

ORDINANCE NO. 1645

AN URGENCY ORDINANCE OF THE CITY OF LAGUNA BEACH RELATING TO A TEMPORARY MORATORIUM ON EVICTING COMMERCIAL AND RESIDENTIAL TENANTS

WHEREAS, on February 26, 2020, the Orange County Board of Supervisors and the Orange County Department of Public Health declared a public health emergency in Orange County due to the threat of Coronavirus Disease (“COVID-19”); and

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

WHEREAS, on March 17, 2020, the Laguna Beach City Council adopted Resolution No. 20.017, ratifying the Proclamation by the City Manager, in his capacity as the Director of Emergency Services, of a local emergency and authorizing emergency orders, rules and regulations due to the threat of COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention, the Governor of the State of California, the California Department of Public Health, and the Orange County Department of Public Health collectively have issued orders, regulations, guidance, and recommendations, including but not limited to social distancing, avoiding public gatherings, staying at home, limiting business activities to essential and critical services, and other precautions to protect the public health and prevent the spread of COVID-19; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20, which among other things suspends any state law that would preempt or otherwise restrict a 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, on March 27, 2020, the Governor issued Executive Order N-37-20, which among other things establishes certain protections to residential tenants with regard to eviction proceedings, and which supersedes Executive Order N-28-20 to the extent of any conflict; and

WHEREAS, the City and its residents have been severely and adversely impacted by the health crisis of the global COVID-19 pandemic; sporting events, concerts, plays, and conferences have been canceled; school closures have occurred and are continuing; employees have been advised to work at home; restaurant and retail business has significantly declined, a number of hotels and motels have closed and workers have been impacted by lost wages and layoffs; parents have had to miss work to care for home-bound school-age children; workers may have to stay home for extended periods; and

WHEREAS, many tenants have experienced sudden income loss, and further income impacts are anticipated; and

WHEREAS, 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 residential 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, providing commercial tenants with short-term protection from eviction due to the inability to pay rent will help reduce the number of business closures which will, in turn, provide economic benefits to the City and its residents; and

WHEREAS, during the state of emergency, and in the interests of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary displacement of tenants; and

WHEREAS, prohibiting evictions on a temporary basis is needed until the spread of COVID-19 can be minimized and the emergency restrictions lifted; and

WHEREAS, nothing in this Ordinance waives a tenant's obligation to pay back rent owed once the Ordinance is no longer effective; and

WHEREAS, the City Council has the authority to adopt this Ordinance under Government Code Section 8630, and also its authority under California Constitution, Article XI, section 7, and pursuant to the Governor's Executive Orders N-28-20 and N-37-20;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN as follows:

SECTION 1. Moratorium on evictions due to nonpayment of rent during the local emergency due to the COVID-19 pandemic.

(A) Term. This Section 1 remains in effect until the expiration of the Governor's Executive Orders N-28-20 and N-37-20, including any extensions (the "Term").

(B) Scope. This Ordinance applies to all residential and commercial tenants, including residents of mobilehome parks, within the City of Laguna Beach.

(C) Evictions. No landlord shall seek to evict a residential or commercial tenant if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 in accordance with both of the following:

1. Decreased Income, or Increased Medical Expenses. The basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in operating hours or consumer demand), or substantial out-of-pocket medical expenses (collectively,

the “COVID-19-Related Financial Impacts”). COVID-19-Related Financial Impacts shall not encompass circumstances in which the tenant otherwise has financial resources sufficient to pay rent; and

2. Cause is COVID-19. The decrease in household or business income or the out-of-pocket medical expenses described in subsection 1 above was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and the income loss and the increased expenses are documented.

(D) Tenant to Notify Landlord. To qualify, the tenant must, 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 establishing such substantial COVID-19-Related Financial Impacts.

(E) When Landlord Shall Not Evict. The landlord shall not serve a notice pursuant to Code of Civil Procedure section 1161(2), file or prosecute an unlawful detainer action based on a notice to pay or quit, or otherwise seek to evict for nonpayment of rent during the period during the Term if either: (1) rent is overdue for a period of 30 days or less and the tenant notified the landlord as required in subsection (D)(1) above; or (2) rent is overdue for a period of 31 days or more and the tenant complied with both requirements of subsection (D) above.

(F) Definition of “In Writing.”. 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.

(G) Repayment of Rent Required. Nothing in this Ordinance shall relieve the tenant of liability for any unpaid rent. The landlord may seek the unpaid rent after the expiration of the Term, and the tenant must pay it no event later than 120 days from the expiration of the Term. A landlord may not charge or collect penalties, interest or a late fee for rent that is delayed for the reasons stated in this Ordinance; nor may a landlord, during the period the local emergency is in effect, seek rent that is delayed for the reasons stated in this Ordinance through the eviction process.

SECTION 2. 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 by a 4/5ths vote of the City Council. 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 loss of business, furloughs, loss of wages, and loss of work caused by the effects of COVID-19. An emergency measure is necessary to protect commercial and residential tenants from eviction for a temporary period when the inability to pay rents is due to COVID-19-Related Financial Impacts.

SECTION 3. Future Governor’s Order. If the Governor issues an Executive Order that prohibits residential and commercial evictions throughout the state due to COVID-19-related impacts, then that Executive Order shall control if in conflict with this Ordinance, and this Ordinance shall no longer be in effect as to any conflicting provision herein. Otherwise, this Ordinance shall remain in full effect, and landlords shall meet the requirements of both this Ordinance and the Governor’s Executive Order.

SECTION 4. Notwithstanding the foregoing, nothing in this Ordinance shall preclude or override a voluntary agreement between any landlord and tenant that provides greater relief or remedies to the tenant with respect to eviction proceedings, rent deferment or rent repayment.

SECTION 5. Severability. If any portion of this Ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

SECTION 6. The adoption and implementation of the proposed Ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by the State CEQA Guidelines sections 15061(b)(3) and 15378(b)(5). The effect of the proposed Ordinance will be to maintain the status quo. No new development will result from the proposed Ordinance and no impact to the physical environment will result.

SECTION 7. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law in the City of Laguna Beach.

ADOPTED this 7th day of April, 2020.



Bob Whalen, Mayor

ATTEST:




Lisette Chel, City Clerk

I, Lisette, Chel-Walker, City Clerk of Laguna Beach, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council on April 7, 2020, and was finally adopted at a regular meeting of the City Council of said City held on April 7, 2020, by the following vote:

AYES: COUNCILMEMBER(S): Blake, Iseman, Kempf, Dictrow, Whalen

NOES: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None



City Clerk of the City of Laguna Beach, CA