

**BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. 1287

Repealing and Replacing Ordinance Nos. 1282 and 1284 to Provide Continued Renter Protections in Multnomah County in Response to COVID-19 and Declaring an Emergency.

The Multnomah County Board of Commissioners Finds:

- A. On March 11, 2020, the Multnomah County Chair issued Executive Rule No. 388 declaring an emergency for the entire County to address the continued spread of the COVID-19 illness, loss of life, an extreme public health risk, and its significant economic impacts.
- B. On March 17, 2020, an Addendum to Executive Rule No. 388 provided additional measures to address the emergency conditions.
- C. On March 19, 2020, the Multnomah County Board of Commissioners (Board) ratified Executive Order 388 and its Addendum and adopted Ordinance No. 1282 to address the impacts of COVID-19 by creating a countywide residential eviction moratorium and six-month repayment grace period. The purpose of these measures was to promote housing stability during the COVID-19 pandemic to allow County residents to stay home, and to avoid a preventable increase in homelessness due to the economic effects of COVID-19.
- D. On April 1, 2020, and following the Board's action, the Governor of the State of Oregon issued a statewide moratorium on evictions with Executive Order 20-13.
- E. On April 9, 2020, the Board adopted Resolution 2020-019 to continue the emergency declared in Executive Rule 388 and its Addendum until July 8, 2020.
- F. On April 16, 2020, the Board adopted Ordinance 1284 to further address the impacts of COVID-19 and suspended enforcement of the County's residential eviction moratorium established by Ordinance 1282 while a statewide residential eviction moratorium was in place.
- G. On July 2, 2020, the Board adopted Resolution 2020-059 to continue the emergency declared in Executive Rule 388 and its Addendum until September 30, 2020.
- H. On September 24, 2020, the Board adopted a Resolution 2020-080 to continue the emergency declared in Executive Rule 388 and its Addendum until January 8, 2021.

I. The State of Oregon provided statewide renter protections in HB 4213 (2020 First Special Session) with effective dates of April 1, 2020 to September 30, 2020. HB 4213 continued and refined the statewide residential eviction moratorium created by the Governor in Executive Order 20-13 and established a statewide six-month repayment grace period.

J. On September 4, 2020, the Center for Disease Control and Prevention (“CDC”), located within the U.S. Department of Health and Human Services, issued an Agency Order temporarily halting residential evictions to prevent the further spread of COVID-19 effective through December 31, 2020. See Federal Register, [85 FR 55292](#). The CDC Agency Order provides a lesser level of renter protections than HB 4213, Executive Order 20-13, and County ordinances. Under the CDC Agency Order’s terms, it does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in the Agency Order.

K. The County supports uniform implementation and enforcement of a residential eviction moratorium and a six-month repayment grace period, and the County therefore is enacting Section 3 of HB 4213 into County Code, with only those modifications necessary to adapt that provision to be County legislation. This action repeals and replaces Ordinance Numbers 1282 and 1284 to ensure continued renter protections to further address the COVID-19 public health emergency and address its significant and long lasting impacts.

L. The provisions of this Ordinance might affect the terms and conditions of certain contracts entered into in the County. Any such effects are not substantial because the provisions have a limited scope and duration and are necessary to protect the public health, safety and welfare. Therefore, this Ordinance does not undermine a contractual bargain, interfere with a party’s reasonable expectations, or prevent a party from safeguarding or reinstating the party’s rights. Even if it did, this action is appropriate and reasonable to carry out the significant and legitimate public purpose of responding to the declarations of emergency issued at the county, state and federal levels.

Multnomah County Ordains as Follows:

Section 1. Title

This Ordinance shall be known as the Multnomah County COVID-19 “Renter Protection Measures.”

Section 2. Purpose

The purpose of the COVID-19 Renter Protection Measures is to promote housing stability and to avoid a preventable increase in homelessness due to the ongoing impacts of COVID-19.

Section 3. Residential Eviction Moratorium and Repayment Grace Period

A. These measures apply unless local, state or federal regulations provide equal or greater protections to residential renters in Multnomah County.

B. As used in this section:

1. “Emergency period” means the period beginning October 1, 2020, and ending on January 8, 2021, or the first day the emergency declared in Executive Rule 388 and its Addendum, as extended by the Board, is no longer in effect, whichever is later.
2. “Nonpayment” means the nonpayment of a payment that becomes due during the emergency period to a landlord, including a payment of rent, late charges, utility or service charges or any other charge or fee as described in the rental agreement or ORS 90.140, 90.302, 90.315, 90.392, 90.394, 90.560 to 90.584 or 90.630.
3. “Nonpayment balance” includes all or a part of the net total amount of all items of nonpayment by a tenant, and all unpaid amounts that accrued by operation of ORS 90.220(9) during the six-month grace period described in subsection (G) of this section, provided that the tenant makes payment in an amount equal to or greater than the rent for the current rental period.
4. “Termination notice without cause” means a notice delivered by a landlord under ORS 90.427 (3)(b), (4)(b) or (c), (5)(a) to (c), or (8)(a)(B) or (b)(B).

C. During and after the emergency period and notwithstanding ORS Chapter 90 or ORS 105.105 to 105.168, a landlord may not, and may not threaten to:

1. Deliver a notice of termination of a rental agreement based on a tenant’s nonpayment balance;
2. Initiate or continue an action under ORS 105.110 to take possession of a dwelling unit based on a notice of termination for nonpayment delivered on or after October 1, 2020;
3. Take any action that would interfere with a tenant’s possession or use of a dwelling unit based on a tenant’s nonpayment balance;

4. Assess a late fee or any other penalty on a tenant's nonpayment; or
5. Report a tenant's nonpayment balance as delinquent to any consumer credit reporting agency

D. During the emergency period, a landlord may provide a written notice to a tenant stating that the tenant continues to owe any rent due. The notice must also include a statement that eviction for nonpayment is not allowed before the end of the emergency period.

E. During the emergency period, a landlord may not deliver a termination notice without cause and may not file an action under ORS 105.110 based on a termination notice without cause.

F. If the first year of occupancy would end during the emergency period, for the purposes of a termination notice without cause, the "first year of occupancy" is extended to mean a period lasting until 30 days following the emergency period.

G. Following the emergency period, a tenant with an outstanding nonpayment balance has a six-month grace period to pay the outstanding nonpayment balance.

H. Following the emergency period, a landlord may deliver a written notice to a tenant that substantially states:

1. The date that the emergency period ended;
2. That if rents and other payments that come due after the emergency period are not timely paid, the landlord may terminate the tenancy;
3. That the nonpayment balance that accrued during the emergency period is still due and must be paid;
4. That the tenant will not owe a late charge for the nonpayment balance;
5. That the tenant is entitled to a six-month grace period to repay the nonpayment balance following the emergency period;
6. That within a specified date stated in the notice given under this subsection that is no earlier than 14 days following the delivery of the notice, the tenant must pay the nonpayment balance or notify the landlord that the tenant intends to pay the nonpayment balance by the end of the six-month grace period described in subsection (G) of this section;

7. That failure of a tenant to give notice to the landlord of utilization of the grace period described in subsection (G) of this section may result in a penalty described in subsection (K) of this section; and
 8. That rents and other charges or fees that come due after the emergency period must be paid as usual or the landlord may terminate the tenancy under ORS 90.392, 90.394 or 90.630.
- I.
1. If a landlord gives a notice as described in subsection (H) of this section, a tenant who has an outstanding nonpayment balance as of the date listed on the landlord's notice as described in subsection (H)(6) of this section must notify the landlord of the tenant's intention to use the grace period described in subsection (G) of this section to pay the nonpayment balance."
 2. The tenant's notice under this subsection must be actual notice described in ORS 90.150 or notice given by electronic means, and must be given to the landlord by the date given in the landlord's notice as described in subsection (H)(6) of this section.
- J. The landlord's notice described in subsection (H) of this section may offer an alternate voluntary payment plan for payment of the nonpayment balance, but the notice must state that the alternate payment plan is voluntary.
- K. A tenant's failure to give the notice required by subsection (I) of this section to a landlord entitles the landlord to recover damages equal to 50 percent of one month's rent following the grace period.
- L. If a landlord violates this section, a tenant may obtain injunctive relief to recover possession or address any other violation of this section and may recover from the landlord an amount up to three months' periodic rent plus any actual damages.
- M. ORS 90.412 does not apply to a landlord that accepts a partial rent payment.

Section 4. This Ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, an emergency is declared and this ordinance will take effect immediately upon being signed pursuant to Section 5.50 of the Multnomah County Home Rule Charter.

FIRST READING AND ADOPTION: September 24, 2020



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By

Jenny M. Madkour, County Attorney

Submitted by: Deborah Kafoury, Chair