

ORDINANCE NO. 2022

AN URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ENACTING A TEMPORARY MORATORIUM ON EVICTIONS RESULTING FROM NONPAYMENT OF RENT WHEN SUCH NONPAYMENT WAS CAUSED BY THE COVID-19 PANDEMIC, AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

City Attorney's Summary

This is an urgency ordinance of the City of Palm Springs, California, enacting a temporary moratorium on evictions due to nonpayment of rent from tenants where the failure to pay rent results from income loss resulting from the novel Coronavirus (COVID-19) and setting forth the facts constituting the urgency.

WHEREAS, 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"); and

WHEREAS, on March 8, 2020, the Riverside County Health Officer declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, on March 16, the Governor of the State of California issued an Executive Order temporarily reducing limits on local governments' ability to impose their own "substantive limitations on residential or commercial evictions" through May 31, 2020; and

WHEREAS, on March 13, 2020, the City Manager, as the City's Emergency Services Director, proclaimed 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"); and

WHEREAS, the federal Centers for Disease Control and Prevention, the California Department of Health, and the Riverside County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, on March 17, 2020, the City Manager, as the City's Emergency Services Director, issued a shelter in place order, ordering that individuals living in the City of Palm Springs to shelter at their place of residence, excluding activities necessary to provide or receive certain essential services or engage in certain essential activities and work for essential business and government service; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Palm Springs have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, the situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, this Ordinance is only intended to be temporary in nature, to promote stability and fairness within the residential rental and non-residential real estate markets in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness and widespread business disruption, 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 and places of business; and

WHEREAS, 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 that residential renters can remain in their homes and that tenants of non-residential properties can

remain in their places of business 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 employment 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. Businesses and other tenants of non-residential properties will be similarly harmed, with significant consequences for the public health, safety, and welfare; and

WHEREAS, 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; and

WHEREAS, the City desires to prohibit evictions due to nonpayment of rent for tenants of all types of properties where the failure to pay rent results from income loss resulting from COVID-19; and

WHEREAS, the City has authority to adopt this Ordinance under the City's police power and the 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 Sections 312 and 315 of the Palm Springs Charter to protect the peace, health, and safety of the public. The Palm Springs 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.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES ORDAIN AS FOLLOWS:

SECTION 1. Temporary Moratorium on Evictions for Non-Payment of Rent by Tenants Impacted by the COVID-19 Crisis.

A. Notwithstanding anything to the contrary in Palm Springs Municipal Code, 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. Nor shall any landlord endeavor to evict a tenant during the period of local declared emergency period based on the presence of unauthorized occupant(s) (within building code occupancy limits), pet(s) or alleged nuisance, provided that such unauthorized occupant(s), pet(s) or alleged nuisance is related to COVID-19. "Endeavor" includes, but is not limited to, serving an eviction notice (aka 3-day notice to pay or quit), filing or prosecuting an unlawful detainer action based on a 3-day notice to pay or quit notice, or otherwise attempting to evict the tenant for nonpayment of rent.

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 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, prior to the date that is fifteen (15) days following the date that the rent is due from residential tenant or seven (7) days following the date that the rent is due from any non-residential tenant, notifies the landlord in writing of the reason for the tenant's inability to pay full rent due to financial impacts related to COVID-19., If the landlord requests documentation supporting the tenant's claim within ten (10) days following the landlord's receipt of the tenant's written reason, then the tenant shall provide documentation to support the tenant's claim within thirty (30) days following tenant's receipt of the landlord's request. In addition, any tenant seeking to use the protections of this ordinance must pay that portion of rent that the tenant is able to pay. 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" shall mean the following:

(i) For residential tenants, a "financial impact related to COVID-19" shall mean a tenant's loss of income or an increase in expenses, due to any of the following:

(a) tenant was sick with COVID-19, experiencing symptom indicative of COVID-19, or caring for a household or family member who was sick with COVID-19;

(b) tenant experienced a lay-off, loss of hours, or a reduction in job-related income, directly resulting from COVID-19 or the state of emergency;

(c) tenant's compliance with a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others during the state of emergency; or

(d) tenant's need to miss work to care for a home-bound school age child.

(ii) For non-residential tenant, a "financial impact related to COVID-19" shall mean a tenant's loss of income or an increase in expenses, due to the tenant's closure of, operating restrictions placed upon, or other loss of patronage of the tenant's business directly resulting from:

(a) the federally-declared emergency, state-declared emergency, locally declared emergency, or any stay at home order issued pursuant to any of the foregoing; or

(b) any other emergency order or declaration related to COVID-19.

D. Violation of this ordinance shall be punishable as set forth in Sections 1.01.140 and 2.20.100 of the Palm Springs Municipal Code. In addition, this ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this ordinance. In addition, in the event of a violation of this ordinance, an aggrieved tenant may institute a civil proceeding for injunctive relief, money damage, and whatever other relief the court deems appropriate. In the case of an award for damages, said award shall only be awarded if the trier of fact finds that the landlord acted in knowing violation of, or in reckless disregard of, this ordinance. The prevailing party shall be entitled to reasonable attorneys' fees and costs pursuant to order of the court. The remedies available in this subsection shall be in addition to any other existing remedies that may be available to the tenant under local, state or federal law.

E. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent. Any tenant who was afforded protection under this ordinance shall have 180 days after the City of Palm Springs proclaims the termination of the local emergency to pay to that tenant's landlord all unpaid rent. A landlord may not charge or collect any interest or any 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. During that 180-day period, the protections against eviction found in subsection A of this ordinance apply to such tenants. However, the tenant and landlord may, prior to the expiration of the local emergency period or within 90 days of the first missed rent payment, whichever comes first, mutually agree to a plan for repayment of unpaid rent selected from options promulgated by the Community and Economic Development Department for that purpose.

F. No other legal remedies available to landlord are affected by this ordinance. This ordinance does not prevent a landlord from evicting a tenant who failed to pay rent when due prior to March 14, 2020 or for any other lease violation.

G. The protections afforded by this ordinance do not apply to any of the following circumstances:

- (i) Transient and tourist hotel occupancies as defined in subdivision (b) of Section 1940 of the California Civil Code.
- (ii) Housing accommodations in any nonprofit hospital, religious facility, extended care facility, licensed care facility for the elderly, or adult residential facility.
- (iii) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- (iv) Evictions from, or orders to vacate, any premises as ordered by any state, federal or local government agency for reasons of public health or safety, severe public nuisance, or necessitated by the COVID-19 emergency.

H. This ordinance shall remain in effect through June 4, 2020, unless extended by the City Council. Notwithstanding the foregoing, and in order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of this ordinance in the event that the President of the United States, Congress, Governor of the State of California, or California State Legislature adopts an order or legislation to the extent that such order or legislation pre-empts this ordinance.

I. Financial assistance paid by a government agency to a rental property owner designed to mitigate the impacts of non-payment of rent due to financial impacts related to COVID-19 shall be credited against the rental payment(s) owed for the landlord's rental unit(s). Similarly, financial assistance paid by a government agency to a tenant specifically to assist with rental assistance made necessary by the financial impacts related to COVID-19 shall be used

SECTION 2. 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 3. Environmental Review.

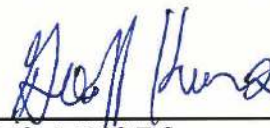
The City Council finds that adoption and implementation of this ordinance is not a "project" for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to 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 Palm Springs, 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 4. 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 tenants resulting from evictions 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. Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent. Under Government Code Section 8634 and WHMC Chapter 2.80, 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.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL
THIS 2ND DAY OF APRIL, 2020.



GEOFF KORS
MAYOR

ATTEST:



ANTHONY J. MEJIA, MMC
CITY CLERK

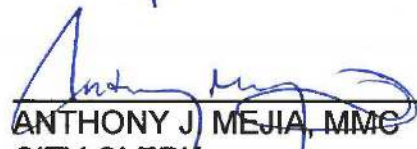
CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, ANTHONY J. MEJIA, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. 2022 is a full, true, and correct copy, and was adopted at a regular meeting of the Palm Springs City Council on April 2, 2020, by the following vote:

AYES: Garner, Holstege, Middleton, Woods, and Mayor Kors
NOES: None
ABSENT: None
ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Springs, California, this 4th day of April, 2020.



ANTHONY J. MEJIA, MMC
CITY CLERK