

ORDINANCE NO. 20-1445

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 8634 AND DOWNEY CITY CHARTER SECTIONS 511 AND 514 ENACTING A TEMPORARY MORATORIUM ON EVICTIONS OF RESIDENTIAL TENANTS FOR NONPAYMENT OF RENT RESULTING FROM LOSS OF INCOME DUE TO THE COVID-19 PANDEMIC; ESTABLISHING A RENT REPAYMENT PERIOD; AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

WHEREAS, according to the World Health Organization (WHO), COVID-19 has spread globally to over 216 countries, infecting more than 7.8 million persons and killing more than 43,000 individuals worldwide, and has been characterized as a pandemic; and,

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency in response to the COVID-19 pandemic; and,

WHEREAS, on March 4, 2020, the Health Officer of Los Angeles County determined that there is an imminent and proximate threat to the public health from the introduction of COVID-19 in Los Angeles County, and declared a Local Health Emergency, and the Los Angeles County Board of Supervisors concurrently proclaimed the existence of a local emergency for the County of Los Angeles; and,

WHEREAS, the Governor's Executive Order N-25-20 empowers local jurisdictions to determine that protecting the public health and mitigating the impacts of COVID-19 includes taking steps to ensure the stability of residential tenancies; and,

WHEREAS, on March 15, 2020, the Governor announced via press conference that he was: (1) calling for home isolation for adults over the age of sixty-five and individuals with chronic conditions; (2) directing the closure of bars, brewpubs, wineries, and nightclubs; and (3) calling for restaurants to limit occupancy to half their current allowance and practice social distancing; and,

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency due to the continuing spread and the effects of COVID-19; and on March 16, 2020, announced guidelines advising people to avoid gatherings of ten (10) or more persons for a period of fifteen (15) days; and

WHEREAS, since March 13, 2020, all schools in the Downey Unified School District are closed to prevent the spread of COVID-19; and,

WHEREAS, on March 16, 2020 (and expanded on March 19, 2020), Los Angeles County Department of Public Health instituted the "Safer at Home" order to control the spread of COVID-19, which among other things, temporarily prohibits all events and public gatherings of 10 or more people, and the closure of non-essential businesses and areas;

WHEREAS, on March 18, 2020, the City Manager, acting as the Director of Emergency Services for the City of Downey, proclaimed the existence of a Local Emergency due to the spread and potential further spread of COVID-19, which the City Council for the City of Downey ratified at its regular meeting on March 24, 2020; and

WHEREAS, in April 2020, the Governor and the State Public Health Officer articulated a 4 Stage framework (“California Pandemic Resilience Roadmap”) to reintroduce business sectors and activities in a phased manner to protect the public health and safety and lower COVID-19 transmissions and outbreaks in the community; and

WHEREAS, on May 13, 2020, the County of Los Angeles announced its “Reopening Safer at Work and in the Community Revised Order” moving the County of Los Angeles through “Stage 2” of “California’s Pandemic Resilience Roadmap”; and

WHEREAS, on May 29, 2020 the County of Los Angeles announced the State’s approval of the County’s plan to move business sectors and activities further into “Stage 2” of California’s “Pandemic Resilience Roadmap”; and

WHEREAS, the COVID-19-related social distancing measures imposed by federal, state, and municipal agencies and the slow reopening of businesses under the County’s plan will continue to result in a substantial loss of income for many individuals; and,

WHEREAS, on March 27, 2020, the Governor issued Executive Order N-37-20 which established a statewide moratorium on evictions of residential tenants unable to pay rent due to a financial impact related to the COVID-19 pandemic which Order expired on May 31, 2020; and,

WHEREAS, on May 29, 2020, the Governor issued Executive Order N-66-20 extending the authority of cities to adopt local moratoria on evictions of tenants from single family residences or dwelling units, subject to certain conditions until July 28, 2020; and

WHEREAS, this temporary moratorium on COVID-19-related residential evictions in the City of Downey would help renters remain stable if their household income is impacted by the COVID-19 pandemic; and,

WHEREAS, this temporary moratorium on COVID-19-related residential evictions would provide for a repayment period that would allow residential tenants to have a 2-month repayment period for each month a tenant has delayed the payment of rent due to a COVID-19-related financial impact after notice to the landlord; and,

WHEREAS, in accordance with California Government Code Section 8634 and Downey City Charter Sections 511 and 514 and based on the recitals set forth herein, the City Council finds that this Urgency Ordinance is necessary to immediately preserve and protect the public peace, health, safety and welfare and is enacted pursuant to the City’s police powers afforded by the California State Constitution and State law.

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

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference as findings in support of the regulations contained in this Urgency Ordinance.

SECTION 2. The City Council of the City of Downey hereby enacts this Urgency Ordinance placing a temporary moratorium on evictions of residential tenants due to nonpayment of rent as a result of COVID-19-related financial impacts as follows:

I. **Prohibition on Evictions of Residential Tenants.**

During the term of this Urgency Ordinance, a residential tenant shall not be evicted for nonpayment of rent when the tenant can demonstrate that he, she or they have suffered one or more financial impacts related to COVID-19 as set forth in Paragraph III.

II. **Definitions.**

The following words and phrases, whenever used in this Urgency Ordinance, shall be construed as defined in this section:

"Financial Impacts" shall mean a residential tenant's loss of or substantial decrease in household income resulting from: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) a layoff, furlough or other substantial decrease in compensable hours of work; (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.

"Related to COVID-19" shall mean financial impacts that were caused by the COVID-19 pandemic, including the President of the United States' Declaration of National Emergency, the Governor of the State of California's Declaration of State Emergency, the City of Downey's Proclamation of Local Emergency, and/or compliance with public health orders related to COVID-19 from local, county, state, or federal authorities.

III. **Notice to the Landlord.**

Residential tenants who wish to avail themselves of the protections afforded by this Urgency Ordinance must first notify their landlords in writing that they cannot pay rent due to a financial impact related to COVID-19. Within one week of providing this written notice, tenants must provide verifiable documentation to their landlords corroborating that they have suffered a financial impact related to COVID-19.

IV. **Repayment of Unpaid Rent; No Waiver of Rent.**

A. For each month a residential tenant has delayed the payment of rent due to a financial impact related to COVID-19, the tenant shall have two (2) months to repay the rent in arrears to the landlord (the "repayment period"). A landlord may not charge or collect a late fee for rent that is delayed due to a COVID-19-related financial impact. The repayment period shall begin upon expiration of this Urgency Ordinance.

B. This Paragraph IV shall apply to any residential tenant who provided notice to the landlord as required under Paragraph III of this Urgency Ordinance or pursuant to the Governor's Executive Order N-37-20.

C. Residential tenants must make a good faith effort to repay rent in arrears to the landlord during the repayment period. If at any time during the repayment period the residential tenant terminates the tenancy, the repayment period terminates and the total amount of unpaid rent shall be immediately due and payable to the landlord.

D. This Paragraph IV shall not apply if a landlord and tenant have agreed to a repayment schedule prior to the effective date of this Urgency Ordinance.

E. This Urgency Ordinance is not, and should not be interpreted as a moratorium on the payment of rent, or any forgiveness of the same. Tenants who avail themselves of the protections afforded by this Urgency Ordinance shall remain responsible for the payment of rent. Acceptance by the landlord of partial payment of rent tenant shall not constitute payment in full of rent or a waiver of a landlord's right to collect the balance of the rent due.

V. Enforcement.

This Urgency Ordinance imposes a temporary moratorium on evictions of residential tenants in the City of Downey including nonpayment eviction notices issued and unlawful detainer actions filed on or after the effective date of this Urgency Ordinance.

A landlord's failure to comply with this Urgency Ordinance shall render any notice of termination of tenancy issued during the term of this moratorium void. For notices of termination issued during the term of this moratorium, this Urgency Ordinance may be asserted as an affirmative defense in an unlawful detainer action.

A landlord's failure to comply with this Urgency Ordinance does not constitute a criminal offense.

SECTION 3. The City Council finds and declares that this Urgency Ordinance is required for the immediate preservation and protection of the public peace, health, safety and welfare for the following reasons:

a. 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 Urgency Ordinance related to the protection of life and property, to ensure renters can remain in their homes and prevent proliferation of homelessness and further spread of COVID-19.

b. 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.

c. 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.

d. Widespread evictions of tenants 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.

e. Renters who are unable to pay rent during the moratorium period and who have provided landlords notice should be provided additional time to repay unpaid rent without fear that they will be evicted once this Urgency Ordinance expires.

f. Evicting renters who are temporarily unable to pay rent due to a COVID-19-related loss of income or expense poses an immediate threat to life, property, and the public peace, health, or safety, in that, it would displace some of Downey's most vulnerable residents, and likely increase homelessness and/or the risk of COVID-19 transmission. Therefore, it is imperative that the City implement temporary strategies to keep people housed while they make efforts to repay any unpaid rent.

SECTION 4. This Urgency Ordinance is adopted pursuant to Government Code Section 8634 and Downey City Charter Sections 511 and 514, and shall become effective immediately upon its adoption by a four-fifths (4/5th) vote of the City Council.

SECTION 5. The temporary moratorium created by this Urgency Ordinance shall be in effect until **July 28, 2020**, unless extended by action of the City Council. If the term of the temporary moratorium is not extended, then it shall automatically expire at 11:59 p.m. on its last day without further action of the City Council; except that the repayment period set forth in Paragraph IV shall survive expiration of this Urgency Ordinance.

SECTION 6. The City Council finds and determines that the adoption of this Urgency Ordinance is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15060(c)(2), in that the adoption of this Urgency Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and is further and independently exempt from the California Environmental Quality Act under State CEQA Guidelines Section 15061(b)(3), in that it can be seen with certainty there is no possibility the adoption of this Urgency Ordinance will have a significant effect on the environment.

SECTION 7. If any article, section, subsection, paragraph, sentence, clause or phrase of this Urgency Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance. The City Council declares that it would have adopted this Urgency Ordinance, and each article, section, subsection, paragraph, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more articles, sections, subsections, paragraph, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 8. Urgency Ordinance No. 20-1438 is hereby repealed.

SECTION 9. The City Clerk shall certify to the adoption of this Urgency Ordinance and cause the same to be published in the manner prescribed by law.

APPROVED AND ADOPTED this 23rd day of June, 2020.



BLANCA PACHECO, Mayor

ATTEST:



MARIA ALICIA DUARTE, CMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:
CITY OF DOWNEY)

I HEREBY CERTIFY that the foregoing Uncodified Urgency Ordinance No. 20-1445 was introduced and adopted at a Regular Meeting of the City Council of the City of Downey held on the 23rd day of June, 2020, by the following vote, to wit:

AYES:	Council Members:	Ashton, Saab, Frometa, Mayor Pacheco
NOES:	Council Member:	None.
ABSENT:	Council Member:	None.
ABSTAIN:	Council Member:	Rodriguez

I FURTHER CERTIFY that a Summary of the foregoing Uncodified Urgency Ordinance No. 20-1438, was published in the Downey Patriot, a newspaper of general circulation in the City of Downey, on June 25, 2020, after adoption. It was also posted in the regular posting places in the City of Downey on the same dates.



MARIA ALICIA DUARTE, CMC
City Clerk