various dispute resolution alternatives including tenant/landlord mediation. The Program helps to assure that City residents are treated in accordance with all applicable federal, state and local laws.

### **FISCAL IMPACT**

Adoption of this Emergency Ordinance will have no direct fiscal impact on the City. Staff time will be required to advise property owners of the moratorium and to inform and answer questions from the community about the ordinance.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, Sunnyvale Public Library and Department of Public Safety. In addition, the agenda and report are available at Office of the City Clerk, and on the City's website.

### **ALTERNATIVES**

1. Adopt an Emergency Ordinance of the City of Sunnyvale to Temporarily Suspend Evictions for Nonpayment of Rent by Residential Tenants Impacted by the COVID-19 Emergency Effective from July 1, 2021 through September 30, 2021.
2. Do not adopt an ordinance.

### **STAFF RECOMMENDATION**

Alternative 1: Adopt an Emergency Ordinance of the City of Sunnyvale to Temporarily Suspend Evictions for Nonpayment of Rent by Residential Tenants Impacted by the COVID-19 Emergency Effective from July 1, 2021 through September 30, 2021.

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Reviewed by: Trudi Ryan, Community Development Director  
Reviewed by: Teri Silva, Assistant City Manager  
Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. Draft Emergency Eviction Moratorium Ordinance