

**URGENCY ORDINANCE NO. 668**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN GABRIEL, CALIFORNIA ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO THE NONPAYMENT OF RENT FOR RESIDENTIAL AND COMMERCIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19)**

**WHEREAS**, on January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

**WHEREAS**, on March 4, 2020, California Governor Gavin Newsom 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 a broader spread of COVID-19; and

**WHEREAS**, on March 11, 2020, WHO publicly characterized COVID-19 as a pandemic; and

**WHEREAS**, on March 16, 2020, Governor Newsom issued Executive Order N-28-20 which suspends “[a]ny provision of state law that would preempt or otherwise restrict a local government’s exercise of its police power to impose substantive limitations on residential or commercial evictions ... including, but not limited to, any such provision of Civil Code sections 1940 et seq.” to the extent such provisions would otherwise restrict such exercise; and

**WHEREAS**, on March 16, 2020, the County of Los Angeles ordered the closure of all gyms, bars, and ordered all restaurants to close their sit-in areas and offer take-out or delivery services only; and

**WHEREAS**, on March 19, 2020, the County of Los Angeles issued a Mandatory Safer at Home Order, ordering the closure of all non-essential businesses until April 19, 2020; and

**WHEREAS**, on March 27, 2020, Governor Newsom issued Executive Order N-37-20 (“Executive Order N-37-20”) which suspends evictions for a period of 60 days of “a tenant from a residence or dwelling unit for nonpayment of rent” who satisfies requirements set forth in said order; and

**WHEREAS**, as of March 29, 2020, the Los Angeles Department of Public Health (the “County”) has identified 2136 cases of COVID-19 in Los Angeles County resulting in 37 deaths; and

**WHEREAS**, the COVID-19 pandemic has resulted in the closure of many businesses, which is expected to lead to hourly cutbacks and has already resulted in employee terminations; and

**WHEREAS**, schools in Los Angeles County are closed through at least May 5 to prevent further spread of COVID-19. These school closures will cause many parents of school-aged children to take time off work, whether paid or unpaid, to care for their children. The inability to work due to childcare responsibilities will economically strain those families, especially hourly wage earners and gig workers, who are ineligible for paid time off or exhaust earned paid leave during school closures.

**WHEREAS**, this Urgency Ordinance enacts a temporary moratorium intended to promote stability and fairness within the residential and commercial rental market in the City of San Gabriel (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; and

**WHEREAS**, promoting stability among 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; and

**WHEREAS**, displacement through eviction destabilizes the living situation of tenants and impacts the health of the City's residents by uprooting children from schools, disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City; and

**WHEREAS**, 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

**WHEREAS**, during the COVID-19 pandemic outbreak, affected tenants who have lost income due to the 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**, Government Code Sections 36934 and 36937(b) authorize the City to adopt an Urgency Ordinance for the immediate preservation of the public peace, health and safety, provided that such Urgency Ordinance is passed by a four-fifths vote of the City Council.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN GABRIEL, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Findings.** The recitals above are true and correct and incorporated herein by reference.

**SECTION 2. Title.** This Urgency Ordinance shall be known as the "COVID-19 Eviction Moratorium Ordinance."

**SECTION 3. Declaration of Urgency.** The purpose of this Urgency Ordinance is to promote housing stability during the COVID-19 pandemic and to prevent avoidable homelessness. This Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety because the COVID-19 pandemic has the potential to destabilize the residential and commercial rental market for all the reasons described herein. This Urgency Ordinance is intended to enable residential and commercial tenants in the City, whose employment and income have been substantially affected by the COVID-19 pandemic, to be temporarily exempt from eviction for non-payment of rent and to reduce the risk that these events will lead to avoidable homelessness and further spread of the virus for the affected City residents and their communities, thereby serving the public peace, health, safety, and public welfare. The temporary moratorium on evictions for non-payment imposed by this Urgency Ordinance is created pursuant to the City's general police powers to protect the health, safety, and welfare of its residents and exists in addition to any rights and obligations under state and federal law.

**SECTION 4. Definitions**

- A. "Affected Tenant" means a Tenant who satisfies one or more of the criteria in paragraph A of Section 7, of this Urgency Ordinance below.
- B. "Health Department" means the County of Los Angeles Department of Public Health.
- C. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Rental Unit.
- D. "Notice of Termination" shall mean the notice informing a Tenant or Tenant Household of the termination of its tenancy in accordance with California Civil Code Section 1946.1 and California Code of Civil Procedure Section 1161, as amended.

- E. "Rental Unit" means (i) a single family home, condominium, townhome, apartment, mobile home, or other building, dwelling, structure or the part of a structure that is used as a home, residence, or sleeping structure by one person who maintains a household or by two or more persons who maintain a common household; (iii) a rented lot within a mobile home park where a mobile home resident's mobile home coach is located; or (ii) a building, structure or part of a structure that is used for a legally permitted and duly licensed business or other non-residential service or activity (e.g., commercial, industrial, professional office, entertainment, recreational and/or retail uses etc.)
- F. "Tenant" means a residential or commercial tenant, subtenant, lessee, sublessee, a person who rents a mobile home, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupy a Rental Unit. The term "Tenant" is inclusive of the defined term "Tenant Household."
- G. "Tenant Household" means one or more Tenant(s) who occupy any individual Rental Unit, including each dependent of any Tenant whose primary residence is the Rental Unit.

**SECTION 5. Application.** This Urgency Ordinance applies to Affected Tenants in any Rental Unit and Landlords of Affected Tenants.

**SECTION 6. Moratorium on Eviction and Termination of Tenancies for Affected Tenants.**

- A. For the period commencing on the effective date of this Urgency Ordinance and ending thirty (30) calendar days following the expiration date of Executive Order N-37-20 or any extension thereto, a Landlord shall not (a) terminate the tenancy of a Tenant who qualifies as an Affected Tenant for non-payment of rent; or (b) impose, charge, or collect a late fee or equivalent surcharge for any unpaid rent due to any reason specified under Section 7A. During the term of the moratorium established under this Urgency Ordinance, a Landlord shall not serve a notice pursuant to California Code of Civil Procedure sections 1161 or 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise endeavor to evict an Affected Tenant for nonpayment of rent.
- B. The moratorium established under this Urgency Ordinance is intended to have greater scope and longer duration than the moratorium established under Executive Order N-37-20.

**SECTION 7. Affirmative Defense to Eviction; Penalties and Remedies.**

- A. Affirmative Defense. Each Landlord that seeks to terminate a tenancy of an Affected Tenant must comply with this Urgency Ordinance. Non-compliance with any applicable component of this Urgency Ordinance shall constitute an affirmative defense for an Affected Tenant against any unlawful detainer action under California Code of Civil Procedure Section 1161, as amended. To assert this defense and to establish Affected Tenant status, a Tenant shall have first notified the Landlord in writing before rent is due, or within a reasonable period of time afterwards not to exceed fourteen (14) calendar days, that the Tenant needs to delay all or some payment of rent attributable to an inability to pay the full amount due to reasons related to the novel coronavirus (COVID-19) pandemic, including but not limited to the following:
  - 1. The Tenant was unable to work because the Affected Tenant was sick with COVID-19 and hospitalized or otherwise required to stay home and self-quarantine by written order of the Health Department and the Tenant was either ineligible to receive paid leave; unable to make use of accrued but unused paid vacation time or exhausted all such leave or vacation time before the tenant was able to return to work; or

2. The Tenant was unable to work because he/she needed to care for a household or family member who was sick with COVID-19 and the Tenant was either ineligible to receive paid leave; unable to make use of accrued but unused paid vacation time or exhausted all such leave or vacation time before the household or family member recovered; or
  3. The Tenant experienced a lay-off, work furlough, reduction in work hours or income reduction resulting from the COVID-19 pandemic and/or related emergency responses of governmental entities, including orders and/or declarations of the Governor of the State of California and the Health Department; or
  4. The Tenant was unable to work because he/she needed to care for a minor child whose school was closed in response to the COVID-19 pandemic and the Tenant was either ineligible to receive paid leave; unable to make use of accrued but unused paid vacation time or exhausted all such leave or vacation time before the minor's school was re-opened; or
  5. For commercial Tenants, the Tenant (i) is a commercial business entity or the principal owner or co-owner of a commercial business entity operating in the City of San Gabriel whose name appears on the lease for the Rental Unit occupied by the business entity; and (ii) is a commercial business, whether deemed essential or non-essential under the Safer at Home Order for the Control of COVID-19, that was required to cease or reduce commercial operations and/or has suffered significant financial loss, as a consequence of said order and/or other government responses to the COVID-19 pandemic. For purposes of this Urgency Ordinance the term "Safer at Home Order for the Control of COVID-19" means that certain order of the same name that was first issued by the Health Department on March 19, 2020 and later revised on March 21, 2020 and all subsequent revisions to the same as may later be issued by the Health Department.
- B. Verifiable Documentation. Along with the notification referenced under paragraph A of this section, above, the Affected Tenant must also include true and correct copies of verifiable documentation that reasonably corroborate any or all of the permitted reasons for the non-payment of rent under paragraph A of this section, above. The following documentation shall create a rebuttable presumption that the Affected Tenant has satisfied one or more of the permitted reasons for non-payment of rent set forth under paragraph A of this section, above, but are not necessarily the exclusive form of documentation corroborating such reasons:
1. A written notice or like documentation from the Affected Tenant's employer or other source of income citing COVID-19 as a reason for reduced work hours, work furlough, or termination; or
  2. Employer paycheck stubs, payroll checks, bank statements, or medical bills or signed letters or statements from the Affected Tenant's employer or supervisor or other source of income explaining the Affected Tenant's changed financial circumstances; or
  3. Notification from a school declaring a school closure related to COVID-19 and notice to the Tenant's employer or other source of income that such Tenant is unable to work because he/she needs to care for a minor child that otherwise would be in school; or
  4. For an Affected Tenant that is a commercial business, a copy of any governmental order identifying the Affected Tenant as a Non-Essential Business as defined by Health Department order; any notice from a governmental entity ordering the commercial business to close and/or cease or reduce operations; and/or any other documentation that reasonably corroborates the Affected Tenant's assertion of a significant loss of business income.

5. 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 or their representative shall be held in confidence, and only used for evaluating the Tenant's claim.
- C. Obligation of Affected Tenant to pay unpaid rent. Nothing in this Urgency Ordinance shall relieve an Affected Tenant of liability for any unpaid rent following the expiration of the moratorium established under this Urgency Ordinance. The foregoing notwithstanding and except as otherwise agreed to in writing by the Affected Tenant and the Landlord, the Affected Tenant shall be given a period of up to one hundred and eighty (180) calendar days to pay any unpaid back-rent. During the 180-day period, the protections against eviction found in this Urgency Ordinance shall apply for such Affected Tenants, provided the Affected Tenant pays all rent(s) due by the date(s) established hereunder.
- D. Civil Remedies
1. Any Landlord that fail(s) to comply with this Urgency Ordinance may be subject to civil proceedings for displacement of Affected Tenant(s) initiated by the City or the Affected Tenant Household for actual and exemplary damages.
  2. Whoever is found to have violated this Urgency Ordinance shall be subject to appropriate injunctive relief and shall be liable for damages, costs and reasonable attorneys' fees.
  3. Treble damages shall be awarded for a Landlord's willful failure to comply with the obligations established under this Urgency Ordinance.
  4. Nothing herein shall be deemed to interfere with the right of a Landlord to file an action against a Tenant or non-Tenant third party for the damage done to said Landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

## **SECTION 8. Just Cause Termination.**

- A. The provisions of Section 7 of this Urgency Ordinance notwithstanding, a Landlord, subject to compliance with the requirements of this Urgency Ordinance may terminate the tenancy of a Tenant who otherwise qualifies as an Affected Tenant if a Landlord can show circumstances apply that would render the termination a "Just Cause Termination" including but not limited to:
1. Nuisance Behavior. The Affected Tenant, after written notice to cease, continues to be so disorderly or to cause such a nuisance as to destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Rental Unit. Such nuisance or disorderly conduct includes violations of state and federal criminal law that destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Rental Unit, and may be further defined in the regulations adopted by the City, including but not limited to regulations established by ordinance or resolution.
  2. Refusing Access to the Unit. The Affected Tenant, after written notice to cease and a reasonable time to cure, continues to refuse the Landlord reasonable access to the Rental Unit, so long as the Landlord is not abusing the right of access under California Civil Code Section 1954, as amended.
  3. Unapproved Holdover Subtenant. The Affected Tenant holding over at the end of the term of the oral or written rental agreement is a subtenant who was not approved by the Landlord.

4. Ellis Act Removal. The Landlord seeks in good faith to recover possession of the Rental Unit to remove the building in which the Rental Unit is located permanently from the residential or commercial rental market under the Ellis Act and, having complied in full with the Ellis Act and any related ordinance of the City, including the provision of relocation assistance as may be required by the San Gabriel Municipal Code or applicable state law.
5. Owner Move-In. With respect to residential tenancies, the Landlord seeks in good faith, honest intent, and without ulterior motive to recover possession for: a) the Landlord's own use and occupancy as the Landlord's principal residence for a period of at least thirty-six (36) consecutive months commencing within three (3) months of vacancy; or (b) the principal residence of the Landlord's spouse, domestic partner, parent(s), child or children, brother(s), or sister(s) (each an "authorized family member") for a period of at least thirty-six (36) consecutive months and commencing within three (3) months of vacancy, so long as the Rental Unit for the Landlord's authorized family member is located in the same building as the Landlord's principal residence and no other Rental Unit in the building is vacant. It shall be a rebuttable presumption that the Landlord has acted in bad faith if the Landlord or the Landlord's authorized family member, for whom the Tenant was evicted, does not move into the Rental Unit within three (3) months from the date of the Tenant's surrender of possession of the premises or occupy said unit as his/her principal residence for a period of at least thirty-six (36) consecutive months. The Landlord shall have provided relocation assistance as may be required by the San Gabriel Municipal Code or applicable state law.
6. Order to Vacate. The Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a court or governmental agency's order to vacate, order to comply, order to abate, or any other City enforcement action or order that necessitates the vacating of the building in which the Rental Unit is located as a result of a violation of the San Gabriel Municipal Code or any other provision of law, and provides a notice of the right to reoccupy. The Landlord shall have provided relocation assistance as may be required by the San Gabriel Municipal Code or applicable state law.
7. Vacation of Unpermitted Rental Unit. The Landlord seeks in good faith to recover possession of an unpermitted Rental Unit in order to end the unpermitted use. The Landlord shall have provided relocation assistance as may be required by the San Gabriel Municipal Code or applicable state law.
8. Criminal Activity.
  - a. The Tenant Household, after receiving a written notice to cure (which notice shall include the return provisions listed in subsection d, below) by removing the Violating Tenant (as defined below) from the household, and, where necessary, amending the lease to remove the Violating Tenant's name, fails to do so within a reasonable time, by one of the following methods as further described in the regulations:
    - i. Filing a restraining order or providing evidence to the Landlord of similar steps being taken to remove the Violating Tenant from the household.
    - ii. Removing the Violating Tenant from the household and providing written notice to the landlord that the Violating Tenant has been removed.
  - b. For purposes of this subsection 8, a "Violating Tenant" shall mean an adult Tenant that is indicted by a grand jury or held to answer pursuant to Penal Code Section 872, as amended, for a serious felony as defined by Penal Code Section 1192.7(c), as amended, or a violent felony as

defined by Penal Code Section 667.5(c), as amended, which occurred during the tenancy.

- c. The past criminal history of a Tenant shall not be a factor in determining whether the Tenant is a Violating Tenant.
- d. If a Violating Tenant, as defined above, is acquitted from the charges or the charges are dismissed or reduced, he or she may return to the Rental Unit as a Tenant, so long as: 1) the Tenant Household still resides in the Rental Unit; and 2) the Tenant Household consents to the Violating Tenant's return in writing.

**B. Relocation Assistance and Deposits.**

1. Tenants who receive a Notice of Termination that relies on paragraphs A.4, A.5, A.6, or A.7 above, as the just cause rationale to terminate the tenancy shall receive, and the Landlord must provide, relocation assistance to the extent mandated by the San Gabriel Municipal Code or applicable state law. Such assistance must be provided to the Tenant Household concurrent with delivery of the Notice of Termination to the Tenant Household.
2. Refund of Security Deposit. A landlord shall refund to the Tenant Household any security deposit paid by the Tenant Household, provided however, that the Landlord may withhold any properly itemized deductions from the security deposit pursuant to California Civil Code Section 1950.5, as amended.

**SECTION 9. Environmental.** This Urgency Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (Cal. Code Regs., tit.14, § 15378, subd. (a).) Further, this Urgency Ordinance is exempt from CEQA as there is no possibility that it or its implementation would have a significant negative effect on the environment. (Cal. Code Regs., tit.14, § 15061, subd. (b)(3).)

**SECTION 10. Inconsistent Provisions.** Any provision of the San Gabriel Municipal Code or appendices thereto inconsistent with the provisions of this Urgency Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Urgency Ordinance.

**SECTION 11. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.


**SECTION 12. Construction.** The City Council intends this Urgency Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Urgency Ordinance shall be construed in light of that intent. To the extent the provisions of the San Gabriel Municipal Code as amended by this Urgency Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Urgency Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

**SECTION 13. Publication.** This Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council by Government Code Sections 36934 and 36937 and shall be in full force and effect upon its adoption by a four-fifths (4/5) vote of the City Council. The City Clerk shall cause this Urgency Ordinance to be published once in a newspaper of general circulation within fifteen (15) days after its adoption.

**SECTION 14. Effective Date.** This ordinance shall become effective immediately upon the date of its adoption and may be extended by the City Council in accordance with Government Code Section 65858.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of San Gabriel at the special meeting of this 31st day of March, 2020.


City of San Gabriel, California

  
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Jason Pu, Mayor

ATTEST:

  
\_\_\_\_\_  
Sharon Clark, City Clerk *Chief City Clerk*

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Keith Lemieux, City Attorney



**CERTIFICATION**

I, Sharon F. Clark, Chief City Clerk of the City of San Gabriel, California, do hereby certify that Urgency Ordinance No. 668 was duly approved and adopted at a special meeting of the City Council on the 31<sup>st</sup> day of March, 2020, by the following vote:

AYES:	COUNCIL MEMBERS:	COSTANZO, HARRINGTON, LIAO, MENCHACA, PU
NOES:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE

Dated: April 1, 2020

*Sharon F. Clark*  
SHARON F. CLARK, Chief City Clerk