



# ***Agenda Report***

## ***Fullerton City Council***

**MEETING DATE:** MARCH 26, 2020  
**TO:** CITY COUNCIL / SUCCESSOR AGENCY  
**SUBMITTED BY:** KENNETH A. DOMER, CITY MANAGER  
**PREPARED BY:** KENNETH A. DOMER, CITY MANAGER  
SCOTT E. PORTER, CITY ATTORNEY'S OFFICE  
**SUBJECT:** URGENCY ORDINANCE RELATED TO A TEMPORARY MORATORIUM ON EVICTING TENANTS DUE TO THE COVID-19 PUBLIC HEALTH CRISIS

---

### SUMMARY

On March 22, 2020 the President of the United States approved a Major Disaster Declaration for California for the COVID-19 Pandemic. This follows upon previous declarations from the County of Orange, State of California and the President's State of Emergency Declaration on March 13, 2020. On March 17, 2020, the City Council ratified the City Manager's Proclamation of a Local Emergency within the City of Fullerton. The COVID-19 public health crisis has created a true fiscal emergency for the City, residents and businesses.

### RECOMMENDATION

Introduce and adopt Ordinance No. 2020-XX.

ORDINANCE NO. 2020-XX - AN URGENCY ORDINANCE OF THE CITY OF FULLERTON, CALIFORNIA, RELATING TO A TEMPORARY MORATORIUM ON EVICTING TENANTS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

### PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement/s:

- Infrastructure and City Assets
- Public Safety
- Fiscal and Organizational Stability.

## FISCAL IMPACT

Unknown long term financial impact to the City based on the public health crisis. Implementation of the urgency moratorium does not have a direct fiscal impact on the City.

## DISCUSSION

On the evening of March 19, 2020 Governor Newsom issued a “Stay at Home Order” for the entire State of California. The Order directs that essential services in 16 critical sectors continue working (such as pharmacies, grocery stores, takeout and delivery, housing construction, telecommunication construction, banks and government) and is to remain in place until further notice.

This Stay at Home order followed the Governor’s declaration on March 4, 2020, of a State of Emergency in California due to the threat of Coronavirus Disease 19 (“COVID-19”). On March 17, 2020, City Council ratified the Proclamation issued by the Director of Disaster Services (City Manager) on March 16, 2020 declaring the existence of a local emergency due to COVID-19 in order to seek Federal and State resources and to provide emergency authority to the City Manager.

Because of directives from Federal, State and local health officials, most events have been cancelled, schools have closed and residents have been advised to avoid public gatherings and to stay at home to prevent the spread of this disease. Restaurant and retail business has significantly declined, with many closing their doors, resulting in workers being impacted by lost wages and layoffs. In addition, to a person potentially losing their job in such a scenario, many parents must also stay at home due to children not being in school for long periods of time from the school closures. Fullerton is not immune to this horrible economic impact. Many restaurants and businesses have closed and/or suspended or severely restricted operations with workers experiencing loss of wages, loss of working hours, layoffs or out-of-pocket medical costs caused by COVID-19. All of these factors will impact tenants - both residential and commercial - and their ability to pay rent, leaving them vulnerable to eviction. While the City is not in a position to fiscally provide assistance to renters or businesses, the City is ensuring that residents and businesses have access to the state and federal information and the City launched a new website, [www.DineFullerton.com](http://www.DineFullerton.com), to create a one-stop location for those restaurants that are able to remain open and provide take-out meals. The City will soon launch a similar site for other non-restaurant businesses.

Providing tenants with a short-term protection from eviction due to the inability to pay rent will help stabilize the rental housing market by reducing displacement. 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. To that end, prohibiting evictions on a temporary basis is important until the spread of the virus can be minimized and the emergency restrictions lifted.

If approved, the proposed Urgency Ordinance would prohibit a landlord from initiating proceedings or otherwise taking 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 demonstrates that the inability to pay rent is due to COVID-19. The Ordinance would also apply to

commercial tenants, such as a business or commercial enterprise renting or leasing a structure used for business purposes.

In order to take advantage of the protections provided in the ordinance, both residential and commercial tenants would be required to, within 30 days after the rent is due: (1) notify the landlord "in writing" of the substantial COVID-19-Related Financial Impacts and (2) provide documentation "in writing" establishing such substantial COVID-19-Related Financial Impacts. Nothing in the proposed Urgency Ordinance is intended to waive or remove a tenant's obligation to pay back rent owed once this ordinance is no longer in effect. The tenant, whether residential or commercial, will still owe rent for the month(s) missed and in no way does this action create any City, state or federal government expectation or obligation to pay any rent on behalf of a tenant.

The ordinance provides that a tenant will have up to one-hundred and twenty days after the expiration of this Ordinance to pay its landlord unpaid rent. 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. The Moratorium on residential and commercial eviction would remain in effect until the expiration of the Governor's Executive Order N-28-20, including any extensions.

#### **Other City's Actions**

City	Action Taken	Repayment Timeline	Type
Irvine	March 24	N/A	Resolution
Placentia	March 24	120 days	Ordinance
Buena Park	March 24	6 months	Ordinance
Whittier	March 24	120 days	Ordinance
Mission Viejo	March 24	6 months	Ordinance
Santa Ana	March 19	6 months	Ordinance
Garden Grove	March 24	N/A	Resolution
Anaheim	March 24	120 days	Ordinance

It is important to note that any action, either by the State of California through a revised Governor's Executive Order, or through the City Council by an urgency moratorium ordinance, does not relieve the tenant, either residential or business, from paying rent. All tenants during this time should pay as much rent as they are able. The City, nor the State or Federal government, is expected nor able to pay any rent for any person. The adoption of an urgency ordinance is not an opportunity for someone to stop paying rent. It merely reflects that due to the COVID-19 public health crisis, there are dire economic impacts to include loss of job, reduction in wages or increased health care costs that prevent a person from paying their full rental obligation. As such, it is important that a tenant make a good faith effort to pay what they are able to pay under such an ordinance, if adopted.

As this is an urgency ordinance, a 4/5ths vote of the City Council is required for adoption of the ordinance. If adopted, the ordinance becomes effective immediately.

Attachments:

- Attachment 1 – Draft Urgency Ordinance No. 2020-XX