

URGENCY ORDINANCE NO. 1160

AN URGENCY ORDINANCE OF THE CITY OF COACHELLA, CALIFORNIA, ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NON-PAYMENT OF RENT OR LOAN PAYMENTS WHERE THE FAILURE TO PAY 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 8, 2020, the Riverside County Health Officer 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, the Governor of the State of California issued an Executive Order temporarily reducing limits on local governments’ ability to impose their own “substantive limitations on residential or commercial evictions” through May 31, 2020; and

WHEREAS, on March 19, 2020, the City Manager, as the City’s Emergency Services Director, proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective the City’s response to COVID-19; and

WHEREAS, on March 19, 2020, the Governor of the State of California, also issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors; and

WHEREAS, the federal Centers for Disease Control and Prevention, the California Department of Health, and the Riverside 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 a result of the public health emergency and the precautions recommended by health authorities, many residential and commercial tenants, as well as homeowners, in Coachella 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, local schools are closed to prevent further spread of COVID-19. These school closures 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. Hourly wage earners are unlikely to be paid for time off. 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, eviction of commercial tenants or homeowners would inevitably result in group activities, including but not limited to: packing, loading, transporting, and unloading equipment, materials, and other personal property; inspections; and repairs; and

WHEREAS, the situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants and homeowners vulnerable to eviction; and

WHEREAS, this Ordinance is only intended to be temporary in nature, to promote stability and fairness within the residential rental and non-residential real estate markets in the City during the COVID-19 pandemic outbreak, and to prevent avoidable group activities, homelessness and widespread business disruption, thereby serving the public peace, health, safety, and public welfare and to enable tenants and homeowners in the City whose income and ability to work is affected due to COVID-19 to remain in place in their homes and places of business; 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 that people shelter in place to prevent the spread of COVID-19. During the COVID-19 pandemic outbreak, affected tenants and homeowners 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. 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.

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, businesses and other tenants of non-residential properties will be similarly harmed by having to engage in group activities that will increase their risk of exposure to COVID-19, with significant consequences for the public health, safety, and welfare; and

WHEREAS, promoting stability amongst 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, the City desires to prohibit evictions due to non-payment of rent for tenants of all types of properties or due to non-payment of loan payments by homeowners where the failure to pay results from income loss resulting from COVID-19; and

WHEREAS, the City has authority to adopt this Ordinance under the City's police power and the 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 the City's Municipal Code to protect the peace, health, and safety of the public. The Coachella City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living 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.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA DOES HEREBY ORDAIN AS FOLLOWS:

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

A. Notwithstanding anything to the contrary in the Coachella Municipal Code, during the period of local emergency declared in response to COVID-19, 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.

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 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 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 provide documentation to support the claim by the time of payment of back-due rent. Any documentation that is provided to support this claim is presumed to be adequate for this purpose,

and the burden is on the landlord to prove that it is inadequate. 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 or business income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) 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. Violation of this Ordinance shall be punishable as set forth in Sections 1.08.010 and 2.56.100 of the Coachella Municipal Code. In addition, this ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this ordinance.

E. 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 following the expiration of the local emergency. A landlord may not charge or collect any interest or any 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.

F. No other legal remedies available to landlord are affected by this Ordinance.

SECTION 2. Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.

A. Commercial landlords in the City are hereby prohibited from evicting commercial tenants for nonpayment of rent with respect to tenants whose businesses are subject to State and County orders or are otherwise limited or closed (voluntarily or by mandate) to prevent or reduce the spread of COVID-19 and who demonstrate lost income and inability to pay rent as a result of such limitation or closure or other demonstrated financial impact related to COVID-19.

B. A landlord knows of a tenant’s lost income and inability to pay rent within the meaning of this Ordinance if the tenant, within 30 days after the date rent is due, notifies the landlord in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant’s business related to COVID-19. The tenant must provide documentation to support the claim by the time of payment of back-due rent. Any documentation that is provided to support this claim is presumed to be adequate for this purpose, and the burden is on the landlord to prove that it is inadequate. 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. If a tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds to the income they generated during the period of loss.

D. This Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this order. Violation of this Ordinance shall be punishable as set forth in the Coachella Municipal Code.

G. Nothing in this Ordinance relieves 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 following the expiration of the local emergency. A landlord may not charge or collect any interest or any 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.

H. No other legal remedies available to landlord are affected by this Ordinance.

SECTION 3. Temporary Suspension on Ejection of Occupant After Residential Foreclosure.

A. No ejection action after foreclosure against an occupant of a residential property shall be initiated or proceed during the period of declared local emergency in the City of Coachella if foreclosure results from nonpayment of a loan payment due to a demonstrated financial impact related to COVID-19. Nothing in this Ordinance relieves the occupant of liability for any unpaid loan payments, which the lender may seek after expiration of the local emergency and which the borrower must pay within six months of the expiration of the local emergency, unless a different time is agreed to between the parties. The respective rights and obligations of the parties in any foreclosure-related ejection proceeding shall be adjudicated in the appropriate court of law with jurisdiction over the matter at the conclusion of the local emergency or rescission of this Ordinance.

B. Lenders are strongly encouraged to offer payment plans to borrowers to avoid foreclosure and ejection after the period of local emergency.

C. No other legal remedies available to parties to any foreclosure proceeding are affected by this Ordinance.

SECTION 4. Temporary Effect. This Ordinance remains in effect through May 31, 2020, unless extended by the City Council or the City's Director of Emergency Services.

SECTION 5. 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 6. 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 (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo. No new development will result from the proposed action. 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 Coachella, 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 7. Urgency Declaration; Effective Date. The 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 and 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 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 and the City’s Municipal Code, this Ordinance is necessary to provide for the protection of life and property for the reasons set out herein. The 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 8. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published on the City’s website and published once in a newspaper of general circulation published and circulated within the City.

PASSED, APPROVED and ADOPTED this 8th day of April 2020.

Steven A. Hernandez
Mayor

ATTEST:

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

Carlos Campos
City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I, Andrea J. Carranza, Deputy City Clerk of the City of Coachella, California, do hereby certify that Ordinance No. 1160 is a full, true, and correct copy, and was adopted at a special meeting of the Coachella City Council on April 8, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Coachella, California, this 8th day of April 2020.

Andrea J. Carranza, MMC
Deputy City Clerk