

## **COUNCIL AGENDA**

March 24, 2020

**TO:** The Honorable Mayor and City Council

**SUBJECT:** Proposed Urgency Ordinance Relating to a Temporary Moratorium on Evicting Tenants Due to Causes Related to the COVID-19 State of Emergency

### **INTRODUCTION**

The COVID-19 virus pandemic has grown exponentially since the first case reported in Los Angeles County on January 26, 2020. The rapid transmission rate of COVID-19 has changed the very nature of how people work, live, and protect themselves against the spread of this virus. In the weeks since the first case, public health officials have ordered several actions in an attempt to slow the transmission of the virus, and these actions have had a widely negative financial effect for residents and businesses. Without the ability to bring in income, residential and commercial tenants are faced with possible eviction from their home or their business, further exacerbating the undue economic impact that this crisis presents.

### **STATEMENT OF FACT**

On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of COVID-19 (Coronavirus). On March 4, 2020, the County of Los Angeles declared a State of Emergency due to a number of confirmed COVID-19 cases. As of March 19, there were 231 confirmed cases in Los Angeles County. Due to directives from federal, state and local health officials, events have been cancelled, schools have been closed, and residents have been advised to avoid public gatherings and stay and work at home to prevent further spread of the virus.

Restaurant and retail business have significantly declined and parents and guardians have missed work to care for home bound school-aged children, resulting in workers being impacted by lost wages, furloughs and layoffs. The negative financial effects caused by this crisis will impact a tenant's ability to pay rent when due, leaving tenants vulnerable to eviction and homelessness.

Similarly, the Los Angeles County Health Officer's March 16, 2020 order to temporarily close specified businesses (bars, theaters, recreational centers and gyms) and limiting restaurants to take-out and delivery are resulting in sudden income loss for those businesses, thus threatening their ability to pay rent and reopening their doors once the crisis subsides.

On March 16, Governor Gavin Newsom issued an executive order that authorizes local governments to halt evictions due to the COVID-19 virus. The proposed urgency ordinance would enact the executive order by temporarily prohibiting the eviction of a residential or commercial tenant for non-payment of rent, if the following criteria are met:

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- 1) The tenant demonstrates that the inability to pay rent is due to a substantial decrease in household or business income or the out-of-pocket medical expenses and the decrease in household or business income or the out-of-pocket medical expense was caused by COVID-19 illness of the tenant or tenant's family members or by any local, state, or federal government response to the COVID-19 pandemic;
- 2) The tenant documents inability to pay rent through proper notification of their landlord before the day rent is due that the tenant has a covered reason for delayed payment; by providing the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment; and pay the portion of the rent that the tenant is unable to pay.

It is worth noting that nothing contained in the proposed urgency ordinance relieves a tenant from the duty to pay rent, and tenants who were afforded eviction protection under the ordinance shall have up to 180 days from expiration of the prohibition to pay their landlord all unpaid rent. The duration of the proposed city prohibition is tied to the executive order, which runs through May 31, 2020.

**RECOMMENDATION**

That the City Council adopt the proposed urgency ordinance for a temporary moratorium on evicting tenants due to causes related to the COVID-19 state of emergency.

Paolo Beltran *PB*  
Deputy City Manager

  
Thaddeus McCormack  
City Manager

ORDINANCE NO. 2020-3

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD RELATING TO A TEMPORARY MORATORIUM ON EVICTING TENANTS DUE TO CAUSES RELATED TO THE COVID-19 STATE OF EMERGENCY AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

WHEREAS, On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”); and

WHEREAS, On March 16, 2020, the Los Angeles County Health Officer issued an order, effective through March 31, 2020, to prohibit all indoor and outdoor, public and private events and gatherings within a confined space, where 50 or more members of the public are expected to attend at the same time, to require social distancing measures and temporary closure of certain businesses; and

WHEREAS, On March 16, 2020 the Governor issued a directive effective through May 31, 2020, which suspends “any provision of state law that would preempt or otherwise restrict a local government’s exercise of its police power to impose substantive limitations on residential or commercial evictions including, but not limited to, any such provision of Civil Code section 1940 et seq. or 1954.25 et seq.,” provided it meets the following requirements:

- i. The basis for the eviction is nonpayment of rent, or a foreclosure if the basis of the eviction is a substantial decrease in household or business income or substantial out-of-pocket medical expenses; and
- ii. The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.”
- iii. The tenant still has the duty to pay rent, and the landlord still has the ability to recover rent due; and

WHEREAS, The City is seriously impacted by the health crisis of this global pandemic. School closures have occurred and may continue. Businesses have been ordered closed. Employees have been advised to work at home. As a result, business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home for extended periods; and

WHEREAS, Residential and business tenants have experienced sudden income loss, and further income impacts are anticipated. The loss of wages or other income caused by the effects of COVID-19 may impact tenants' ability to pay rent when due, leaving tenants vulnerable to eviction. The loss of income to businesses impacted by closures or other restrictive measures may impact those businesses ability to pay rent when due, leaving those business vulnerable to eviction and permanent closure; and

WHEREAS, Providing residential and business tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population, stabilize the rental housing market by reducing displacement and avoid the permanent closure of affected businesses; and

WHEREAS, During this state of emergency, and in the interests of protecting the public health and safety and preventing transmission of COVID-19, it is essential to avoid unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted; and

WHEREAS, Nothing in this Ordinance waives a tenant's obligations to pay back rent owed once this ordinance is no longer effective; and

WHEREAS, for the foregoing reasons the Lakewood City Council determines it is necessary to temporarily protect residential and commercial tenants from evictions due to causes related to the COVID-19 pandemic through May 31, 2020.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. PURPOSE. Illness and isolation caused by the COVID-19 pandemic and the emergency measures imposed to deal with the national, state and local emergency, will seriously impact the ability of residential and commercial tenants to meet their rent payment obligations during the crisis. This emergency temporary moratorium on evictions is imposed by the City to avoid the eviction of residents and permanent closure of businesses during the current crisis.

SECTION 2. PROHIBITION ON EVICTION. No landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates, with documentation provided in accordance with Section 3 below, that the inability to pay rent is due to a substantial decrease in household or business income or substantial out-of-pocket medical expenses and the decrease in household or business income or the out-of-pocket medical expenses was caused by COVID-19 illness of the tenant or tenant's family members or by any local, state, or federal government response to the COVID-19 pandemic.

SECTION 3. DOCUMENTATION OF INABILITY TO PAY RENT. To take advantage of the protections afforded by Section 2 a tenant must do all the following:

- a. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment;
- b. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment; and
- c. Pay the portion of rent that the tenant is able to pay.

SECTION 4. PROHIBITION ON COMMENCING AN UNLAWFUL DETAINER ACTION. If a tenant complies with the requirements of Section 3, a landlord shall not serve a notice pursuant to California Code of Civil Procedure sections 1161 and 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise endeavor to evict the tenant for nonpayment of rent.

SECTION 5. CONTINUING OBLIGATION TO PAY RENT. Nothing contained in this Ordinance relieves a tenant from the duty to pay rent, and the landlord shall have the ability to recover all rent due in accordance with the terms of the landlord-tenant rental agreement. Tenants who were afforded eviction protection under this Ordinance shall have up to 180 days from expiration of the prohibition to pay their landlord all unpaid rent. During that 180-day period, the protections against eviction contained in Section 2 shall remain in effect.

SECTION 6. EXPIRATION OF PROHIBITION. The protection against eviction contained in Section 2 shall expire on expiration of the Governor's Executive Order N-28-20, including any extension thereof, unless sooner terminated by action of the City Council. Any failure to pay rent when due following expiration of the provisions of Section 2 shall not be subject to the protection afforded by that section provided, however, that tenants that were shielded from eviction prior to expiration during the effective date shall continue to be so shielded from payment of rent abated prior to expiration in accordance with Section 5.

SECTION 7. EFFECTIVE DATE/URGENCY FINDING. This Ordinance shall take effect immediately upon enactment. The City Council finds and declares that this Ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: The directives from health officials to contain the spread of COVID-19 has resulted in loss of business, furloughs, loss of wages, and lack of work for employees. To protect the public health, safety, and welfare, the city must act to prevent eviction of tenants who are unable to pay rent due to wage and income losses caused by the effects of COVID-19. An emergency measure is necessary to protect tenants from eviction for a temporary period.

SECTION 8. CEQA. This action is exempt from CEQA under the common-sense exception of CEQA Guidelines section 15061(b)(3) that CEQA only applies to projects which have the potential for causing a significant impact.

SECTION 9. The City Council hereby declares it would have passed this Ordinance sentence by sentence, paragraph by paragraph and section by section, and does hereby declare the provisions of this Ordinance are severable, and if for any reason any section of this Ordinance should be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 10. The City Clerk shall certify to the adoption of this Ordinance. The City Council hereby finds and determines there are no newspapers of general circulation both published and circulated within the City and, in compliance with Section 36933 of the Government Code, directs the City Clerk to cause said Ordinance within fifteen (15) days after its passage to be posted in at least three (3) public places within the City as established by Ordinance.

APPROVED AND ADOPTED this 24th day of March, 2020, by the following roll call vote:

	AYES	NAYS	ABSENT
Council Member Croft	_____	_____	_____
Council Member DuBois	_____	_____	_____
Council Member Wood	_____	_____	_____
Council Member Piazza	_____	_____	_____
Mayor Rogers	_____	_____	_____

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk