



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: March 17, 2020

FROM: CITY ATTORNEY

SUBJECT: UNCODIFIED ORDINANCE ENACTING A MORATORIUM ON EVICTION FOR NON-PAYMENT OF RENT BY TENANTS IMPACTED BY THE COVID-19 PANDEMIC

TITLE OF PROPOSED ORDINANCE

AN UNCODIFIED ORDINANCE ENACTING A MORATORIUM ON EVICTION FOR NON-PAYMENT OF RENT BY TENANTS IMPACTED BY THE COVID-19 PANDEMIC

PURPOSE OF ORDINANCE

This ordinance imposes a moratorium on eviction for non-payment of rent by residential and commercial tenants impacted by the COVID-19 pandemic.

REASON WHY LEGISLATION IS NEEDED

This ordinance is needed as a result of the public health emergency caused by the COVID-19 pandemic, and the precautions recommended by health authorities, where many tenants in Pasadena have experienced or expect soon to experience sudden and unexpected income loss.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

This ordinance may be asserted by tenants as an affirmative defense in an unlawful detainer action. As such, no City departments will be required to implement the proposed ordinance.

MEETING OF 03/17/2020

AGENDA ITEM NO. 5 (3)

FISCAL IMPACT

This ordinance will not have any fiscal impact.

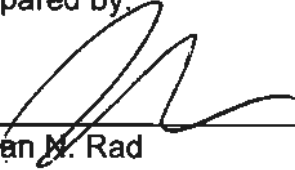
ENVIRONMENTAL DETERMINATION

On this same date, the Council will be asked to find that the ordinance is exempt from the California Environmental Quality Act.

Respectfully submitted,


Michele Beal Bagners
City Attorney

Prepared by:


Javan M. Rad
Chief Assistant City Attorney

Concurred by:


Steve Mermell
City Manager

JNR:drc
3/16/2020
0000160576C031

Introduced by Council member _____

ORDINANCE NO.

**AN UNCODIFIED ORDINANCE ENACTING A MORATORIUM ON
EVICTIONS FOR NON-PAYMENT OF RENT BY TENANTS IMPACTED
BY THE COVID-19 PANDEMIC**

WHEREAS, pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the City Council has the authority to enact and enforce ordinances and regulations for the public peace, morals and welfare of the City and its residents;

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");

WHEREAS, on March 4, 2020, the Health Officer declared the existence of a local health emergency in Pasadena, and on May 9, 2020, the City Council adopted a resolution ratifying the Health Officer's declaration;

WHEREAS, 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;

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;

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;

WHEREAS, on March 16, 2020, the City Manager, as Director of Disaster Emergency Services pursuant to Chapter 2.370 of the Pasadena Municipal Code, declared the existence of a local emergency and a first supplement to the declaration of local emergency to allow the City of Pasadena to address the COVID-19 pandemic;

WHEREAS, 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, 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;

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

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;

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction;

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to (a) avoid unnecessary housing displacement, to protect the City's affordable housing stock, and to prevent housed individuals from falling into homelessness; and (b) avoid unnecessary displacement of commercial businesses;

WHEREAS, loss of income as a result of COVID-19 may inhibit Pasadena residents and businesses from fulfilling their financial obligations;

WHEREAS, this ordinance is necessary to protect public health and safety, as affected by the emergency caused by the spread of COVID-19; and

WHEREAS, staff discussions, testimony, and documentary evidence presented in a public forum support the basis of the findings and actions set forth in this ordinance.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF PASADENA DO ORDAIN AS FOLLOWS:

SECTION 1. This ordinance, due to its length and corresponding cost of publication will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

"SUMMARY

Ordinance No. _____ imposes a moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 pandemic.

Ordinance No. _____ shall take effect upon publication."

SECTION 2. The above recitals are true and correct and are a substantive part of this Ordinance.

SECTION 3. A moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 pandemic is imposed as set forth herein.

SECTION 4. During the period of local public health emergency and/or local emergency declared in response to COVID-19:

A. For residential properties, no landlord shall endeavor to evict a tenant in either of the following situations: (1) for non-payment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord. 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 Section 1161(2), file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise seek to evict for non-payment of rent.

B. For commercial properties, no landlord shall endeavor to evict a commercial tenant for non-payment of rent if a commercial tenant is unable to pay rent due to financial impacts related to COVID-19.

SECTION 5. 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. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

SECTION 6. 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.

SECTION 7. Definitions. For purposes of this ordinance,

A. "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.

B. "Financial impacts related to COVID-19" include, but are not limited to, (1) for residential tenants, lost household income as a result of any of the following: (a) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (b) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (c) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (d) extraordinary out-of-pocket medical expenses; or (e) child care needs arising from school closures related to COVID-19; and (2) for commercial tenants, lost business income from full or partial closure of the business (voluntarily or by mandate) to prevent or reduce the spread of COVID-19.

C. "No-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the residential tenant, including, but not limited

to, eviction notices served pursuant to Code of Civil Procedure Sections 1161(1), 1161(5), or 1161c.

SECTION 8. This ordinance may be asserted as an affirmative defense in an unlawful detainer action. Any failure to comply with this ordinance does not constitute a criminal offense.

SECTION 9. This ordinance shall not be read in any way to (a) adversely affect and/or abrogate the rights of tenants under Chapter 9.75 of the Pasadena Municipal Code (Tenant Protection); and/or (b) prohibit any terminations of tenancy for just cause, or other terminations of tenancy where this ordinance does not apply.

SECTION 10. As applied to notices of termination issued prior to the effective date of this ordinance, this ordinance shall apply to tenancies where, as of the effective date of this ordinance, said tenant remains in possession and/or any eviction lawsuit has not reached a final judgment or issuance of a final order, after all appeals have been exhausted.

SECTION 11. This Ordinance shall remain in effect until the termination of the later of any local emergency or local health emergency in Pasadena that relates to the COVID-19 pandemic.

SECTION 12. Severability. If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions, and to this end, the provisions of this chapter are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION 13. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 14. This Ordinance shall take effect upon publication.

Signed and approved this _____ day of _____, 2020.

Terry Tornek
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held on _____ day of _____ 2020 by the following vote:

AYES:

NOES:

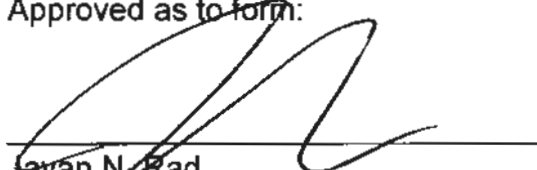
ABSENT:

ABSTAIN:

Date Published:

Mark Jomsky, CMC
City Clerk

Approved as to form:



Javan N. Rad
Chief Assistant City Attorney

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