



CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 24, 2020

ITEM NUMBER: 4

SUBJECT: ADOPTION OF URGENCY ORDINANCE NO. 20-XX IMPOSING A TEMPORARY MORATORIUM ON THE EVICTION OF RESIDENTIAL OR COMMERCIAL TENANTS UNABLE TO PAY RENT BECAUSE OF COVID-19, DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

DATE: MARCH 22, 2020

**FROM: DEVELOPMENT SERVICES DEPARTMENT
CITY ATTORNEY'S OFFICE**

**PRESENTATION BY: KIMBERLY HALL BARLOW, CITY ATTORNEY
BARRY CURTIS, DIRECTOR OF DEVELOPMENT SERVICES**

**FOR FURTHER INFORMATION CONTACT: BARRY CURTIS (714) 754-5278
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RECOMMENDATION:

Staff recommends that the City Council:

1. Introduce and adopt Urgency Ordinance No. 20-XX that would take effect immediately, to establish a temporary moratorium on the eviction of residential or commercial tenants who are unable to pay rent due to the impacts of the novel coronavirus disease (COVID-19) (Attachment 1).

BACKGROUND:

On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 19 ("COVID-19"). On March 13, 2020, the Costa Mesa City Council ratified the Director of Emergency Services' March 12, 2020 proclamation declaring the existence of a local emergency due to COVID-19 in order to seek federal and state resources to assist with the increased costs associated with addressing the emergency, and to provide emergency authority to the City Manager to swiftly adopt measures to help ensure social distancing and protect vulnerable populations, among other critical items. Furthermore, on March 19, 2020, the Governor established a statewide Executive Order closing all non-essential services and businesses and ordering the public to stay at home in order to prevent the spread of COVID-19 throughout the state.

Because of directives from federal, state and local health officials, most events have been canceled, schools have been closed, and residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease. Restaurant and retail business has significantly declined and parents have missed work to care for homebound school-age children, resulting in workers being impacted by lost wages and layoffs. In Costa Mesa, South Coast Plaza, hotels and countless businesses across the city have temporarily closed, suspended or severely restricted operations. As a result, workers are experiencing a loss of wages due to business closures, loss of working hours, layoffs, or out-of-pocket medical costs caused by COVID-19. All of these factors will undoubtedly impact tenants – both residential and commercial - and their ability to pay rent, leaving them vulnerable to eviction.

ANALYSIS:

Providing tenants with short-term protection from eviction due to the inability to pay rent will help stabilize the rental housing market by reducing displacement. During this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants and potential homelessness. To that end, prohibiting evictions on a temporary basis is important until the spread of the virus can be minimized and the emergency restrictions lifted.

If approved, the proposed urgency ordinance would prohibit a landlord from initiating proceedings or otherwise taking steps to evict a tenant for nonpayment of rent from any residential dwelling (including single family and multi-family homes, mobile homes or other structures lawfully used as a residential dwelling) if the tenant demonstrates that the inability to pay rent is due to COVID-19. The ordinance would also apply to commercial tenants, such as a business or commercial enterprise renting or leasing a structure used for business purposes.

In order to take advantage of the protections provided in the ordinance, both residential and commercial tenants would be required to, within 30 days after the rent is due: (1) notify the landlord “in writing” of the substantial COVID-19-Related Financial Impacts, and (2) provide documentation “in writing” establishing such substantial COVID-19-Related Financial Impacts. Nothing in the proposed urgency ordinance is intended to waive a tenant’s obligation to pay back rent owed once this ordinance is no longer effective.

The ordinance provides that a tenant will have up to one-hundred and twenty (120) days after the expiration of this ordinance to pay its landlord unpaid rent. No late fees, costs or other penalties shall be assessed or due from the tenant based on the delay in paying rent as provided for in this ordinance. The Moratorium on residential and commercial eviction would remain in effect until the expiration of the Governor’s Executive Order N-28-20, including any extensions.

PUBLIC NOTICE:

This interim Ordinance adopted as an urgency measure was noticed pursuant to the requirements of the Brown Act by timely placing this item on the March 24, 2020 special meeting agenda.

ENVIRONMENTAL DETERMINATION:

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility that the proposed ordinance will have a significant effect on the environment.

ALTERNATIVES CONSIDERED:

The City Council could forego adoption of the urgency ordinance. Such action would allow evictions to continue to occur under normal procedures.

FISCAL REVIEW:

The adoption of this urgency ordinance will not have any fiscal impact on the City's budget. However, it could help the City avoid additional costs resulting from a potential increase in homelessness if the Ordinance is not adopted.

LEGAL REVIEW:

The City Attorney's Office has reviewed this agenda report and approves it as to form.

CITY COUNCIL GOALS & PRIORITIES:

The proposed project is consistent with City Council Goal No. 4 (Housing).

CONCLUSION

Staff recommends the City Council adopt Urgency Ordinance No. 20-XX.

BARRY CURTIS, AICP
Director of Economic and Development
Services

KIMBERLY HALL BARLOW
City Attorney

JENNIFER KING
Assistant Finance Director

Attachment: [Urgency Ordinance No. 20-XX](#)

cc: City Manager
Assistant City Manager
City Attorney
City Clerk (9)
Staff (7)
File (2)