

URGENCY ORDINANCE 20-337

**AN URGENCY ORDINANCE OF THE CITY OF MISSION VIEJO,
CALIFORNIA, PROHIBITING OR LIMITING RESIDENTIAL
AND COMMERCIAL EVICTIONS PURSUANT TO AND
CONSISTENT WITH GOVERNOR NEWSOM'S EXECUTIVE
ORDER N-28-20**

WHEREAS, 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 the novel coronavirus ("COVID-19");

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;

WHEREAS, on March 14, 2020, the City Council of Mission Viejo proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective the City's response COVID-19;

WHEREAS, on March 16, 2020, Governor Newsom issued his Executive Order N-28-20, specifically authorizing local governments to halt evictions for commercial tenants, residential tenants, and homeowners who have been affected by COVID-19;

WHEREAS, on March 17, 2020, the Orange County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19;

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Public Health, and the Orange 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;

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Mission Viejo have experienced or expect soon to experience sudden and unexpected income loss;

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;

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction;

WHEREAS, 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;

WHEREAS, the City Council has police power to authorize the City Manager, as the Disaster Director, to formulate, apply and enforce prohibitions and conditions on residential and commercial evictions as are prudent, necessary, or desirable for the City and the parties, pursuant to Sections 2.20.060 and 2.20.200 of the Mission Viejo Municipal Code;

WHEREAS, in the interest of public peace, health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority to issue these regulations related to the protection of the public peace, health or safety, and fully implement the suspension of the statutory basis for eviction for nonpayment of rent as authorized by Executive Order N-28-20;

WHEREAS, this Urgency Ordinance is necessary for the immediate preservation of public health, peace, property, and safety.

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

Section 1. The recitals set forth above are incorporated herein by reference.

Section 2. The City Council of the City of Mission Viejo does adopt the following emergency regulations which shall take effect immediately:

1. A temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis is imposed as follows:
 - a. No landlord shall endeavor to evict a tenant in either of the following situations: (1) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord.
 - 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 California Civil Code of Procedures section 1161(2), file or

prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent.

- c. A landlord knows of a tenant's inability to pay rent within the meaning of this Urgency 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 provides documentation to support the claim.
 - d. For purposes of this Urgency 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.
 - e. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.
 - f. Nothing in this Urgency Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of this Ordinance and the tenant must pay within six months of the expiration of this Ordinance.
 - g. Six months after the expiration of this Ordinance if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Urgency Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.
 - h. For purposes of this Urgency Ordinance, "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following:
 - i. being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 - ii. lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19 including for tenants who are salaried employees or self-employed;
 - iii. compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency;
 - iv. extraordinary out-of-pocket medical expenses; or
 - v. childcare needs arising from school closures related to COVID-19.
2. A temporary moratorium on eviction for non-payment of rent by commercial tenants impacted by the COVID-19 crisis is imposed as follows:
- a. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant in either of the following

situations: (1) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord.

- 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 California Civil Code of Procedures, section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent.
- c. A landlord knows of a tenant's inability to pay rent within the meaning of this Urgency 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 provides documentation to support the claim.
- d. For purposes of this Urgency 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.
- e. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.
- f. Nothing in this Urgency 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 of the expiration of the local emergency.
- g. Six months after the expiration of this Urgency Ordinance, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Urgency Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.
- h. For purposes of this Urgency Ordinance, "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following:
 - i. being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 - ii. lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19 including for tenants who are salaried employees or self-employed;
 - iii. compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency;

- iv. extraordinary out-of-pocket medical expenses; or childcare needs arising from school closures related to COVID-19.
3. For purposes of this Urgency Ordinance, “no-fault eviction” refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to California Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.
4. This Urgency Ordinance applies to nonpayment eviction notices, no-fault 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.
5. The City Manager, as Disaster Director, pursuant to the powers and duties established in Sections 2.20.060 and 2.20.200 of the Mission Viejo Municipal Code, shall formulate regulations and policies necessary to apply and enforce the provisions of this Urgency Ordinance and seek advice from, update, and report such actions the Economic Development Committee (“EDC”) weekly, or more often as deemed necessary by the EDC.
6. The EDC shall update the City Council as to their determinations as to the Disaster Director’s activities related to this Urgency Ordinance as deemed necessary by the City Council.
7. Violations of this Urgency Ordinance shall be punishable as set forth in Section 2.20.220 of the Mission Viejo Municipal Code. In addition, this Urgency Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance.

Section 3. This Urgency Ordinance shall remain in effect until May 31, 2020.

Section 4. This Urgency Ordinance shall not be codified.

Section 5. If any provision of this Urgency Ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this Urgency Ordinance.

Section 6. The City Clerk shall cause this Urgency Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Urgency Ordinance and shall cause this Urgency Ordinance and the City Clerk’s certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

Section 7. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its

introduction and shall become effective at 12:01 a.m., March 21, 2020 upon its adoption by a minimum 4/5 vote of the City Council.

Section 8. This Urgency Ordinance shall remain in effect through May 31, 2020, unless extended.

Section 9. The City Clerk shall certify to the adoption of this Urgency Ordinance.

PASSED, APPROVED AND ADOPTED this 24th day of March, 2020



Brian Goodell, Mayor

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF MISSION VIEJO)

I, Kimberly Schmitt, City Clerk of the City of Mission Viejo, do hereby certify that the foregoing Urgency Ordinance was duly adopted and passed at a regular meeting of the City Council on the 24th day of March, 2020 by the following vote, to wit:

AYES: Bucknum, Goodell, Kelley, Raths, and Sachs
NOES: None
ABSENT: None

ATTEST:



Kimberly Schmitt, City Clerk:

APPROVED AS TO FORM:



William P. Curley, City Attorney