

## URGENCY ORDINANCE NO. 4296

### AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NON-PAYMENT OF RENT BY RESIDENTIAL TENANTS IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19)

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”);

WHEREAS, on March 4, 2020, the Los Angeles 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, 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 13, 2020, 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 COVID-19;

WHEREAS, on March 16, 2020, the Pomona City Council proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective the City’s response to the novel coronavirus (“COVID-19”);

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, authorizing local governments’ through their police power to impose substantive limitations on residential or commercial evictions for nonpayment of rent for tenants financially impacted by COVID-19 through May 31, 2020 and has extended his Executive Order;

WHEREAS, on March 16, 2020, the Los Angeles County Los Angeles County Public Health Officer issued an order countywide that: (1) prohibits gatherings where at least 50 people are expected to attend; (2) puts limits and regulations on gatherings of 10-49 people; (3) limits restaurants to drive-through/takeout/delivery; (4) closes bars (that don’t serve food), gyms, movie theaters, etc., which impacted the economy and individuals’ ability to pay rent. This order has been amended and revised numerous times over the course of the pandemic to reflect the most recent public health orders and guidance;

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, most, if not all, local schools are closed to prevent further spread of COVID-19. These school closures will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home;

WHEREAS, following the opening of “high-risk” businesses where individuals may congregate with members who are not part of the same household and remove their face coverings to eat and drink, the State and County experienced a sharp increase in confirmed COVID-19 cases and hospitalizations. As a result, the County Health Officer backtracked on the County’s gradual reopening to prohibit and limit the indoor and outdoor operation of specified businesses;

WHEREAS, effective November 30, 2020, the County Department of Public Health enacted a new Stay at Home Order requesting individuals to remain in their homes as much as possible and to avoid crowding and mingling with non-household members. The Order came after many Americans gathered and traveled over the Thanksgiving holiday in the midst of a winter surge of COVID-19 cases and deaths. According to the County Department of Public Health, daily peaks are now more than double the County’s peak of daily cases during the summer surge;

WHEREAS, with Intensive Care Unit (ICU) bed capacity rapidly decreasing throughout California, the Governor of the State of California issued a State Regional Stay at Home Order on December 3, 2020, that would trigger greater restrictions on a region consisting of multiple counties depending on that region’s ICU hospital bed availability. Once a region has less than 15 percent ICU availability, all counties within the region are required to follow the State Regional Stay at Home Order within 24 hours for at least three weeks;

WHEREAS, the Southern California Region, which the City of Pomona is a part of, was at 9 percent ICU capacity on December 9, 2020.

WHEREAS, the situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction;

WHEREAS, the City Council desires to promote stability and fairness within the residential rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby preserving 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;

WHEREAS, 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 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.

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, and lack of moving services and supplies as stores and businesses close. 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 of rent as they will have little or no income and thus be unable to secure other housing if evicted;

**WHEREAS**, people experiencing homelessness are especially vulnerable to the spread of COVID-19, due to an inability to practice social distancing and a lack of access to health care. The Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19. Widespread evictions of tenants vulnerable to eviction 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;

**WHEREAS**, promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close, and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction;

**WHEREAS**, the City desires to prohibit evictions due to non-payment of rent for residential tenants where the failure to pay rent results from income loss resulting from the novel coronavirus (COVID-19), for all times there is not a state or county law providing protection;

**WHEREAS**, on September 1, 2020 Governor Newsom signed AB 3088 (COVID-19 Tenant Relief Act of 2020, "the Act"). Among other things, this law supersedes portions of the Cities' temporary moratoria on residential evictions for nonpayment of rent and adopts a moratorium through January 31, 2021 so long as tenants comply with the Act's requirements. The Act provides specific provisions for cities with existing moratorium ordinances and suggests that cities can regulate locally again beginning on February 1, 2021. Legislation is also pending, which would extend the statewide residential eviction protection to the end of 2021.

**WHEREAS**, the County of Los Angeles adopted a baseline residential eviction protection ordinance to apply in incorporated cities that had not adopted a local eviction ordinance. Under the County's Moratorium, tenants may not be evicted for COVID-19 related nonpayment of rent, as well as no-fault reasons, nuisance, or unauthorized occupants or pets – if related to COVID-19. Starting on October 1, 2020, the County's protections for residential tenants for non-payment of rent due to COVID-19 related financial hardship temporarily expired and was replaced by AB 3088, which will offer protections to Los Angeles County residential tenants renters facing eviction for nonpayment of rent due to COVID-19 related financial hardship. All other tenant protections offered through the County's Moratorium, including protections for no-fault evictions and evictions for unauthorized occupants, pets, and nuisance, remain in effect.

WHEREAS, it is unknown at this time whether the state and county eviction protections will be extended, and those decisions are often made at the last minute, leaving little time to local governments to adopt legislation if needed. It is important to have an ordinance in place in the event that state and county eviction protections are not extended and this ordinance is intended to defer to state and county rules, but to automatically be in place to protect Pomona rents in the event there is no state or county residential eviction protection.

WHEREAS, this Urgency Ordinance is adopted pursuant to the City's police powers and powers afforded to the city in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and the Pomona Municipal Code to protect the peace, health, and safety of the public. This urgency ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City. Under Government Code Section 8634, this urgency ordinance is necessary to provide for the protection of life and property and to avoid mass evictions, displacement, homelessness and to stop the spread of COVID 19.

WHEREAS, it is urgent that the City clarify which protections apply and extend local protections in the event state and county protections are not extended, immediately, or homelessness and displacement will surge.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Pomona as follows:

**SECTION 1.** The recitals above are true and correct and are hereby incorporated herein by this reference.

**SECTION 2.** The City Council of the City of Pomona hereby enacts the following:

**1. Temporary Moratorium on Evictions for Non-Payment of Rent by Residential Tenants Impacted by the COVID-19 Crisis.**

A. During the moratorium period declared in response to COVID, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 as set out below, and pays the landlord at least 25% of the rent due during the moratorium period by the end of the applicable three-month moratorium period.

B. A landlord who knows that a tenant cannot pay the remainder (75% or less) 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 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 urgency ordinance if the tenant, within 15 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, provides documentation to support the claim and notifies the landlord that the minimum 25% will be timely paid. 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.

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

C. 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: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (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.

D. This urgency ordinance applies to nonpayment eviction notices and unlawful detainer actions based on such notices, served or filed during the moratorium or repayment periods.

E. This urgency ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this urgency ordinance. Violation of this urgency ordinance shall be punishable as set forth in Article III of Chapter 14 of the Pomona Municipal Code.

F. Nothing in this urgency ordinance shall relieve the tenant of liability for the remainder of the unpaid rent, which the landlord may seek after expiration of the moratorium period and the tenant must pay within six months of the expiration of the moratorium, unless a different time is mandated by controlling state law (repayment period). A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this urgency ordinance; nor may a landlord seek rent that is delayed or the reasons stated in this urgency ordinance through the eviction process.

G. No other legal remedies available to landlord are affected by this urgency ordinance.

H. The moratorium period shall begin on February 1, 2021 and continue in effect for a period of three months (through the last calendar day of the third month), and shall automatically extend for additional three month periods until the City of Pomona has ended its declaration of local emergency, or the City Council repeals or otherwise ends the protections in the ordinance. Notwithstanding, the moratorium period shall be automatically suspended for any period of time that the state has legislation in effect that provides Residential Eviction Protection, and would prohibit local Residential Eviction Protection ordinances. The moratorium period shall also be suspended for any period of time that Los Angeles County has an ordinance in place providing Residential Eviction Protection for tenants in incorporated cities throughout Los Angeles County. "Residential Eviction Protection" means law that prohibits eviction for non-payment of rent to residential tenants that are financially impacted by COVID-19. The City Manager is authorized to make a determination on the effective term of the moratorium period following any suspension of the term under this section.

**SECTION 3.** If any provision of this Urgency Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Urgency Ordinance, which can be implemented without the invalid provisions, and to this end, the provisions of this Urgency Ordinance are declared to be severable. The City Council hereby declares that it would have adopted this Urgency Ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

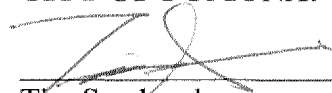
**SECTION 4.** The City Council finds and declares that this Urgency Ordinance is required for the immediate protection of the public peace, health and safety for the following reasons: The City of Pomona would suffer potentially irreversible displacement of tenants. The Council, therefore, adopts this Urgency Ordinance to become effective immediately upon adoption pursuant to Pomona City Charter Section 510 and Government Code Section 36937 and to remain in effect until the emergency order is rescinded.

**SECTION 5.** This Urgency Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a). Further, this Urgency Ordinance is exempt from CEQA as there is no possibility that this Ordinance or its implementation would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3). This ordinance maintains the status quo of keeping residential tenants in their homes and does not result in a physical change to the environment. This ordinance is also adopted as an emergency measure to prevent the spread of COVID 19 and prevent homelessness.

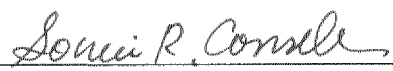
**SECTION 6.** The Mayor shall sign, and the City Clerk shall certify to the passage and adoption of this Urgency Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of applicable law.

**PASSED, APPROVED AND ADOPTED** this 4<sup>th</sup> day of January, 2021.


**CITY OF POMONA:**

  
\_\_\_\_\_  
Tim Sandoval  
Mayor

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Sonia Carvalho  
City Attorney

**ATTEST:**

  
\_\_\_\_\_  
Rosalia A. Butler, MMC  
City Clerk

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF POMONA

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Urgency Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on January 4, 2021 and was adopted at a regular meeting of the City Council of the City of Pomona held on January 4, 2021 by the following vote:

AYES: Garcia, Lustro, Nolte, Ontiveros-Cole, Preciado, Torres, Sandoval  
NOES: None  
ABSTAIN: None  
ABSENT: None

A handwritten signature in dark ink, appearing to read 'R.A. Butler', written over a horizontal line.

Rosalia A. Butler, MMC  
City Clerk