

**ORDINANCE NO. 2021-03**

**ORDINANCE EXTENDING THE 60-DAY PROTECTION PERIOD IN SB 278 (2021) TO 90 DAYS; AND DECLARING AN EMERGENCY**

**WHEREAS**, the Governor and Washington County have ongoing declarations of emergency related to the COVID-19 pandemic; and

**WHEREAS**, the Centers for Disease Control and Prevention (CDC) has explained that COVID-19 presents a threat to public health and eviction moratoriums can be an effective public health measure to prevent the spread of coronavirus; and

**WHEREAS**, to address these impacts of COVID-19 on the community, the federal government, the state of Oregon and numerous local communities have imposed limitations on evictions as well as provided funding for rental assistance; and

**WHEREAS**, on September 4, 2020, the Federal Center for Disease Control and Prevention ("CDC") issued an Order temporarily halting evictions in the United States, and §502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan Act; and

**WHEREAS**, on January 29, 2021, following an assessment of the ongoing pandemic, the CDC renewed the Order until March 31, 2021. On March 28, the CDC renewed the Order until June 30, 2021, and thereby further extended the prior Eviction Moratorium until July 31, 2021, while the Department of the Treasury disburses the remaining funds to state and local jurisdictions, and those grantees continue to accelerate efforts to deploy rental assistance on behalf of tenants; and

**WHEREAS**, at the present time, Washington County is administering the funding provided by the state and federal Emergency Rental Assistance (ERA) programs by distributing the funding to eligible renters unable to pay their rent, but it is currently overwhelmed with applications submitted that have not yet been processed or approved for payment, and for that reason, additional time is needed to issue payments to renters under this program; and

**WHEREAS**, the State of Oregon extended statewide renter protections by enacting SB 278 (2021 Regular Session), which states that if a tenant provides a landlord with documentation that the tenant has applied for rental assistance, a landlord may not, for a period of sixty days, deliver a termination notice for nonpayment or initiate or continue an action for possession based on a termination notice for non-payment; and

**WHEREAS**, there are approximately 6,500 Washington County households who have applied for rental assistance, which has created a current backlog at the State and local level that is causing delays beyond 60 days (average of about 65 days) for rental assistance application approvals; and

**WHEREAS**, due to the backlog, individuals who have applied for rental assistance could face eviction if they do not receive approval before the 60-day period set in Senate Bill 278 expires; and

**WHEREAS**, Washington County adopted Ordinance No. 880, which extends the 60-day protection period in SB 278 to 90 days for unincorporated areas of the County, but the extension does not provide additional protection to renters who live within incorporated cities such as Forest Grove; and

**WHEREAS**, extending the protection from eviction established by SB 278 will ensure that providers have sufficient time to reach these households and process rent assistance applications, mitigating further disproportionate impacts of the COVID-19 pandemic on local communities; and

**WHEREAS**, this ordinance does not relieve tenants of the obligation to pay rent. It is designed to provide sufficient time for both tenants and landlords to secure emergency financial assistance as provided by funding designed to respond to the economic impacts of the COVID-19 pandemic; and

**WHEREAS**, the City of Forest Grove is committed to responding to the impacts of the COVID-19 pandemic; and

**WHEREAS**, this ordinance is necessary to avoid mass evictions for non-payment of rent directly attributed to the lingering impacts of COVID-19 pandemic, promote housing stability, and protect the health and safety of community members in the City of Forest Grove.

**NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:**

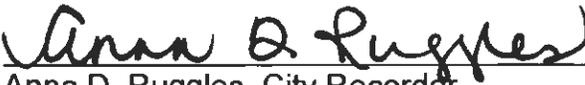
**Section 1:** Sections 2, 3, and 5 of SB 278 (2021 Regular Session) are hereby adopted and incorporated by reference into this Ordinance; and the timeline of 60 days established by SB 278 in Sections 2(2)(c) and 2(5)(b) is extended to 90 days.

**Section 2:** The City Council hereby extends the 60-day moratorium on rental evictions established by SB 278 in Sections 2(2)(c) and 2(5)(b) to 90 days to allow Washington County additional time to process and approve applications for rental assistance under the state and federal ERA programs. The Council finds that this action and this extension is necessary to avoid mass evictions for non-payment of rent directly attributable to the lingering economic impacts of the COVID-19 pandemic, to promote housing stability, and to protect the health safety and welfare of the citizens of Forest Grove.

**Section 3:** Emergency Ordinance. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

**PRESENTED AND PASSED** first reading this 11<sup>th</sup> day of October, 2021.

**PASSED** the second reading this 11<sup>th</sup> day of October, 2021.

  
\_\_\_\_\_  
Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 11<sup>th</sup> day of October, 2021.

  
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Peter B. Truax, Mayor

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**Enrolled**  
**Senate Bill 278**

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Human Services)

CHAPTER .....

AN ACT

Relating to residential tenancies; creating new provisions; amending section 2, chapter 3, Oregon Laws 2020 (third special session); and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 90.**

**SECTION 2. (1) As used in this section:**

**(a) "Documentation" includes electronic mail, a screenshot or other written or electronic documentation from a rent assistance provider verifying the submission of an application for rental assistance.**

**(b) "Nonpayment" means the nonpayment of a payment that is due 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.**

**(2)(a) If a tenant provides the landlord with documentation that the tenant has applied for rental assistance, a landlord may not:**

**(A) Deliver a termination notice for nonpayment; or**

**(B) Initiate or continue an action for possession based on a termination notice for nonpayment.**

**(b) A tenant may provide documentation by any method reasonably calculated to achieve receipt by the landlord, including by sending a copy or photograph of the documentation by electronic mail or text message.**

**(c) If 60 days have passed since the tenant provided documentation under this subsection:**

**(A) A landlord may deliver to the tenant a new termination notice for nonpayment, to which this section does not apply, without providing the notice under subsection (4) of this section; or**

**(B) If a claim for possession was postponed under subsection (5)(b) of this section, the court shall promptly set the matter for trial.**

**(3) Except as provided in subsection (2)(c)(A) of this section, a landlord shall deliver the notice described in subsection (4) of this section along with:**

**(a) Any notice of termination for nonpayment; and**

**(b) Any summons for a complaint seeking possession based on nonpayment given by the landlord or service processor, including a summons delivered under ORS 105.135 (3)(b).**

(4) The notice required under subsection (3) of this section must be in substantially the following form:

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**THIS IS AN IMPORTANT NOTICE ABOUT YOUR RIGHTS TO PROTECTION AGAINST EVICTION FOR NONPAYMENT.**

For information in Spanish, Korean, Russian, Vietnamese or Chinese, go to the Judicial Department website at [www.courts.oregon.gov](http://www.courts.oregon.gov).

Until February 28, 2022, if you give your landlord documentation that you have applied for rental assistance at or before your first appearance in court, you may be temporarily protected from eviction for nonpayment. Documentation may be made by any reasonable method, including by sending a copy or photograph of the documentation by electronic mail or text message. "Documentation" includes electronic mail, a screenshot or other written or electronic documentation verifying the submission of an application for rental assistance.

To apply for rental assistance, go to [www.oregonrentalassistance.org](http://www.oregonrentalassistance.org), dial 211 or go to [www.211info.org](http://www.211info.org). To find free legal assistance for low-income Oregonians, go to [www.oregonlawhelp.org](http://www.oregonlawhelp.org).

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(5)(a) A court shall enter a judgment dismissing a complaint for possession that is based on a termination notice for nonpayment if the court determines that:

(A) The landlord failed to attach the notice as required under subsection (3) of this section.

(B) The tenant's nonpayment was substantially caused by the landlord's failure to reasonably participate with a rental assistance program. This subparagraph does not require that a landlord apply for compensation under section 2, chapter 3, Oregon Laws 2020 (third special session).

(C) The landlord receives rental assistance covering the rent owed under the notice.

(D) The tenant provided the landlord with documentation of application for rental assistance as described in subsection (2) of this section before the claim was filed.

(b) If the tenant provides the landlord or court with documentation of application for rental assistance as described in subsection (2) of this section at any time after the landlord commenced the action for possession and at or before the first appearance, at the first appearance the court shall, on its own motion, postpone the first appearance to a date not earlier than 60 days after the documentation was delivered.

(6) If a landlord violates this section:

(a) A tenant may obtain injunctive relief to recover possession or address any other violation;

(b) The tenant has a defense to an action for possession by the landlord.

(7) Notwithstanding ORS 105.137 (4), if a claim for possession is dismissed under this section, the tenant is not entitled to prevailing party fees, costs or attorney fees if the landlord:

(a) Delivered to the tenant all notices required under subsection (3) of this section as required;

(b) Did not know, and did not have reasonable cause to know, at the time of commencing the action that the tenant had provided documentation of application for rental assistance under subsection (2) of this section; and

(c) Promptly dismissed the action upon becoming aware of the documentation of application for rental assistance.

**SECTION 3.** Section 2 of this 2021 Act applies only to a notice of termination for non-payment given on or after July 1, 2021.

**SECTION 4.** Section 5 of this 2021 Act is added to and made a part of ORS 105.105 to 105.168.

**SECTION 5.** The clerk shall include the notice described in section 2 (4) of this 2021 Act with the summons and complaint mailed to a defendant under ORS 105.135 (3)(a).

**SECTION 6.** (1)(a) The Judicial Department shall translate the notice form under section 2 (4) of this 2021 Act into the Spanish, Korean, Russian, Vietnamese and Chinese languages and shall display links to the English and translated forms prominently on the main webpage at [www.courts.oregon.gov](http://www.courts.oregon.gov).

(b) Each form on the Judicial Department website must include a statement in English, Spanish, Korean, Russian, Vietnamese and Chinese indicating that the form and translations can be found on the Judicial Department website and the web address where the forms may be found.

(2) The department shall prepare a summary of sections 2 and 3 of this 2021 Act, deliver a copy of the summary to each circuit court in this state for posting at the clerk's counter and publish the summary on the department's website.

**SECTION 7.** In distributing rental assistance to residential tenants funded by federal, state or local moneys, the Housing and Community Services Department, other public bodies and local governments, along with their subgrantees, shall promptly provide a dated application receipt to each tenant who applies for assistance. The receipt may be in an electronic format.

**SECTION 8.** Sections 2, 5, 6 and 7 of this 2021 Act are repealed on March 1, 2022.

**SECTION 9.** The Housing and Community Services Department shall provide a grant to a third party to make distributions to compensate landlords who, under section 2 of this 2021 Act, have delayed termination notices or eviction proceedings. A landlord may apply for compensation for nonpayment that accrued during the delay if the landlord demonstrates that:

(1) The tenant's application for rental assistance was denied; or

(2) Sixty days have passed since the tenant provided documentation of application for rental assistance without the landlord receiving rental assistance.

**SECTION 10.** Section 9 of this 2021 Act is repealed on March 1, 2023.

**SECTION 11.** Sections 2, 5, 6, 7 and 9 of this 2021 Act become operative on July 1, 2021.

**SECTION 12.** Section 2, chapter 3, Oregon Laws 2020 (third special session), is amended to read:

**Sec. 2.** (1) The Housing and Community Services Department shall make distributions to compensate residential landlords for [80] **100** percent of the past-due rent of qualified tenants that the landlord has not collected after April 1, 2020, **and on or before the earlier of June 30, 2021, or the date of the application,** if the landlord or the landlord's designee:

(a) Submits an application to the department for all of the landlord's tenants who have not paid rent and have delivered to the landlord a signed declaration under section 7 (1)(b) [*of this 2020 third special session Act*], **chapter 3, Oregon Laws 2020 (third special session), as in effect on June 30, 2021;**

(b) Includes in the application a copy of the tenants' declarations;

(c) Provides the department with a description of the unpaid rent for all current tenants;

[(d) *Agrees to forgive the remaining 20 percent of the unpaid rent due from qualified tenants that has accrued between April 1, 2020, and the date of the application, upon receiving a distribution under this subsection;*]

[(e) (d) *Agrees to repay to the department any amount [that was forgiven by the landlord or] that was paid to the landlord under this section and the landlord later receives from the qualified tenant or on the tenant's behalf, within the period requested by the department;*

[(f) (e) *Is not a member of the tenant's immediate family, as defined in ORS 90.427;*

[(g)] (f) During the pendency of the distribution application, agrees to not give a termination notice without cause or for nonpayment, as those terms are defined in section 3, chapter 13, Oregon Laws 2020 (first special session); and

[(h)] (g) Provides any other information or materials required by the department.

(2)(a) The department shall develop an online application for landlords to apply for distributions under this section.

(b) The application must be made available in languages other than English.

(c) The application period must be open more than once to allow for greater outreach and participation.

(3) The department may establish any qualifications, priorities, restrictions or limits on the distributions made under this section, to prioritize landlords with fewer units and landlords with a higher percentage of unpaid rents. Restrictions or limits may include:

(a) Limits per tenant, per landlord or per time period;

(b) The number of units a landlord must own; or

(c) The percentage or amount of total rent unpaid.

(4) The department may coordinate with local housing authorities to administer this section, including through making distributions to landlords.

(5) The department or local housing authority shall mail to tenants copies of a notice of distribution to their landlords [*and the amount of rent forgiveness agreed to by their landlords*].

(6) The department may conduct outreach to landlords and tenants, including outreach to non-English speakers.

(7) Notwithstanding ORS 276A.300, 279A.025, 279A.050 (6)(g), 279A.205 and 456.571, the department shall expedite the implementation of the landlord compensation fund.

(8) As used in this section, "landlord" includes a manufactured dwelling park nonprofit cooperative as defined in ORS 62.803.

**SECTION 13. (1) The amendments to section 2, chapter 3, Oregon Laws 2020 (third special session), by section 12 of this 2021 Act apply to all applications submitted or approved before, on or after the effective date of this 2021 Act.**

**(2) The Housing and Community Services Department shall make distributions to adjust the compensation under section 2 (1), chapter 3, Oregon Laws 2020 (third special session), for landlords whose applications were approved before the effective date of this 2021 Act without requiring that the landlord submit an additional application.**

**SECTION 14. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.**

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**Passed by Senate March 24, 2021**

**Repassed by Senate June 22, 2021**

.....  
Lori L. Brocker, Secretary of Senate

.....  
Peter Courtney, President of Senate

**Passed by House June 17, 2021**

.....  
Tina Kotek, Speaker of House

**Received by Governor:**

.....M.,....., 2021

**Approved:**

.....M.,....., 2021

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2021

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Shemia Fagan, Secretary of State

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**MEMORANDUM**

<u>CITY RECORDER USE ONLY:</u>	
AGENDA ITEM #:	<u>6.</u>
MEETING DATE:	<u>10/11/2021</u>
FINAL ACTION:	<u>ORD 2021-03 Declaring an Emergency</u>

**TO:** *City Council*

**FROM:** *Jesse VanderZanden, City Manager*

**MEETING DATE:** *October 11, 2021*

**SUBJECT TITLE:** *Ordinance extending the 60-day protection period in SB 278 to 90 days*

**PURPOSE OF ORDINANCE:**

To extend the 60-day protection period for rental payments in Senate Bill 278 to 90 days.

**BACKGROUND:**

On September 4, 2020, the Federal Center for Disease Control and Prevention (CDC) issued an Order temporarily halting evictions in the United States. That order was extended to January 31, 2021, in the Consolidated Appropriations Act, and Congress also provided \$25 billion for emergency rental assistance for the payment of rent in arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance in the American Rescue Plan Act.

The order was extended to March 31, 2021, then to July 31, 2021, in an effort to allow the relief monies noted above to be dispersed to state and local jurisdictions. The Supreme Court ruled there could be no further extensions to the order resulting in the moratorium ending July 31, 2021.

The State Legislature extended statewide renter protections by enacting SB 278 in the 2021 Regular Session. SB 278 states that if a tenant provides a landlord with documentation that the tenant has applied for rental assistance, a landlord may not, for a period of sixty days, deliver a termination notice for nonpayment or initiate or continue an action for possession based on a termination notice for non-payment.

Washington County administers the rental assistance program as part of their Housing Division. The Sheriff's office enforces evictions for non-payment. Because the Sheriff's Office enforces evictions, Washington County adopted an ordinance to their police powers extending the 60 days to 90 days. This extension however only applies to unincorporated areas. If cities within Washington County wish to do likewise, they must pass an ordinance allowing the County additional time to process applications within their area.

The County is currently overwhelmed with applications submitted that have not yet been processed or approved for payment, and for that reason, additional time is needed to issue payments to renters

under this program. There are approximately 6,500 applications in process and the average processing time is 65 days or 5 days beyond the 60 day grace period afforded in SB 278.

Approximately \$37.6 million was distributed to Washington County for rental assistance. Of this amount, approximately 17% has been allocated. Community Action is administering the program on behalf of the County and the County has recently brought on additional resources to bring the application processing time down.

This ordinance does not relieve tenants of the obligation to pay rent. It is designed to provide sufficient time for both tenants and landlords to secure emergency financial assistance as provided by funding designed to respond to the economic impacts of the COVID-19 pandemic.

**COUNCIL GOALS AND OBJECTIVES:**

The ordinance addresses Goal 2: Support housing stability and mitigation of homelessness and Goal 3: Support community recovery from the pandemic.

**STAFF RECOMMENDATION:**

Staff recommends Council consider adopting the attached ordinance. In accordance with Council Rules Section 9.2 and 9.3, the Council may enact an ordinance at a single meeting by unanimous approval by at least 5 members, provided the proposed ordinance is available to the public at least seven days before the meeting. The ordinance was publicly noticed on October 4, 2021. Lastly, an ordinance may take effect as soon as enacted if the ordinance contains an emergency clause, which this ordinance does.

**FISCAL IMPACT:**

There is no fiscal impact to the City.

**ATTACHMENTS:**

- Senate Bill 278



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## **PUBLIC MEETING NOTICE**

### **EXTENDING THE 60-DAY MORATORIUM ON RENTAL EVICTIONS ESTABLISHED BY SB 278 TO 90 DAYS FOR THE CITY OF FOREST GROVE**

**NOTICE IS HEREBY GIVEN** that the Forest Grove City Council will hold a **Public Meeting** on **Monday, October 11, 2021**, at **7:00 p.m.**, or thereafter, to consider adopting an ordinance that would extend the 60-day protection period in SB 278 (2021 OR Legislative Session) to 90 days. If approved by the City Council, the protection period will allow Washington County additional time to process and approve applications for rental assistance under the state and federal ERA programs. The Council finds that this action and this extension is necessary to avoid mass evictions for non-payment of rent directly attributable to the lingering economic impacts of the COVID-19 pandemic, to promote housing stability, and to protect the health, safety, and welfare of the citizens of Forest Grove.

The City Council meeting will be held in a “hybrid” format allowing the public to attend the meeting virtual via Zoom and in-person. The Community Auditorium, 1915 Main Street, is open and has limited availability and social distancing measures. A copy of the meeting agenda with Zoom instructions and staff report are available and published on the City's website at <https://www.forestgrove-or.gov/meetings>. To provide testimony via Zoom, please email [aruggles@forestgrove-or.gov](mailto:aruggles@forestgrove-or.gov) at least 24 hours prior to the hearing. The Council encourages that written comments or testimony be submitted at the hearing or sent prior to the hearing to the attention of the City Recorder's Office, P.O. Box 326, 1924 Council Street, 2<sup>nd</sup> Floor, Forest Grove, OR 97116, [aruggles@forestgrove-or.gov](mailto:aruggles@forestgrove-or.gov). For assistance, please call the City Recorder's Office at 503.992.3235.

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Anna D. Ruggles, CMC, City Recorder  
City of Forest Grove

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