

Revised March 24, 2020

ORDINANCE NO. 3115

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, RELATING TO A TEMPORARY MORATORIUM ON EVICTING TENANTS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

WHEREAS, 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 16, 2020, the County of Los Angeles Department of Public Health issued a Health Officer Order regarding COVID-19. 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; and

WHEREAS, 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 evictions based on nonpayment of rent resulting from the impacts of COVID-19.; and

WHEREAS, the city 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 have 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 for extended periods; and

WHEREAS, many tenants have experienced sudden income loss, and further income impacts are anticipated. The loss of wages caused by the effects of COVID-19 may impact tenants’ ability to pay rent when due, leaving tenants vulnerable to eviction; and

WHEREAS, 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 market by reducing displacement; and

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted; and

WHEREAS, nothing in this ordinance waives a tenant's obligations to pay back rent owed once this ordinance is no longer effective.

WHEREAS, the City Council has the authority to adopt this ordinance pursuant to its authority under California Constitution Art XI, section 7, and pursuant to the Governor's Order N-28-20.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. This Ordinance is exempt from the California Environmental Quality Act (CEQA), since there is no possibility that this Ordinance will have any significant effect on the environment pursuant to Section 15061 (b) (3) of the State CEQA Guidelines (Title 14 of the California Code of regulations).

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

A. This Section 1 remains in effect until the expiration of the Governor's Executive Order N-28-20 (May 30, 2020), unless extended by the Governor, at which point this Ordinance shall continue for said extension period.

B. This ordinance applies to all residential and commercial tenants within the City of Whittier.

C. No landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant, in accordance with this Section 1, demonstrates that the inability to pay rent is due to the Coronavirus Disease 2019 (COVID-19), the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.

D. As used in this Section 1, "covered reason for delayed payment" means a tenant's loss of income due to any of the following: (a) tenant was sick with COVID-19 or caring for a household or family member who is sick with COVID-19; (b) tenant experienced a lay-off, loss of hours, substantial decrease in business income caused by a reduction in the opening hours or consumer demand, or other income reduction resulting from COVID-19 or the state of emergency; (c) 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; (d) tenant's need to miss work to care for a home-bound school-age child; and (e) tenant's extraordinary medical cost resulting from COVID-19 related medical expenses.

E. To take advantage of the protections afforded under this ordinance, a tenant must do all the following:

- a. Notify the landlord in writing on or before the day rent is due that the tenant has a covered reason for delayed payment;
- b. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment within thirty (30) days of the day the rent is due;
- c. Pay the full amount of rent otherwise due, less the amount of the change in funds available due to a covered reason for delayed payment; and
- d. 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.

F. 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 or 1162, file or prosecute an unlawful detainer action based on a based on a notice to pay rent or quit, or otherwise endeavor to evict the tenant for nonpayment of rent, and this Ordinance shall be an affirmative defense to any such eviction action.

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

SECTION 3. 120-Day Repayment Period. Tenants who were afforded eviction protection under Section 1 of this ordinance shall have up to 120 days after the expiration of the Governor's Executive Order N-28-20, including any extensions, to pay their landlord all unpaid rent. During that 120-day period, the protections against eviction found in Section 1 of this ordinance apply for such tenants, and provided the tenant pays all rent due by this deadline, shall not be liable for payment of any late fees or penalties for the delay in payment.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Whittier hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 5. Emergency Declaration/Effective Date. The city council declares this ordinance to be an emergency measure, to take effect immediately upon adoption pursuant to California Government Code section 36934.

The facts constituting the emergency are as follows: The directives from health officials to contain the spread of COVID-19 has resulted in loss of business, furloughs, loss of wages, and lack of work for employees. To protect the public health, safety, and welfare, the city must act to prevent eviction of tenants who are unable to pay rent due to wage losses caused by the effects of COVID-19. An emergency measure is necessary to protect tenants from eviction for a temporary period.

SECTION 6. If the Governor issues an executive order which prohibits residential and commercial evictions throughout the state relating due to COVID-19 related impacts, then that order shall control, and this ordinance shall no longer be in effect. Otherwise, this ordinance shall remain in full effect, and landlords shall meet the requirements of both this Ordinance and the Governor's order.

SECTION 7. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective immediately upon adoption.

APPROVED AND ADOPTED this 24TH day of March 2020.

JOSEPH A. VINATIERI, Mayor

ATTEST:

RIGOBERTO GARCIA
City Clerk