

ORDINANCE NO. 896**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUARTE, CALIFORNIA, ENACTED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTIONS 8634, 36934, AND 36937, TEMPORARILY PROHIBITING THE EVICTION OF ANY RESIDENTIAL OR COMMERCIAL TENANT WHO SUFFERS A SUBSTANTIAL LOSS OF INCOME OR SUBSTANTIAL INCREASE IN EXPENSE RELATED TO COVID-19**

WHEREAS, COVID-19 (Coronavirus Disease 19) has spread globally to over 117 countries, infecting more than 179,000 persons and killing more than 7,000 individuals worldwide; and shows every indication of spreading further before it is controlled,

WHEREAS, on March 4, 2020, the Health Officer of Los Angeles County determined that there is an imminent and proximate threat to the public health from the introduction of COVID-19 in Los Angeles County and declared a Local Health Emergency, and the Los Angeles County Board of Supervisors concurrently proclaimed the existence of a local emergency for the County of Los Angeles; and,

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency in response to the COVID-19; and,

WHEREAS, on March 11, 2020 the World Health Organization (WHO) publicly characterized COVID-19 as a pandemic; and,

WHEREAS, as of March 14, 2020, there were 54 cases, including a number by community transmission, in Los Angeles County and deaths related to COVID-19 have been widely reported; and,

WHEREAS, on March 12, 2020, the Governor of the State of California issued Executive Order N-25-20 in a further effort to confront and contain COVID-19 that, among other things, recognized that individuals exposed to COVID-19 may be temporarily unable to work due to illness caused by COVID-19 or quarantines related to COVID-19 and, as a result, may be unable to pay for housing; and,

WHEREAS, Executive Order N-25-20 also ordered residents to heed any orders and guidance by local public health officials, including but not limited to social distancing measures; and,

WHEREAS, Executive Order N-25-20 also provided that local jurisdictions could determine that promoting stability among commercial tenancies is also conducive to public health, to help mitigate the economic impacts of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency due to the continuing spread and the effects of COVID-19; and on March 16, 2020, announced guidelines advising people to avoid gatherings of ten (10) or more persons for a period of fifteen (15) days; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20, which indicated local jurisdictions take additional measures to promote housing stability and security in the face of the COVID-19 threat; and

WHEREAS, on March 15, 2020, the Governor of the State of California announced via press conference that he was: (1) calling for home isolation for adults over the age of sixty-five and individuals with chronic conditions; (2) directing the closure of bars, brewpubs, wineries, and nightclubs; and (3) calling for restaurants to limit occupancy to half their current allowance and practice social distancing; and,

WHEREAS, effective March 13, 2020 through at least April 6, 2020, all schools in the Duarte Unified School District are closed to prevent the spread of COVID-19; and,

WHEREAS, on March 17, 2020, the Director of Emergency Services for the City of Duarte proclaimed the existence of a local emergency due to the spread and potential further spread of COVID-19, which the City Council for the City of Duarte will be asked to ratify at its regular meeting on March 24, 2020; and

WHEREAS, Executive Order N-28-20 suspends limitations on municipal regulation of residential and commercial evictions under such provisions of State law as Civil Code sections 1940 et seq., sections 1954.25 et seq., and Code of Civil Procedure sections 725a and 1161 et seq. relating to evictions arising out of nonpayment of rent or foreclosure arising out of substantial decrease in household or business income, including by reason of layoff or substantial decrease in the number of available working hours or substantial out-of-pocket medical expenses documented to be caused by the COVID-19 pandemic, or by any federal, state, or local government response to the COVID-19 pandemic; and

WHEREAS, the COVID-19-related social distancing measures imposed by federal, state, and municipal agencies (such as school and childcare closures, home isolation, quarantines, and the closure of many workplaces) have resulted and will continue to result in a substantial loss of income for many residents and businesses; and,

WHEREAS, independent of COVID-19, many cities in Los Angeles County, including the City of Duarte, are experiencing a humanitarian crisis of homelessness that would be exacerbated by the displacement of renters or the economic impacts of additional business relocations or closures that may be occasioned by commercial evictions, particularly those arising from businesses that have ceased operations in conformance public health orders; and,

WHEREAS, the potential displacement of residential renters during the COVID-19 pandemic is particularly problematic, as it eliminates the option of home isolation for the displaced renters and could contribute to the spread of the disease, particularly if the displaced renter was quarantined; and,

WHEREAS, pursuant to Government Code Section 8634, during a local emergency, the City Council may promulgate orders and regulations necessary to provide for the protection of life and property; and

WHEREAS, pursuant to Government Code Sections 36934 and 36937, a city may adopt an urgency ordinance for the immediate preservation of the public peace, health, or safety; and

WHEREAS, as set forth in more detail in the declaration of the facts constituting the urgency in Section 3 below, the threatened displacement of renters during the COVID-19 pandemic poses numerous threats to the public peace, health, or safety; and,

WHEREAS, the moratorium on COVID-19-related residential and commercial evictions would help renters stay stable if they lose income because they get sick, a family member gets sick, or their job or business is impacted by the economic damage COVID-19 is causing.

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

SECTION 1. Recitals

The above recitals are true and correct and are incorporated herein.

SECTION 2. Environmental Review

The City Council finds and determines that the adoption of this Urgency Ordinance is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15060(c)(2), in that the adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and is further and independently exempt from the California Environmental Quality Act under State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty there is no possibility the adoption of this Ordinance will have a significant effect on the environment.

SECTION 3. Declaration of Facts Constituting Urgency

The adoption of this Urgency Ordinance is necessary to provide for the protection of life and property (as those terms are used in Government Code Section 8634) and necessary for the immediate preservation of the public peace, health, or safety (as those terms are used in Government Code Section 36937(b)) in at least the following respects:

- A. Independent of COVID-19, the City of Duarte is experiencing a housing affordability crisis, which is driving homelessness and displacement of residents to an unprecedented scale.

B. When a household spends more than 30 percent of its income on housing costs (i.e., is “rent burdened”), it has less disposable income for other necessities such as health care. In the event of unexpected circumstances, such as loss of income or health problems, households with a burdensome housing cost are more likely to become homeless. 62% of renter-households in Duarte use more than 30% of their incomes to cover housing costs. Approximately 33% of renter-households spend more than 50 percent of their income on housing costs.

C. As the cost of housing in Southern California continues to rise, homelessness has become more prevalent. In the 2019 Greater Los Angeles Homeless Street Count, 29 homeless individuals were counted in Duarte.

D. The Greater Los Angeles Homeless Street Counts do not include individuals who live with relatives or friends, in nearby hotels, or in other transitional housing, so the actual number of homeless persons in the community may well be higher. During the 2019 - 2020 school year, the Duarte Unified School District reported there were 130 (as of March 2020) children that fit in the latter category.

E. One of the most effective ways to address the homeless crisis is to prevent individuals and families from becoming homeless in the first place. To that end, the City has programs to assist families and individuals threatened with homelessness. For example, the City employs a Homeless Outreach Coordinator to assist with connecting the homeless population to L.A. County’s Coordinated Entry System. The Homeless Outreach Coordinator conducts outreach both on the street level and through office hours at the City’s Public Safety Department location. If an individual or family is currently experiencing homelessness or is about to become homeless, this staff member can connect them to the proper channels for assistance. The City of Duarte also recently entered into a regional agreement with Union Station Homeless Services for additional homeless outreach supports and shelter space. Lastly, the City is working with the San Gabriel Valley Council of Governments to creating opportunities to provide landlord education/outreach and incentive programs, and potential master leasing programs to expand temporary emergency bed spaces.

F. Promotion of stability in commercial tenancies is important in the City of Duarte, given the number of small businesses in the community, and the need to preserve the existing commercial core of businesses, as a foundation not only for the City to recover quickly from losses of sales tax revenues expected to occur as a result of immediate shutdowns and curtailment of business activities in compliance with local, state, and federal health orders, but also for the ability to meet the need to attract new commercial tenants, in the Town Center Specific Plan area and elsewhere; and to minimize the job losses that might occur from displacement, relocation, or bankruptcies, businesses that might follow commercial evictions caused by socially responsible activities of commercial tenants in response to the COVID-19 crisis; which in turn would exacerbate the impacts of residential evictions and its contributing impact to homelessness.

G. For all of the reasons set forth in the recitals, COVID-19 has become a National, State, and local emergency that will result in a substantial loss of income or expense for many renters, including without limitation:

- a. Renters who are infected with COVID-19;
- b. Renters who are caregivers for someone infected with COVID-19;
- c. Renters who are quarantined due to contact with or suspected contact with an individual infected with COVID-19;
- d. Renters who are over the age of 65 and/or who have a chronic condition and are following the Governor’s guidance to stay at home until the threat of exposure to COVID-19 has subsided;
- e. Renters who are without childcare as a result of school (or other childcare) closures;

- f. Renters whose workplaces have closed or reduced staffing in accordance with Federal and State orders and guidance to promote social distancing; and
- g. Commercial renters whose business activities have been curtailed, or stopped, by natural consequence of compliance with federal, state, and local mandates for “shelter in place,” “safer at home,” or similar COVID-19 response measures enacted to impose social distancing and elimination of gatherings to slow the infection rate, preserve the ability of medical and emergency response providers to respond to the crisis, and ultimately save lives.

H. Evicting renters who are temporarily unable to pay rent due to a COVID-19-related loss of income or expense poses an immediate threat to life, property, and the public peace, health, or safety, in that, it would displace some of Duarte’s most vulnerable residents and businesses, and likely increase homelessness and/or the risk of COVID-19 transmission. Therefore, it is imperative that the City implement temporary strategies to keep people and businesses housed.

SECTION 4. Temporary Prohibition of Residential and Commercial Evictions Caused By Financial Impacts of COVID-19.

- a) Prohibition. During the term of this moratorium, a residential or commercial tenant shall not be evicted for nonpayment of rent when the tenant can demonstrate that he, she, or they have suffered one or more financial impacts related to COVID-19.
- b) Definitions. As used herein, “financial impacts” means a substantial loss of household or business income due to workplace closure, loss of compensable hours of work or wages, layoffs, or extraordinary out-of-pocket medical expenses. A financial impact is “related to COVID-19” if it was caused by the COVID-19 pandemic, the President of the United States’ Declaration of National Emergency, the Governor of the State of California’s Declaration of State Emergency, the City of Duarte’s Proclamation of Local Emergency, or compliance with public health orders related to COVID-19 from local, state, or federal authorities, including compliance with employer dictates or policies regarding shutdowns, limitations on gatherings or operations of businesses or groups, social distancing, self-isolation or self-quarantine, or like measures.
- c) Notice to Landlord. Tenants who wish to avail themselves of the protections afforded by this moratorium must first notify their landlords that they cannot pay rent due to a COVID-19-related financial impact. Within one week of providing this notice, tenants must provide documentation to their landlord(s) corroborating that they have suffered a COVID-19-related financial impact. A statement signed under penalty of perjury outlining the specific details of the COVID-19-related financial impact the tenant has suffered shall constitute sufficient corroborating documentation.
- d) Repayment of Unpaid Rent. This Urgency Ordinance imposes a moratorium on evictions — but is not, and should not be interpreted as a moratorium on the payment of rent, or any forgiveness of same. Tenants who avail themselves of the protections afforded by this moratorium shall remain responsible for ultimate payment of rent. Unless a landlord agrees to a longer repayment term, tenants shall have up to three (3) months after the City of Duarte proclaims the termination of the Local Emergency to repay any unpaid rent.

SECTION 5. Enforcement & Penalties.

A landlord’s failure to comply with this Urgency Ordinance shall render any notice of termination of tenancy issued during the term of this moratorium void. For notices of termination issued during the term of this moratorium, this Urgency Ordinance may be asserted as an affirmative defense in an unlawful detainer action. A landlord’s failure to comply with this Urgency Ordinance does not constitute a criminal offense. All penalties that are set forth in State Law and the Duarte Municipal Code (including, without limitation, Chapters 1.12 and 1.14) shall apply to violations of the provisions of this Urgency Ordinance.

SECTION 6. Effective Date.

This Ordinance is declared to be an Urgency Ordinance by authority conferred on the City Council of the City of Duarte by Government Code Sections 8634, 36934, and 36937, and shall be in full force and effect immediately upon its adoption by a four-fifths vote of the City Council.

SECTION 7. Initial Term of Urgency Ordinance; Termination

The moratorium created by this Urgency Ordinance shall be in effect for an initial term of thirty (30) days (April 23, 2020) unless extended by action of the City Council, which may occur at a meeting complying with the interim orders regarding the Brown Act in the Governor’s Executive Order No. N-25-20, as amended by Executive Order N-29-20.

If a term of the moratorium is not extended, then it shall automatically expire at 11:59 p.m. on its last day without further action of the City Council.

If during the effective period of this ordinance, a moratorium on evictions is enacted by either the federal government, the State of California, or the County of Los Angeles, and such moratorium is effective as to the City of Duarte, this ordinance shall automatically expire upon the date such statute, ordinance or law becomes effective as to the City of Duarte.

If the City Council proclaims the termination of the Local Emergency based on COVID-19, the moratorium shall automatically cease to be in effect without further action of the City Council.

SECTION 8. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Urgency Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Urgency Ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. To this end, the provisions of this Urgency Ordinance are declared to be severable.

SECTION 9. Posting of Ordinance.

The Mayor shall sign this Urgency Ordinance and the City Clerk shall attest and certify to its passage and adoption. The City Clerk shall cause this Urgency Ordinance to be published or posted as required by law. In accordance with Government Code Section 8634, this ordinance and any amendments, extensions, and rescissions thereof shall be given “widespread publicity and notice,” including but not limited to providing notice of, and a copy of, the ordinance on the City’s website, issuance of a press release to local media, and offering notice of same via local public access television.

PASSED, APPROVED AND ADOPTED this 24th day of March , 2020.

/s/ Samuel Kang
Mayor Samuel Kang

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF DUARTE)

I, Marla Akana, City Clerk of the City of Duarte, County of Los Angeles, State of California, hereby attest to the above signature and certify that Urgency Ordinance No. 896 was adopted by the City Council of the City of Duarte at a regular meeting of said Council held on the 24th day of March, 2020, by the following vote:

- AYES: Councilmembers: Lewis, Reilly, Paras-Caracci, Finlay, Fasana, Urias, Kang
- NOES: Councilmembers: None
- ABSENT: Councilmembers: None

/s/ Marla Akana
City Clerk Marla Akana
City of Duarte