



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Consider an Urgency Interim Ordinance of Imposing a Temporary Moratorium on Residential and Commercial Evictions and Providing Relief for Utility Services in the City of Elk Grove (CEQA Exempt)

MEETING DATE: March 18, 2020

PREPARED BY/ Jason Behrmann, City Manager
DEPARTMENT HEAD: Jonathan P. Hobbs, City Attorney

RECOMMENDATION/DISCUSSION:

On March 16, 2020, the Governor of the State of California issued an executive order authorizing local government agencies to impose limitations on evictions for persons and business impacted by COVID-19.

Consistent with that executive order, and the City's police power, staff recommends that the City Council adopt the attached proposed urgency ordinance imposing a temporary moratorium on evictions and providing City residents with relief from disconnection and late fees for utilities.

As an urgency ordinance, a four-fifths vote of the City Council is required for passage.

ATTACHMENT:

1. Proposed Urgency Ordinance

**AN URGENCY INTERIM ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF ELK GROVE IMPOSING A MORATORIUM ON RESIDENTIAL AND
COMMERCIAL EVICTIONS AND PROVIDING 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.

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 or business income (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, all as documented with substantial evidence by the person to be evicted.
- 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, 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 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.

Section 6: Utility Service; Discontinuance and Late Fees.

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, and the City Manager or designee shall take all reasonably measures to encourage other utility providers within the City, operated by public agencies within the City, to refrain from discontinuing or disconnecting services and/or charging late fees related to such utility services.

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 and Publication.

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:
ADOPTED:
EFFECTIVE:

STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: _____