

## URGENCY ORDINANCE NO. 810U

### AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE OF LOMITA, CALIFORNIA, ENACTING A TEMPORARY MORATORIUM ON FORECLOSURES AND EVICTIONS DUE TO NONPAYMENT OF RENT BY RESIDENTIAL AND COMMERCIAL TENANTS IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19), FINDING THE SAME EXEMPT FROM CEQA AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

The City Council of the Lomita does ordain as follows:

#### SECTION 1. Findings.

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19").
- B. On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.
- C. On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19.
- D. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.
- E. On March 17, 2020, the Director of Emergency Services proclaimed the existence of a local emergency pursuant to Lomita Municipal Code section 3-2.06.
- F. On March 17, 2020, the City Council ratified the proclamation of the Director of Emergency Services and declared the existence of a local emergency to ensure the availability of mutual aid and an effective the City's response to the novel coronavirus ("COVID-19").
- G. On March 16, 2020, the Governor of the State of California issued Executive Order Executive Order N-28-20, authorizing local governments'

through their police power to impose substantive limitations on residential or commercial evictions for nonpayment of rent for tenants financially impacted by COVID-19 through May 31, 2020.

- H. On March 16, 2020, the Los Angeles County Los Angeles County Public Health Officer issued an order countywide that (1) prohibits gatherings where at least 50 people are expected to attend, (2) puts limits and regulations on gatherings of 10-49 people, (3) limits restaurants to drive-through/takeout/delivery, (4) closes bars (that don't serve food), gyms, movie theaters, etc.
- I. The Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to social distancing, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Other counties throughout the state have issued "shelter in place" directives.
- J. As of the date of this ordinance and in order to prevent further exposure, many businesses have imposed work from home policies; meetings, events and social gatherings are being cancelled as people remain at home; customers are not patronizing restaurants and stores or hiring domestic help or travelling. With more businesses moving towards working from home, less of the workforce will be patronizing restaurants, hotels and other retail establishments that employ hourly workers, which is expected to lead to hourly cutbacks and employee terminations.
- K. As a result of the public health emergency and the precautions recommended by health authorities, many tenants in Lomita have experienced or expect soon to experience sudden and unexpected income loss.
- L. The Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks.
- M. Most, if not all, local schools are closed to prevent further spread of COVID-19. These school closures will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be

paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home

- N. The situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction.
- O. This Ordinance is temporary in nature and only intended to promote stability and fairness within the residential and commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes.
- P. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to adopt this ordinance related to the protection of life and property, to ensure renters can remain in their homes and prevent proliferation of homelessness and further spread of COVID-19. Displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close. During the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted.
- Q. People experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care. The Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19. Widespread evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency, and increase the risk of spread of COVID-19.
- R. Promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close, and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction.

- S. The City desires to prohibit evictions due to non-payment of rent for residential and commercial tenants where the failure to pay rent results from income loss resulting from the novel coronavirus (COVID-19).
- T. This Ordinance is adopted pursuant to the City's police powers and powers afforded to the city in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and Title III, Chapter 2, of the Lomita Municipal Code to protect the peace, health, and safety of the public. The Lomita City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City and finds urgency to approve this ordinance immediately based on the facts described herein, and detailed in the staff report. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of life and property.

**SECTION 2.** Temporary Moratorium on Evictions for Non-Payment of Rent by Residential Tenants Impacted by the COVID-19 Crisis.

A. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this ordinance if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

C. For purposes of this ordinance "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

D. This ordinance applies to nonpayment eviction notices and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed.

E. This ordinance may be asserted as an affirmative defense in the event that an unlawful detainer action is commenced in violation of this ordinance. A landlord's failure to comply with this ordinance shall render any notice of termination of tenancy void. A landlord's failure to comply with this ordinance does not constitute a criminal offense

F. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed for the reasons stated in this ordinance through the eviction process.

G. No other legal remedies available to landlord are affected by this ordinance.

**SECTION 3.** Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.

A. Commercial landlords in the City are hereby prohibited from (a) charging rent and (b) evicting commercial tenants for nonpayment of rent with respect to tenants whose businesses are adversely affected due to being subject to the limitations on how certain businesses may operate that are imposed by the above described Orders or are otherwise limited or closed (voluntarily or by mandate) to prevent or reduce the spread of COVID-19 and who demonstrate lost income and inability to pay rent as a result of such limitation or closure or other demonstrated financial impact related to COVID-19.

B. A landlord knows of a tenant's lost income and inability to pay rent within the meaning of this Order if the tenant, within 30 days after the date rent is due, notifies the landlord in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant's business related to COVID-19, with appropriate supporting documentation. If a tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds to the income they generated during the period of loss. For purposes of this Order, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. All financial information provided to the landlord shall be kept in confidence and only used for evaluating the tenant's claim or enforcing this provision.

C. This ordinance may be asserted as an affirmative defense in the event that an unlawful detainer action is commenced in violation of this ordinance. A landlord's failure to comply with this ordinance shall render any notice of termination of tenancy void. A landlord's failure to comply with this ordinance does not constitute a criminal offense

D. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed, or the reasons stated in this ordinance through the eviction process.

E. No other legal remedies available to landlord are affected by this order.

#### SECTION 4. Temporary Suspension on Residential and Commercial Foreclosures.

A. No foreclosure action against a property owner shall be initiated or proceed during the period of declared local emergency in the City of Lomita related to the COVID-19 virus for any mortgagor with a demonstrated financial impact related to COVID-19. Nothing in this ordinance shall relieve the mortgagor of liability for any unpaid mortgage payments, which the mortgagee may seek after expiration of the local emergency and the mortgagor must pay within six months of the expiration of the local emergency, unless a different time is agreed to between the parties. The respective rights and obligations of the parties in any foreclosure proceeding shall be adjudicated in the appropriate court of law with jurisdiction over the matter at the conclusion of the local emergency or rescission of this ordinance.

B. No other legal remedies available to parties to any foreclosure proceeding are affected by this order.

C. Mortgagees are strongly encouraged to offer payment plans to mortgagors to avoid foreclosure after the period of local emergency.

SECTION 5. In accordance with the Governor of the State of California's Executive Order N-28-20, this ordinance shall remain in effect until May 31, 2020. In order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of any provision in this ordinance in the event that the President of the United States, Congress, Governor of the State of California or California State Legislature or other body with jurisdiction adopts an order or legislation that similarly prohibits evictions and foreclosures for failure to pay rent by individuals impacted by the COVID-19 crisis.

#### SECTION 6. Severability.

If any section, subsection, sentence, clause, phrase or word of this Chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

#### SECTION 7. Environmental Review.

The City Council finds that adoption and implementation of this Ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo. No new development will result from the proposed action. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Lomita, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

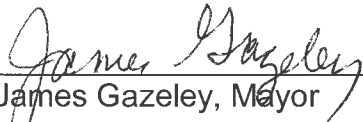
#### SECTION 8. Urgency Declaration; Effective Date.

The City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as the City and public would suffer potentially irreversible displacement of commercial and residential tenants resulting from evictions and foreclosure for failure to pay rent during the COVID-19 crisis. During this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City’s affordable housing stock, and to prevent housed individuals from falling into homelessness. Promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction or foreclosure. Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent and mortgages. Under Government Code Section 8634 and Lomita Municipal Code Title III, Chapter 2, this ordinance is necessary to provide for the protection of life and property for the reasons set out herein. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

#### SECTION 9. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this 23rd day of March 2020.


  
James Gazeley, Mayor

ATTEST:

  
Kathleen Hill, City Clerk



APPROVED AS TO FORM:

  
City Attorney



STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   ) SS  
CITY OF LOMITA               )

I, **Kathleen Hill**, City Clerk of the City of Lomita, California, do hereby certify that the foregoing Ordinance No. 810U was duly passed, approved, and adopted by the City Council of the City of Lomita at a special meeting held on March 23, 2020, by the following vote, to wit:

AYES:           Council Members: Sanchez, Savidan, Segawa, Mayor Pro Tem Waronek,  
                    and Mayor Gazeley

NOES:           None

ABSENT:       None

RECUSE:       None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Lomita, California this 23<sup>rd</sup> day of March 2020.

  
Kathleen Hill, City Clerk  
City of Lomita, California