

## ORDINANCE NO. 08-2020

### AN URGENCY INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADOPTING A TEMPORARY MORATORIUM ON RESIDENTIAL AND COMMERCIAL EVICTIONS AND PROVIDING CITY RESIDENTS RELIEF FOR UTILITY SERVICES IN THE CITY OF ELK GROVE (CEQA EXEMPT)

The City Council of the City of Elk Grove hereby does ordain as follows:

#### **Section 1: Purpose and Authority.**

In the interest of protecting the public peace, health, safety, and welfare of the residents in the City of Elk Grove, it is the purpose and intent of this ordinance to place a temporary moratorium on evictions and foreclosures in the City of Elk Grove and provide City residents relief concerning utility discontinuances and late fees. The City Council has authority to adopt this ordinance pursuant to California Constitution Article XI, Section 7 and Government Code section 36937.

#### **Section 2: Findings.**

- A. On March 4, 2020, the Governor of the State of California proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19.
- B. On March 12, 2020, the Governor of the State of California issued Executive Order N-25-20 providing certain guidance and direction concerning the threat of COVID-19, including, without limitation, suspension of certain components of the Ralph M. Brown Act, Government Code sections 54950 et seq.
- C. On March 13, 2020, the City Manager, acting as the Director of Emergency Services, issued a Resolution Proclaiming Existence of a Local Emergency in the City of Elk Grove, which proclamation was ratified by the City Council on March 18, 2020.
- D. On March 16, 2020, the Governor of the State of California issued Executive Order N-28-20 authorizing local government agencies to impose limitations on evictions within their jurisdiction.
- E. The findings of the above-referenced proclamations and executive orders identified at paragraphs A through D, inclusive, of this Section 2, are hereby incorporated into this ordinance by reference.
- F. This urgency ordinance is necessary to promote the immediate preservation of the peace, health, and safety of the public in an effort to preserve the City's housing security and stability and to mitigate the economic impacts of COVID-19 on the City residents and businesses.

#### **Section 3: Environmental Review/California Environmental Quality Act (CEQA).**

This ordinance is intended to preserve the status quo, and it will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. The enactment of this ordinance, therefore, does not

constitute the approval of a project under the California Environmental Quality Act ("CEQA"), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c),(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).)

#### **Section 4: Definitions.**

As used herein the following definition shall apply:

- A. "Person" shall mean any individual natural person, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, financial institution or any other group or combination acting as a unit.
- B. "Substantial decrease in household income" as concerns residential tenancies and units shall mean a decrease in gross household income of not less than twenty percent (20%) from the average gross monthly household income for the period from December 1, 2019 through February 29, 2020.
- C. "Substantial decrease in business income" as concerns commercial tenancies and units shall mean a decrease in gross business income of not less than twenty percent (20%) from the average gross monthly business income for the period from December 1, 2019 through February 29, 2020. "Commercial" tenancies and units shall include all non-residential tenancies and units in the City.
- D. "Substantial out-of-pocket medical expenses" shall mean total medical expenses for a single family living in a single residential unit of not less than twenty percent (20%) of the family's gross monthly income.

#### **Section 5: Moratorium on Evictions.**

- A. During the term of this ordinance, no person shall institute any eviction (unlawful detainer) proceedings, including, without limitation, service of a 3-day notice for nonpayment of rent, against any other person within the City of Elk Grove where:
  - 1. the basis of the eviction proceeding is nonpayment of rent or eviction following a foreclosure; and
  - 2. such nonpayment of rent or foreclosure proceeding was the result of a substantial decrease in household income for residential tenancies or a substantial decrease in business income for commercial tenancies (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand) or substantial out-of-pocket medical expenses caused by COVID-19 or any government response thereto, all as documented with substantial evidence by the person subject to eviction.
- B. Nothing herein shall prohibit evictions for reasons other than those specified in paragraph A of this Section 5.

- C. This ordinance shall suspend an action for eviction (unlawful detainer), all as set forth herein, in order to provide persons temporary relief against such evictions. Nothing herein shall relieve any person from the obligation to pay rent or other monies owed, nor restrict any other person from seeking recovery of such rent or amounts due, plus any lawful interest, late fees, attorneys' fees, and/or any other lawful and proper collection charges.
- D. In order to take advantage of the rent and eviction protections afforded under this ordinance, a tenant must do all of the following:
1. Notify the property owner or landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment;
  2. Provide the property owner or landlord with verifiable documentation to support the assertion of a covered reason for delayed payment;
  3. Pay the portion of rent that the tenant is reasonably able to pay, all subject to the following provisions:
    - a. For any person meeting the criteria for protection under this ordinance pursuant to Section 5.A., there shall be a rebuttable presumption that the person paid that portion of the rent that the tenant was reasonably able to pay if the tenant pays not less than fifty percent (50%) of the regular monthly rent due.
    - b. Nothing herein shall prevent the tenant and the property owner or landlord from entering into a mutually agreeable and enforceable rental agreement for the payment of current or past due rent.
- E. Any person or persons afforded eviction protection under this ordinance shall have up to one hundred twenty (120) days after the expiration of the ordinance, as may be extended by the City Council, to pay the property owner or landlord all unpaid rent due. The exact terms of the repayment plan agreement shall be subject to mutual agreement of the landlord and tenant. In the absence of a repayment plan agreement between the landlord and tenant, the total of all the delayed payments shall be repaid in four (4) equal payments to be paid in thirty (30) day intervals beginning the day after the expiration of this ordinance. A landlord may commence eviction (unlawful detainer) proceedings as to any person who fails to make the payments as provided herein.
- F. In addition to any other remedy available to the City or any other person, violation of Section 5.A. of this ordinance shall be punishable by a fine of up to \$1,000 per violation.
- G. Any person afforded eviction protection under this ordinance may raise application of this ordinance as a defense to an eviction (unlawful detainer) proceeding subject to this ordinance.

- H. The rent and eviction protections herein shall not apply to any commercial tenant whose annual gross sales company-wide exceed twenty-five million dollars (\$25,000,000) for the year 2019. Notwithstanding the foregoing, a franchisee for a single store, restaurant, or other business operation in the City of Elk Grove associated with a regionally or nationally operating business entity whose individual gross sales for that single store, restaurant, or other business operation in the City of Elk Grove do not exceed twenty-five million dollars (\$25,000,000) for the year 2019 shall be eligible for protection under this ordinance, provided that all other conditions for protection under this ordinance are satisfied.

#### **Section 6: Utility Service; Discontinuance and Late Fees.**

- A. Subject to the provisions of paragraph B of this Section 6, during the term of this ordinance, the City shall not discontinue service or charge late charges for solid waste or drainage services within the City for those persons meeting the criteria of paragraph B of this Section 6, and the City Manager or designee shall take all reasonable measures to encourage other utility providers within the City, operated by public agencies within the City, to provide similar protections to their customers concerning discontinuing or disconnecting services and/or charging late fees related to such utility services.
- B. In order to take advantage of the protections set forth in paragraph A of this Section 6, the person receiving the solid waste and/or drainage service from the City must demonstrate a substantial decrease in household income for residential service or a substantial decrease in business income for commercial service (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand) or substantial out-of-pocket medical expenses caused by COVID-19 or any government response thereto, all as documented with substantial evidence by the person seeking protection under this Section 6, and provided that the person receiving the service does all of the following:
1. Notifies the City Public Works Director in writing before the day a payment is due that the person receiving the service has a covered reason for relief under this Section 6.
  2. Provides the City Public Works Director with verifiable documentation to support the assertion of a covered reason for relief under this Section 6.

#### **Section 7: Term of Ordinance.**

This ordinance shall be in effect from the date of adoption through 11:59 p.m. (PST) on May 31, 2020, unless extended or earlier terminated.

#### **Section 8: No Mandatory Duty of Care.**

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care

towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**Section 9: Severability.**

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

**Section 10: Effective Date.**

This ordinance, passed by at least a four-fifths vote of the City Council, is declared to be an urgency ordinance for preserving the public health, safety and welfare and shall take effect and be enforced immediately upon adoption.

**ORDINANCE:**       **08-2020**  
**ADOPTED:**        March 25, 2020  
**EFFECTIVE:**      March 25, 2020



\_\_\_\_\_  
STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST



\_\_\_\_\_  
JASON LINDGREN,  
CITY CLERK

APPROVED AS TO FORM:



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JONATHAN P. HOBBS,  
CITY ATTORNEY

Date signed: March 27, 2020

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL URGENCY INTERIM ORDINANCE NO. 08-2020**

STATE OF CALIFORNIA        )  
COUNTY OF SACRAMENTO    )     ss  
CITY OF ELK GROVE         )

*I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing urgency interim ordinance, published and posted in compliance with State law, was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a special meeting of said Council held on March 25, 2020 by the following vote:*

**AYES :**        **COUNCILMEMBERS:**     *Ly, Detrick, Hume, Nguyen, Suen*

**NOES:**       **COUNCILMEMBERS:**     *None*

**ABSTAIN:**   **COUNCILMEMBERS:**     *None*

**ABSENT:**    **COUNCILMEMBERS:**     *None*



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**Jason Lindgren, City Clerk**  
**City of Elk Grove, California**