

ORDINANCE NO. 2908

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY OF REDLANDS ENACTING A TEMPORARY MORATORIUM ON RESIDENTIAL AND COMMERCIAL EVICTIONS DUE TO NONPAYMENT OF RENT BY TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19), AND SETTING FORTH THE FACTS CONSTITUTING SUCH 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 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 10, 2020, the Board of Supervisors for the county of San Bernardino and the 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; 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, 2020, the Governor of the State of California issued his Executive Order N-28-20 (a copy of which is attached hereto as "Exhibit "A"), pursuant to his emergency powers under Government Code Sections 8567 and 8571, that suspended any provision of state law that would preempt or otherwise restrict the City's exercise of its police power to impose substantive limitations on residential and commercial evictions or nonpayment of rent arising out of a decrease in household or business income caused by the COVID-19 pandemic; and

WHEREAS, On March 17, 2020, this City Council proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective the City's response to the COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the San Bernardino 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, 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 homes; 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 potentially employee terminations; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residential and commercial tenants in Redlands 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, most, if not all, local schools are closed to prevent further spread of COVID-19 which 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; and

WHEREAS, hourly wage earners are unlikely to be paid for time off, and 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, and further economic impacts are anticipated leaving tenants vulnerable to eviction; and

WHEREAS, this ordinance is temporary in nature and only intended to promote stability and fairness within the rental market in the City pursuant to the Governor's Executive Order N-28-20 and during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness and loss of businesses, 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 businesses; 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 renters can remain in their homes, and businesses, and prevent proliferation of homelessness and economic state, 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; 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, and 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; and

WHEREAS, 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 where the failure to pay rent results from income loss resulting from COVID-19; and

WHEREAS, 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 Chapter 2.52 of the Redlands Municipal Code, to protect the peace, health, and safety of the public. The City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living and conducting business 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 REDLANDS DOES ORDAIN AS FOLLOW:

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

A. During the period from the effective date of this ordinance through and including May 31, 2020, no landlord shall endeavor to evict a residential or commercial 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 and otherwise complies with the provisions of this ordinance.

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 three (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 thirty (30) days after the date that rent is due, or with thirty (30) days after the effective date of this ordinance if paid rent is due and upcoming, 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: (i) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (ii) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (iii) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (iv) extraordinary out-of-pocket medical expenses; or (v) 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. Violation of this ordinance shall be punishable as set forth in Chapter 2.52 of the Redlands Municipal Code. In addition, this ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this ordinance.

F. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of this ordinance. 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.

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

H. This ordinance shall remain in effect until May 31, 2020. Notwithstanding the foregoing, the effectiveness of this ordinance shall be suspended 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 that similarly prohibits evictions for failure to pay rent by individuals impacted by the COVID-19 crisis.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance 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 sections 15061 (b)(3), and 15378(b)(5). 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 Redlands, 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. This 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, 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 and business 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, this ordinance is necessary to provide for the protection of life and property for the reasons set out herein. This City 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 5. The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published once in the Redlands Daily Facts, a newspaper of general circulation within the City and thereafter this ordinance shall take effect as provided by law.



Paul W. Foster, Mayor

ATTEST:



Jeannette Donaldson, City Clerk

I, Jeanne Donaldson, City Clerk of the City of Redlands, hereby certify that the foregoing ordinance was duly adopted by the City Council at a regular meeting thereof held on the 26th day of March, 2020, by the following vote:

AYES: Councilmembers Barich, Tejada, Momberger, Davis; Mayor Foster  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
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Jeanne Donaldson, City Clerk