

*[PROVISIONS APPLICABLE TO COMMERCIAL PROPERTIES IN BRACKETS FOR THE  
CITY COUNCIL'S CONSIDERATION]*

**URGENCY ORDINANCE NO.**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF COMMERCE, CALIFORNIA, ENACTING A  
MORATORIUM ON EVICTIONS FOR RENTERS AND  
OWNERS OF RESIDENTIAL [AND COMMERCIAL]  
PROPERTIES IN THE CITY**

**WHEREAS**, in late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China, and on January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the source of the illness; and

**WHEREAS**, scientific evidence indicates that COVID-19 is highly contagious, and since first discovered COVID-19 has spread globally to over 190 countries, areas, and territories, infecting more than 330,000 persons and killing more than 14,500 individuals worldwide; and

**WHEREAS**, the first case of COVID-19 in the United States was confirmed in late January, and over the ensuing two (2) months the pandemic spread throughout the United States creating a significant health risk to residents, causing the closure of schools across the country, bringing the national and local economies to a standstill, and threatening to overwhelm healthcare facilities; and

**WHEREAS**, on March 4, 2020, California Governor Gavin Newsom proclaimed a “state of emergency” throughout the State in response to COVID-19, and in furtherance of this proclamation has issued several Executive Orders that include extraordinary measures directed at slowing the spread of COVID-19 and reducing impacts to residents and businesses; and

**WHEREAS**, on March 15, 2020, the Governor Newsom released statewide guidance, urging the highest risk of population (individuals who are 65 years or older, or have compromised immune system) to self-isolate at home; and

**WHEREAS**, on March 16, 2020, the President of the United States issued “The President’s Coronavirus Guidelines for America: 15 Days to Slow the Spread” which recommended, and among other things, social distancing and gathering guidelines intended to slow the spread of the illness; and

**WHEREAS**, as of March 24, 2020, California reported a total of 2,186 positive cases of COVID-19, and as of March 19, 2020, Governor Newsom advised that half of California’s population could be infected over the next eight (8) weeks; and

**WHEREAS**, the widespread and community transmission of COVID-19, has created conditions that are likely to be beyond the control of local resources and require the combined forces of other political subdivisions to combat; and

**WHEREAS**, the City of Commerce's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek future reimbursement by the State and Federal governments will be critical to successfully responding to COVID-19; and

**WHEREAS**, given these conditions, pursuant to the California Emergency Services Act, Chapter 2.36 of the Commerce Municipal Code, and applicable provisions of the City's Emergency Operations Plan, on March 16, 2020, the City Council for the City of Commerce held an "emergency" meeting to update the local community on the COVID-19 crisis, and adopted a Resolution proclaiming a "local emergency" thereby formalizing the City's initiation of its Emergency Operations Plan, allowing prompt response to emergency conditions at the local level, and providing the City access to federal, state, and local resources during the crisis; and

**WHEREAS**, the Resolution further ordered that no landlord shall evict a residential tenant in the City of Commerce during this local emergency period if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic, such as loss of income due to a COVID-19 related workplace closure, child care expenditures due to school closures, health care expenses related to being ill with COVID-19 or caring for a member of the tenant's household who is ill with COVID-19, or reasonable expenditures that stem from government-ordered emergency measures; and

**WHEREAS**, on March 19, 2020, in an unprecedented step to slow the spread of COVID-19, Governor Newsom issued Executive Order No. 33-20 ordering all California residents and businesses to stay and work at home for an indeterminate period of time, at least through April 19, 2020, with the only exceptions from this order being essential services and industries; and

**WHEREAS**, the City Council has reconsidered the conditions giving rise to the "local emergency" proclamation made on March 16, 2020, as well as the prohibition against the eviction of residential tenants, and has determined that the conditions giving rise to the local emergency and order against evictions continue to exist, and in fact have become more dire since the original proclamation and order were made; and

**WHEREAS**, on March 16, 2020, Governor Newsom issued Executive Order No. 28-20, which suspended any provision of state law that would preempt or otherwise restrict a local governments' exercise of its police power to impose substantive limitations on residential or commercial evictions; and

**WHEREAS**, the City Council finds this Ordinance is a temporary moratorium intended to promote stability and fairness within the residential [and commercial] rental markets in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes; and

*[WHEREAS, the City Council further finds and declares as a result of sudden and unexpected income loss by residents, as well as the precautions recommended by public health*

*officials to avoid or postpone group events, this Ordinance is necessary to avoid unnecessary displacement of commercial businesses, the stability of which is conducive to public health; and]*

**WHEREAS**, the City Council further finds during the COVID-19 pandemic outbreak, affected tenants who have lost income due to 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; and

**WHEREAS**, the City Council further finds and declares that it is necessary and appropriate to adopt this Ordinance as an urgency measure, pursuant to Article XI, Section 7, of the California Constitution and Government Code section 36937, given that displacement through eviction destabilizes the living [*and business*] situation of tenants and impacts the health of Commerce's residents by uprooting children from schools, disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City; 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; the ability to stay indoors is necessary to prevent the spread of COVID-19 and protect the public health and safety; which justify adoption of this Ordinance as an urgency measure to be effective immediately upon adoption by a four-fifths vote of the City Council; and

**WHEREAS**, all legal prerequisites to the adoption of this Ordinance have occurred, and the City Council has duly considered all evidence presented in connection with its consideration of this Ordinance.

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

**SECTION 1.** The facts set forth in the recitals of this Ordinance are true and correct, and incorporated into this Ordinance as substantive findings.

**SECTION 2.** This Ordinance is adopted as an urgency measure pursuant to Government Code Section 36937 for the immediate preservation of the public health, safety, and welfare, and is adopted and justified based on the findings of the City Council in Recitals of this Ordinance; which are supported by substantial evidence in the record associated with the City Council's consideration hereof.

**SECTION 3.** The order by this Council on March 16, 2020, prohibiting the eviction of residential tenants within the City during this local emergency is hereby ratified and further described.

**SECTION 4.** A Moratorium on eviction for non-payment of rent by residential tenants [*and commercial tenants*] impacted by the COVID-19 pandemic is imposed as set forth herein.

**SECTION 5.** During the period of local public health emergency and/or local emergency declared in response to COVID-19:

A. No landlord shall endeavor to evict a residential 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 if any member of the household is sick, in isolation, or under quarantine. 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 CCP 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. A landlord knows of a tenant's inability to pay rent within the meaning of this Ordinance and thus knows the tenant has a substantive defense to any eviction 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.

*[B. For commercial properties, no landlord shall endeavor to evict a commercial tenant for non-payment of rent if a commercial tenant is unable to pay rent due to financial impacts related to COVID-19.]*

C. Nothing in this 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.

D. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance; nor may a landlord seek rent that is delayed for the reasons stated in this Ordinance through the eviction process.

E. For purposes of this Ordinance, "financial impacts related to COVID-19" include, but are not limited to, (1) for residential tenant lost household income as a result of any of the following: (a) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (b) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (c) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (d) extraordinary out-of-pocket medical expenses; or (e) child care needs arising from school closures related to COVID-19 [*; and (2) for commercial tenants, loss of business income from full or partial closure of the business (either voluntarily or by mandate) to prevent the spread of COVID-19.*]

F. 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. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

G. For purposes of this Ordinance, "no-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the residential tenant

including, but not limited to, eviction notices served pursuant to Code of Civil Procedure Sections 1161(1), 1161(5), or 1161c.

**SECTION 6.** This Ordinance may be asserted as an affirmative defense in an unlawful detainer action. Any failure to comply with this Ordinance does not constitute a criminal offense. This Ordinance shall not be read in any way to prohibit any terminations of tenancy for just cause, or other terminations of tenancy where this Ordinance does not apply.

**SECTION 7.** As applied to notices of termination issued prior to the effective date of this Ordinance, this Ordinance shall apply to tenancies where, as of the effective date of this Ordinance, said tenant remains in possession and/or any unlawful detainer action has not reached final judgment or issuance of a final order, after all appeals have been exhausted. This Ordinance shall be deemed to have taken effect as of March 16, 2020, the date of the City Council's proclamation of a "local emergency," and shall remain in full force and effect for the period of time set forth in Executive Order No. 28-20, as the same may be extended from time to time, unless sooner terminated or repealed by the City Council.

**SECTION 8.** If any section, subsection, paragraph, sentence, clause, phrase, or portion thereof, of this 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 Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, paragraph, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, phrases, or portions thereof, be declared invalid or unconstitutional. To this end, the provisions of this Ordinance are declared to be severable.

**SECTION 9.** This Ordinance is adopted as an urgency ordinance and shall take effect immediately upon a 4/5 vote of the City Council.

**SECTION 10.** The City Clerk of the City of Commerce shall certify to the passage of the Ordinance and shall cause the same to be posted in the manner required by law.

THE FOREGOING ORDINANCE was adopted at a regular meeting of the City Council of the City of Commerce held on the \_\_\_\_ day of March, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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John Soria  
Mayor

**APPROVED AS TO FORM:**

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Noel Tapia  
City Attorney

**ATTEST:**

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Lena Shumway  
City Clerk