

## **MILPITAS SOURCE OF INCOME DISCRIMINATION ORDINANCE**

In light of the severe housing crisis throughout Santa Clara County, the City Council of the City of Milpitas hereby adopts this ordinance to ensure that all persons with the ability to pay for housing are considered for housing, regardless of whether they receive a housing subsidy or housing assistance for any kind.

### **1. FINDINGS AND PURPOSE**

- A) Whereas, there is a shortage of affordable housing in the City of Milpitas.
- B) Whereas, in Milpitas, the average rental cost of a two-bedroom, one-bathroom apartment increased by 6.06 percent between 2017 and 2018. The current cost of a two-bedroom, one-bathroom apartment is \$2,997.
- C) Whereas, 44 percent of renters in Milpitas are cost-burdened and pay 30 percent or more of their income on housing. Low-income households are even more likely to be rent burdened with 27 percent of Hispanic households pay more than 50 percent of their income towards rent.
- D) Whereas, according to research by the Urban Displacement Project at the University of California, Berkeley, Santa Clara County and parts of Milpitas are at high risk of exclusion and gentrification.
- E) Whereas, tenants displaced because of their inability to pay increased rents must relocate; but as a result of housing shortages are unable to find decent, safe and sanitary housing at affordable rent levels. Aware of the difficulty in finding decent, housing, some tenants attempt to pay requested rent increases, but, as a consequence, must expend less on other necessities of life. This situation has a detrimental effect on substantial numbers of renters in the City, creating particular hardship for senior citizens, persons on fixed incomes and other vulnerable tenants often requiring these tenants to choose between paying rent and providing food and other basic necessities for their family.
- F) Whereas, housing insecurity and excessive rent increases could result in homelessness and displacement of low-income families.
- G) Whereas, the City does not currently regulate rental amounts, rent increases or evictions from residential rental housing.
- H) Whereas, rent stabilization and just cause eviction have been adopted in a dozen jurisdictions in California and has long been upheld as constitutional by the California Supreme Court.
- I) The City of Milpitas enacts this ordinance is to promote neighborhood stability, healthy housing, and affordability for renters in the City of Milpitas by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring landlords a fair return on their investment.

### **2. PROHIBITED ACTIVITY**

It is unlawful for any person to do any of the following as wholly or partially based on receipt of housing assistance:

- (a) To interrupt, terminate, or fail or refuse to initiate or conduct any transaction in real property, including, but not limited to, the rental thereof; to require different terms for such transaction; or falsely to represent that an interest in real property is not available for transaction;
- (b) To include in the terms or conditions of a transaction in real property any clause, condition, or restriction;
- (c) To refuse or restrict facilities, services, repairs or improvements for any current or prospective tenant or lessee;
- (d) To make, print, publish, advertise or disseminate in any way, or cause to be made, printed or published, advertised or disseminated in any way, any notice, statement, or advertisement with respect to a transaction in real property, or with respect to financing related to any such transaction, that unlawfully indicates preference, limitation, or discrimination based on receipt of housing assistance;
- (e) To use a financial or income standard for rental housing that privileges income earned directly by the tenant or prospective tenant, or rental payments made directly by the tenant or prospective tenant over housing assistance, or that discounts or discriminates against housing assistance payments;
- (f) To apply income screening criteria (such as an income to rent ratio), when determining tenant eligibility for purposes of leasing, subleasing, or renting real property, in a manner inconsistent with the following:
  - (1) Any payment from a Section 8 or other subsidy program that reduces the amount of rent for which the tenant is responsible must be subtracted from the total of the monthly rent; and
  - (2) All sources of income must be included as a part of the tenant's total income except in situations where the rental housing unit is subject to income and/or rent restrictions in a housing regulatory agreement or subsidy agreement and income is determined pursuant to the agreement;
- (g) To fail cooperate with a potential or current occupant in completing and submitting required information and documentation for the potential or current occupant to be eligible for or to receive rental assistance from Section 8 or any other subsidy program.

### **3. DEFINITIONS.**

For purposes of this Ordinance, “housing assistance” includes all housing and rental assistance programs, homeless assistance programs, security deposit assistance programs, and housing subsidy programs.

For purposes of this Ordinance, “person” means any individual, firm, corporation, or other organization or group of persons however organized.

**4. EXCEPTION.**

Nothing in this Ordinance shall be construed to apply to the rental or leasing of a dwelling unit that is occupied by its owner or members of his or her family and that has no more than a single roomer or boarder.

**5. CIVIL ENFORCEMENT ACTION.**

A civil action to enforce the provisions of this Ordinance may be filed by any aggrieved person, by the City Attorney, by the Rent Board, or by any person or entity that will fairly and adequately represent the interests of that person or a protected class.

**6. CIVIL INJUNCTIVE RELIEF.**

Any person who commits, or proposes to commit, an act in violation of this Ordinance may be enjoined therefrom by any court of competent jurisdiction.

**7. CIVIL LIABILITY.**

Any person who violates any provision of this Ordinance or who aids in the violation of any provision of this Ordinance shall be liable for mandatory damages of three times the amount of one month’s rent that the landlord charges for the unit in question. All damages shall be awarded to the person whose rights were violated. The court may also award punitive damages in an amount of not less than \$500 and not more than \$1000 per violation, as well as attorney’s fees and costs. In any action brought by the City Attorney, all damages and attorney’s fees and costs, shall be awarded to the City and deposited in the City Treasury.

**8. SEPARATE CIVIL LIABILITY FOR EACH VIOLATION.**

Any person who violates any provision of this Ordinance or who aids in the violation of any provision of this Ordinance shall be liable for a separate civil violation for each provision of this Ordinance that he or she violates, and for each instance in which he or she violates a provision of this Ordinance.

**9. CRIMINAL ENFORCEMENT AND LIABILITY.**

Any person who violates any provision of this Ordinance or who aids in the violation of any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000.00, or by imprisonment in the county jail for a period not exceeding six months, or both.

**10. STATUTE OF LIMITATIONS.**

Any actions filed pursuant to this Ordinance must be filed within two years of the alleged violation.

**11. SEVERABILITY.**

The provisions of this Ordinance are severable. If any provision of this Ordinance or any application of any provision of this Ordinance is found invalid, the remainder of the Ordinance, including the application of such provision to other persons or circumstances, shall not be affected thereby and the remainder of the Ordinance shall continue in full force and effect.

**12. NO CONFLICT WITH STATE OR FEDERAL LAW.**

Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law. Nothing in this Ordinance shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.