

ORDINANCE NO.

AN UNCODIFIED (URGENCY) ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM IMPOSING A TEMPORARY MORATORIUM ON THE EVICTION OF RESIDENTIAL OR COMMERCIAL TENANTS UNABLE TO PAY RENT BECAUSE OF COVID-19, DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION, AND PROVIDING DIRECTION TO THE CITY MANAGER REGARDING OTHER POSSIBLE ASSISTANCE TO ANAHEIM RESIDENTS AND BUSINESSES

The City Council of the City of Anaheim finds and declares as follows:

SECTION 1. Findings.

- A. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”). On March 17, 2020, the Orange County Public Health Officer declared a public health emergency in Orange County due to COVID-19, which was updated on March 18, 2020. Due to directives from federal, state, and local health officials, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease.
- B. On March 16, 2020, the Governor issued Executive Order N-28-20. The Order suspends any state law that would preempt or otherwise restrict the City’s exercise of its police power to impose substantive limitations on residential or commercial evictions based on nonpayment of rent resulting from the impacts of COVID-19.
- C. The City of Anaheim has been impacted by the health crisis of this global pandemic. Sporting events, concerts, plays, and conferences have been cancelled. School closures have occurred and may continue. Employees have been advised to work at home. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home and businesses may have to restrict their activities or close for extended periods.
- D. Many residential and commercial tenants have experienced sudden income or revenue loss, and further income impacts are anticipated. The loss of income and revenue caused by the effects of COVID-19 may impact tenants’ ability to pay rent when due, leaving tenants vulnerable to eviction.
- E. Providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population and stabilize the rental housing and commercial real estate market by reducing displacement.

- F. During this state of emergency, and in the interests of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary displacement of tenants. Prohibiting residential and commercial evictions on a temporary basis is necessary until the spread of the virus can be minimized and the emergency restrictions lifted.
- G. Nothing in this ordinance waives a tenant's obligation to pay back rent owed once this ordinance is no longer effective, under the terms set forth in Section 5, below.

SECTION 2. Moratorium on residential evictions due to nonpayment of rent during the COVID-19 emergency.

- A. This Section 2 will remain in effect until April 30, 2020, unless extended by the City Council.
- B. No landlord shall initiate proceedings or otherwise take steps to evict a tenant for nonpayment of rent from any residential dwelling (including single family and multi-family homes, mobile homes or other structures lawfully used as a residential dwelling) if the tenant, in accordance with this subsection D, demonstrates that the inability to pay rent is due to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.
- C. As used in this Section 2, "covered reason for delayed payment" means a tenant's loss of income due to any of the following: (i) the tenant was/is sick with COVID-19 or caring for a household or family member who was/is sick with COVID-19; (ii) the tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19 or the state of emergency; (iii) the 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 (iv) the tenant's need to miss work to care for a home-bound school-age child.
- D. To take advantage of the protections afforded under this ordinance, a tenant must do all the following:
 - ii. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment;
 - ii. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment; and
 - iii. Pay the portion of rent that the tenant is able to pay.

- E. If a tenant complies with the requirements of this ordinance, a landlord 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 take steps to evict the tenant for nonpayment of rent.
- F. Nothing in this ordinance relieves the tenant of liability for the unpaid rent after expiration of this ordinance.

SECTION 3. Moratorium on commercial evictions due to nonpayment of rent during the COVID-19 emergency.

- A. This Section 3 remains in effect until April 30, 2020, unless extended by the City Council.
- B. No landlord shall initiate proceedings or otherwise take steps to evict a commercial tenant (a business or commercial enterprise renting or leasing a structure used for business purposes) for nonpayment of rent if the tenant, in accordance with this subsection D, demonstrates that the inability to pay rent is due to COVID-19, the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.
- C. As used in this Section 3, “covered reason for delayed payment” means a tenant’s loss of business income due to any of the following: (i) the owner, management personnel, or key employees of the business were/are sick with COVID-19 or caring for household or family members who were/are sick with COVID-19; (ii) the business experienced income reduction resulting from COVID-19 or the state of emergency; (iii) the business’s compliance with a recommendation from a government agency to close, reduce service, or limit contact between members of the public and its personnel/employees; or (iv) key employee(s) of the business need to miss work to care for a home-bound school-age child.
- D. To take advantage of the protections afforded under this ordinance, a tenant must do all the following:
 - i. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment;
 - ii. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment; and
 - iii. Pay the portion of rent that the tenant is able to pay.
- E. If a tenant complies with the requirements of this ordinance, a landlord 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 take steps to evict the tenant for nonpayment of rent.

- F. Nothing in this ordinance relieves the tenant of liability for the unpaid rent after expiration of this ordinance.

SECTION 4. Effective Date.

This ordinance takes effect immediately upon enactment.

SECTION 5. Ninety-Day Payback Period.

- A. A tenant afforded eviction protection under Sections 2 or 3 of this ordinance shall have up to ninety (90) days after the expiration of this ordinance to pay its landlord unpaid rent. The terms of the repayment plan are to be agreed upon between the landlord and tenant, provided that, if no agreement is reached between the landlord and tenant, the back/past rent due shall be repaid in three (3) equal installments to be paid in monthly intervals beginning thirty (30) days after the date the rent becomes due pursuant to the terms of this ordinance. No late fees, costs or other penalties shall be assessed or due from the tenant based on the delay in paying rent as provided for in this ordinance. During this 90-day period, the protections against eviction set forth in Sections 2 and 3 of this ordinance shall apply to such tenants.
- B. The date upon which a delayed payment comes due for the purposes of Code of Civil Procedure Section 1161(2) shall be the date agreed upon by the landlord and tenant in a repayment plan, or, if no agreement is reached as specified in subsection (A) above.

SECTION 6. Additional Direction by the City Council.

- A. The City Council directs the City Manager to develop and disseminate materials explaining the provisions of this ordinance to residential and commercial tenants and landlords in Anaheim.
- B. The City Council finds that the impact of non-payment of rent could have severe consequences on rental property owners, which harm could be mitigated by federal housing assistance and funding. The Council accordingly directs the City Manager, at the earliest possible opportunity, to request that the federal government include an increase in federal housing funding to support tenants and landlords negatively impacted by the COVID-19 crisis and reimburse cities who assist tenants and landlords.

- C. The City Council finds that the recently adopted Senior Safety Net Program, which utilizes state and federal housing funds to assist Anaheim Senior Citizens with housing costs, could be expanded to include all Anaheim residents impacted by the COVID-19 crisis, and directs the City Manager to report to the City Council at the earliest possible date the viability of expanding this program to all residents impacted by the COVID-19 crisis.

- D. The City Council acknowledges the Governor’s Executive Order N-33-20, also known as the “Stay at Home Except for Essential Needs” order. The City Council directs the City Manager to report back to the City Council at the earliest possible date a local implementation plan for this order to the extent local flexibility is allowed.

- E. The City Council acknowledges the severe economic impact of the COVID-19 crisis and related government actions, and directs the City Manager to work with affected stakeholders and report back to the City Council at the earliest possible date a package of economic assistance and recovery recommendations for the Council to consider to have Anaheim prepared for economic recovery.

SECTION 7. Emergency Declaration.

The City Council declares this ordinance to be an emergency measure, to take effect immediately upon adoption by a four-fifths vote pursuant to Anaheim City Charter section 511. The facts constituting the emergency are as follows:

The directives from health officials to contain the spread of COVID-19 have resulted in loss of business, furloughs, lost wages, and lack of work for employees. To protect the public health, safety, and welfare, the City must act, on an emergency basis, to temporarily prohibit the eviction of residential and commercial tenants who are unable to pay rent due to income losses caused by the effects of COVID-19.

SECTION 8.

The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance or a summary thereof to be printed once within fifteen (15) days after its adoption in the *Anaheim Bulletin*, a newspaper of general circulation, published and circulated in the City of Anaheim.

//

//

//

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the 24th day of March, 2020, and passed and adopted as an urgency measure on that date, by the following vote, and shall be and become effective immediately:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANHEIM

By: _____
MAYOR OF THE CITY OF ANAHEIM

ATTEST:

CITY CLERK OF THE CITY OF ANAHEIM