

ORDINANCE NO.

AN INTERIM EMERGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SANTA CRUZ ESTABLISHING A REQUIREMENT FOR A MINIMUM
NINETY DAY NOTICE OF RENTAL HOUSING AGREEMENT TERMINATION FOR
OWNERS OF RESIDENTIAL DWELLINGS IN THE CITY OF SANTA CRUZ

THE CITY COUNCIL OF THE CITY OF SANTA CRUZ hereby ordains as follows:

SECTION 1. Findings.

- A. Pursuant to Article XI, Section 7 of the California Constitution, the City of Santa Cruz ("City") may make and enforce all regulations and ordinances using its police powers.
- B. During the City's Fall 2017 Community Outreach on Housing, and continuing to the present day, the City received extensive public testimony about the exorbitant costs and scarcity of rental units.
- C. Housing insecurity and excessive rent increases could result in homelessness and displacement of low-income families, particularly given the City's low housing vacancy rates and the associated challenges with finding new housing.
- D. In early 2018, Residents of the City have announced plans to place a just cause for eviction and rent stabilization measure on the ballot to go before the voters at the General Municipal Election in November of 2018.
- E. On February 13, 2018, the City Council adopted Ordinances 2018-03 and 2018-04 (collectively, the "Rent Freeze"), establishing a temporary moratorium on certain rent increases in excess of two percent and just cause eviction protections for most residential rentals in the City of Santa Cruz, and finding that temporary moratorium on residential rent increases for eligible rental units not to exceed a two percent inflation factor was necessary because rent increases imposed in anticipation of a rent stabilization law would defeat the intent and purpose of any potential future regulation and substantially impair its effective implementation.
- F. On May 10, 2018, an initiative petition for a rent control and just cause eviction charter amendment was submitted to the City Clerk Administrator for verification of signatures. On June 21, 2018, the County Elections Official certified that the petition had sufficient signatures for placement on the November ballot.
- G. On June 26, 2018, the City Council adopted Resolution No. NS- 29,421 to include a charter amendment ballot measure entitled "Santa Cruz Rent Control and Tenant Protection Act" on the November 6, 2018 ballot, later designated by the Santa Cruz County Elections Official as "Measure M."
- H. At the November 6, 2018 election, Santa Cruz voters rejected Measure M by a vote, as of November 27, 2018, of 17,752 against (63.04%) to 10,408 in favor (36.96%).

I. Owing to the defeat of Measure M, Pursuant to its terms, the Rent Freeze shall terminate upon the City Council's certification of election results for the November 6, 2018 General Municipal Election, which is scheduled to occur on December 11, 2018.

J. At its November 27, 2018 regular meeting, the City Council introduced for publication an ordinance amending Chapter 21.03 establishing the right for residential tenants who are forced to relocate due to a rent increase of more than 5% in one year or cumulatively more than 7% over the course of a two-year period (the "Large Rent Increase Ordinance").

K. During the Council's hearing on the Large Rent Increase Ordinance, an overflow audience of both Measure M's supporters and opponents addressed the City Council—many speakers from both sides expressing support for some additional reasonable tenant protections, with several suggesting modifications that would address some of the concerns that may have discouraged voters from supporting Measure M.

L. It is reasonably anticipated that the City Council will begin considering such additional tenant protections after newly elected councilmembers are sworn in at the December 11th City Council meeting.

M. Additionally, several renters expressed concerns, either from personal experience or anecdotally, about landlords serving notice of termination, either in an effort to vacate residential units in advance of any further City Council action or as retaliation against tenants who publicly supported Measure M.

N. Under California Civil Code Sections 1946 and 1946.1, the owner of a residential tenancy giving notice of termination pursuant to those sections must give notice at least 60 days prior to the proposed date of termination provided, however, that notice must be provided at least 30 days prior to the proposed date of termination if any tenant or resident has resided in the dwelling for less than one year.

O. Although Sections 1946 and 1946.1 specify the minimum notice that owners must provide prior to the proposed date of termination, nothing in those sections shows an intention by the Legislature to fully and completely occupy the field of termination notice time periods. That the subject matter of notices of termination has been partially covered by general law does not clearly indicate that a paramount state concern will not tolerate further or additional local action, and a local ordinance specifying notice requirements above the minimum provided by the general law would have no apparent effect on the transient citizens of the state.

P. The City Council hereby finds and determines that the degree and severity for tenants to find and secure rental housing in the face of being evicted under the circumstances described above is significant public health and safety concern, particularly during the upcoming winter months, and warrants consideration of an emergency ordinance requiring landlords to provide a minimum of 90 days' advance notice of eviction, except as set forth below.

Q. Based upon the above-described facts and circumstances, and for these same reasons, the

City Council finds that this ordinance is necessary as an emergency measure for preserving the public peace, health and safety, and therefore that it may be introduced and adopted at one and the same meeting, and shall take effect immediately upon its adoption.

SECTION 2. Definitions.

- A. City Council. The Santa Cruz City Council.
- B. Landlord. An owner of record, lessor, sublessor, or any other person, entity or non-natural 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.
- C. Moratorium Period. The period of time between the effective date of this Ordinance and its automatic expiration on the date set forth in Section 7, below.
- D. Notice to Terminate a Tenancy. Any notice required under state law or this Ordinance for a Landlord to lawfully cause a Tenant to vacate a Rental Unit.
- E. Notice to Quit. A notice specifically required by California Code of Civil Procedure section 1161 for a Landlord to lawfully cause a Tenant to vacate a Rental Unit.
- F. Property. All Rental Units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.
- G. Rental Housing Agreement. An oral, written, or implied agreement between a Landlord and a Tenant for use or occupancy of a Rental Unit and Housing Services.
- H. Rental Unit. A building, structure, or part thereof, or land appurtenances thereto, or any other rental property rented or offered for rent for residential purposes and Housing Services.
- I. Tenant. A Tenant, subtenant, lessee, sublessee, or a person entitled under the terms of a Rental Housing Agreement to the use or occupancy of a Rental Unit.

SECTION 3. Imposition of Temporary 90 Day Notice of Termination Requirement.

A. During the Moratorium Period, no Landlord shall take action to terminate any lawful 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 Notice to Terminate a Tenancy, or bringing any action to recover possession, or be granted recovery of possession of a Rental Unit without providing at least ninety days' advance written Notice to Terminate a Tenancy or Notice to Quit unless at least one of the following conditions exists. This minimum notice of termination requirement is intended to apply to the fullest extent permitted by law to all Notices to Terminate a Tenancy and Notices to Quit that were served on a tenancy prior or subsequent to the effective date of this Ordinance. The following exceptions apply to the requirement for a 90-day advance notification:

1. Failure to Pay Rent. The Tenant has failed to pay the Rent to which the Landlord is legally entitled under the Rental Housing Agreement, this Ordinance, or any other state or 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 upon expiration of a lease or rental agreement, and provided that such terms are reasonable and legal and have been accepted in writing by the Tenant.
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, or cause substantial damage to the Rental Unit or to the unit's appurtenances, or to the common areas of the Property containing the Rental Unit, or is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the Property or adjacent residences.
4. Illegal Activity. The Tenant is using, or permitting a Rental Unit or the common areas of the Property containing the Rental Unit to be used for any illegal purpose.
5. Failure to Give Access. The Tenant has continued to refuse, after the Landlord has served the Tenant with a Written Notice to Cease, 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, seeks 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:
 - a. 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 (30) days; and
 - b. The Landlord gives advance notice to the Tenant of the Tenant's right of return to reoccupy the Rental Unit upon completion of the repairs at the same Rent charged to the Tenant before the Tenant temporarily vacated the Rental Unit, or Tenant's right of first refusal to any comparable vacant Rental Unit owned by the Landlord at the same Rent, if such comparable unit exists.
7. Withdrawal of the Rental Unit Permanently from the Rental Market. The Landlord seeks in good faith to recover possession to withdraw all Rental Units of an entire Property from the rental housing market. Tenants affected by this

provision shall be entitled to a minimum of 120-day notice, or a notice of not less than one (1) year in the case of Tenants defined as seniors or disabled under Government Code Section 12955.3.

B. Any notice purporting to terminate a tenancy on less than ninety (90) days' notice on any of the bases specified in this Ordinance must state with specificity the basis on which the Landlord seeks to terminate the tenancy.

C. In any action brought to recover possession of a Rental Unit on less than ninety (90) days' notice, the Landlord shall allege compliance with this Ordinance.

D. A Landlord's failure to comply with this Ordinance, including without limitation, the failure to serve any required notices, is a complete affirmative defense in an unlawful detainer or other action brought by the Landlord to recover possession of the Rental Unit.

SECTION 4. Enforcement Procedures

The City, at its sole discretion, may choose to enforce the provisions of this ordinance through administrative fines and any other administrative procedure set forth in Chapter 4 of the Municipal Code, as amended. Violations of the provisions of this ordinance may be subject to fines of up to \$3,000. The City's decision to pursue or not pursue enforcement of any kind shall not affect a tenant's rights to pursue civil remedies.

SECTION 5. 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 raise a Landlord's failure to comply as an affirmative defense in any unlawful detainer action. In a civil suit, a Landlord found to violate this Ordinance shall be liable to the Tenant for all actual damages. A prevailing Tenant in a civil action brought to enforce this Ordinance or who prevails in any unlawful detainer action that is not brought in compliance with this Ordinance shall be awarded reasonable attorneys' fees and costs. 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 Section.

SECTION 6. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. Effective Date and Expiration Date.

This ordinance shall take effect immediately following its adoption and shall terminate on March 4, 2019 unless extended by ordinance.

SECTION 8. Environmental Determination.

The City Council finds that the adoption and implementation of this Ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)(3) in that the City Council finds there is no possibility that the implementation of this Ordinance may have significant effects on the environment.

PASSED FOR FINAL ADOPTION as an emergency ordinance this 4th day of December, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
David Terrazas, Mayor

ATTEST: _____
City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2018-____ and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

City Clerk Administrator