

CITY OF RANCHO CORDOVA

ORDINANCE NO. XX-2020

AN URGENCY ORDINANCE OF THE RANCHO CORDOVA CITY COUNCIL ADDING CHAPTER 4.56 TO THE RANCHO CORDOVA MUNICIPAL CODE, ENACTING A TEMPORARY MORATORIUM ON THE EVICTION OF COMMERCIAL TENANTS WHERE THE FAILURE TO PAY RENT IS DUE TO INCOME LOSS OR HEALTH CARE COSTS FROM THE NOVEL CORONAVIRUS (COVID-19)

THE CITY COUNCIL OF THE CITY OF RANCHO CORDOVA DOES ORDAIN AS FOLLOWS:

Section 1. Findings. This urgency ordinance is adopted pursuant to the following findings:

1. 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
2. On January 30, 2020, the World Health Organization ("WHO") declared COVID-19 a Public Health Emergency of International Concern, and on January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and
3. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of COVID-19, and on March 5, 2020, the Sacramento County Public Health Officer declared a public health emergency in Sacramento County due to COVID-19. Directives from federal, state, and local health officials, have advised all residents to avoid public gatherings and stay at home to prevent the spread of this disease; and
4. On March 18, 2020, the City Council of the City of Rancho Cordova adopted a resolution proclaiming a local emergency stemming from COVID-19; and
5. On March 19, 2020, the Sacramento County Public Health Officer issued an order, which directed all individuals within Sacramento County to stay at home or at their place of residence, except to provide or receive essential services or to engage in limited essential services, which subsequently followed by Governor Newsom's Executive Order N-33-20 on the same day which issued a state-wide stay home order; and
6. The City has been greatly impacted by this global health pandemic, forcing all schools within the City to close, and causing a significant decrease in the amount of business being conducted within the City, due to all public events being cancelled, and state and county orders only allowing essential activities and travel to occur; and

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7. The COVID-19 pandemic and associated public health orders are expected to result in a severe loss of income to a widespread portion of the local population that depend on wages or business income to pay rent, and result in substantial medical expenses for City residents that may become infected with COVID-19; and
8. Businesses are also affected by COVID-19 and may be unable to pay rent and if businesses are unable to pay rent, they may be evicted and negatively impact the local economy by laying off employees and ceasing to provide services to residents of the City, and negatively impacting local health by forcing persons out of their shelter-in-place locations to prepare for business eviction, increasing potential COVID-19 exposure, and reducing the number of retail and commercial spaces available to provide essential services, also increasing potential COVID-19 exposure as a result of less retail and commercial spaces available for residents and thus less space available for social distancing; and
9. Ensuring businesses have the foregoing short-term protection from eviction due to their inability to pay rent caused in part by COVID-19, will help stabilize the commercial rental market by reducing displacement and ensuring businesses are able to remain open and/or reopen once this pandemic subsides; and
10. During this state of emergency, and in the interests of protecting the public health and safety, and preventing the transmission of COVID-19, it is essential to temporarily avoid the unnecessary displacement of commercial tenants. Prohibiting commercial evictions on a temporary basis is needed until the spread of COVID-19 can be minimized and the emergency restrictions are lifted; and
11. Nothing in this Urgency Ordinance waives or otherwise eliminates a tenant's obligations to pay back rent owed once this Urgency Ordinance is no longer in effect.

Section 2. Urgency Findings. The City Council of the City of Ranch Cordova hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency measure, which finding is based upon the facts stated herein, and in the staff report dated March 27, 2020, as well any oral and written testimony at the March 27, 2020 City Council meeting.

This Urgency Ordinance and any moratorium that may be established thereunder is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are all of those certain facts set forth and referenced in this Urgency Ordinance and the entirety of the record before the City Council.

Section 3. Amendment of Code. Chapter 4.56 “Temporary Moratorium on the Eviction of Commercial Tenants Where the Failure to Pay Rent Is Due to Income Loss Or Health Care Costs from the Novel Coronavirus (COVID-19)” is hereby added to Title 4 of the Rancho Cordova Municipal Code, to read as follows:

Chapter 4.56
TEMPORARY MORATORIUM ON THE EVICTION OF COMMERCIAL TENANTS
WHERE THE FAILURE TO PAY RENT IS DUE TO INCOME LOSS OR HEALTH
CARE COSTS FROM THE NOVEL CORONAVIRUS (COVID-19)

4.56.005 Duration.

This Chapter shall remain in effect until the expiration of the Governor’s Executive Order N-28-20, including any extensions, or until this Chapter is otherwise repealed or this section is otherwise amended by the City.

4.56.010 Definitions.

A. “Covered Reason for Delayed Payment” means a Tenant’s loss of income due to the Tenant’s closure of, operating restrictions placed upon or other loss of the patronage of the tenant’s business directly resulting from:

(1) The state-declared emergency, City-declared emergency, or Sacramento County Public Health Officer’s Stay At Home Order dated March 19, 2020; or

(2) Any other emergency declarations or orders related to the COVID-19 pandemic.

B. “Owner” means any person, acting as principal or through an agent, providing Commercial Real Property for rent.

C. “Commercial Real Property” means any commercial property, structure, or unit that is intended or used for commercial purposes in the City of Rancho Cordova.

D. “Tenancy” means the lawful occupation of Commercial Real Property, and includes a lease or sublease.

E. “Tenant” means a commercial tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of Commercial Real Property.

4.56.015 Moratorium.

A. No Owner shall endeavor to evict a Tenant from Commercial Real Property, for nonpayment of rent if the Tenant, in accordance with this Chapter, demonstrates that the inability to pay rent is due to a Covered Reason for Delayed Payment.

B. To utilize the protections afforded under this Chapter, a Tenant must do all of the following:

(1) Notify the Owner in writing before the day rent is due that the Tenant has a Covered Reason for Delayed Payment;

(2) Provide the Owner with verifiable documentation to support the assertion of a Covered Reason for Delayed Payment; and

(3) Pay a portion of the rent that the Tenant is able to pay.

C. If a Tenant complies with the requirements of subsection B, an Owner shall not serve a notice pursuant to California Code of Civil Procedure sections 1161 and 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise endeavor to evict the Tenant for nonpayment of rent.

D. A Tenant who is afforded eviction protection under this Chapter shall have up to 120 days after the expiration of the Governor's Executive Order N-28-20, including any extensions, to pay Owners all unpaid rent without any related late fees. During that 120 day period, the protections of this Chapter shall apply for such tenants.

E. Nothing in this Chapter relieves a Tenant of liability for unpaid rent after expiration of this Chapter, nor restrict an Owner's ability to recover rent due for other lawful reasons.

4.56.020 Remedies.

In addition to any other remedy under state law, any person who violates a provision of this Chapter is subject to the penalties set forth in RCMC Sections 1.01.190E and 1.01.190F.

Section 4. CEQA. Approval of the amendments in this Ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 5. Severability. If any provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

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Section 6. Effective Date. This Urgency Ordinance shall become effective immediately upon its adoption with four-fifths vote of the City Council and findings made pursuant to California Government Code section 36937. Within 15 days after adoption, a Summary of this Ordinance shall be published once in the Grapevine Independent, or the Sacramento Bee, a newspaper of general circulation printed and published in Sacramento County and circulated in the City of Rancho Cordova, in accordance with Government Code section 36933.

PASSED AND ADOPTED by the City Council of the City of Rancho Cordova on the ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

David M. Sander, Mayor

ATTEST:

Stacy Leitner, CMC
City Clerk