



SCHEDULED ITEM  
**C-1**

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

VIA: SERGIO GONZALEZ, CITY MANAGER

FROM: SERGIO GONZALEZ, CITY MANAGER  
MARCO A. MARTINEZ, CITY ATTORNEY

DATE: APRIL 9, 2020

SUBJECT: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA, TEMPORARILY PROHIBITING EVICTIONS OF RESIDENTIAL AND CERTAIN COMMERCIAL TENANTS ARISING OUT OF FINANCIAL IMPACTS OF THE COVID-19 PANDEMIC AND MAKING URGENCY FINDINGS THEREOF

**RECOMMENDATION:**

It is recommended City Council:

1. Find that the recommended action is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3): the General Rule that CEQA only applies to projects that may have an effect on the environment; and
2. Review and adopt by a 4/5 vote the following Ordinance No. 2020-04:

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AZUSA, CALIFORNIA, TEMPORARILY PROHIBITING EVICTIONS OF RESIDENTIAL AND CERTAIN COMMERCIAL TENANTS ARISING OUT OF FINANCIAL IMPACTS OF THE COVID-19 PANDEMIC AND MAKING URGENCY FINDINGS THEREOF**

## **BACKGROUND:**

1. On March 4, 2020, the Health Officer of Los Angeles County declared a local health emergency regarding Novel Coronavirus 2019 (COVID-19) and the Los Angeles County Board of Supervisors concurrently proclaimed the existence of a local emergency for the County of Los Angeles.
2. On March 4, 2020, Governor Newsom of the State of California declared a State of Emergency in response to the COVID-19.
3. On March 13, 2020, the President of the United States declared a national state of emergency regarding COVID-19. On March 16, 2020, the City Council adopted a Resolution declaring a local state of emergency which gave authority to the City Manager in his role as Director of Emergency Services to implement measures in line with state and county health officials' recommendations to slow the spread of COVID-19 while not impacting critical services.
4. On March 16, 2020, Governor Newsom also issued an Executive Order that will aid Californians affected by COVID-19 by authorizing local governments to halt evictions for both residential and commercial renters, encouraging financial institutions to slow foreclosures, and protecting renters and homeowners against utility shutoffs.
5. On March 19, 2020, Kathryn Barger, Chair of the Los Angeles County Board of Supervisors, issued an Executive Order prohibiting residential and commercial evictions in the unincorporated portions of the County under certain circumstances related to COVID-19.
6. On March 21, 2020 the Los Angeles County Department of Public Health issued a clarifying Safer at Home order, requiring all persons to remain at home to the extent possible, unless engaged in essential businesses.
7. On March 27, 2020 Governor Newsome issued an Executive Order placing a Statewide moratorium on evictions of residential tenants arising from nonpayment of rent due to circumstances related to COVID-19 until May 31, 2020 that has been interpreted by the Governor to allow more restrictive orders by local governments.

## ANALYSIS:

California Government Code section 8630 et seq. authorize the City to declare a local emergency, which the City Council did at a special meeting on March 16, 2020. California Government Code sections 8634, 36934 and 36937 authorize the City Council to take action by ordinance to take effect immediately for the preservation of the public peace, health or safety when adopted by a four-fifths vote of the City Council.

As a result of the COVID-19 public health emergency, the initial precautions recommended by health authorities, and the State and County Safe at Home orders requiring residents to stay at home and requiring “non-essential” businesses to close and essential businesses to severely curtail operations, many residential and commercial tenants in the City have experienced or expect to experience sudden and unexpected income loss soon. Further economic impacts are anticipated, leaving some tenants unable to pay rent and, therefore, vulnerable to eviction.

Businesses that are temporarily closed by the Safer at Home orders are not generating tax revenues needed for public services, and evictions and replacement of such tenants will further delay generation of tax revenues once the Safer at Home orders are lifted.

Further, even businesses that continue in operation as “Essential Businesses,” such as restaurants, are still subject to reductions in income as a result of the Safer at Home orders. 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, and prevent housed individuals from falling into homelessness. Further, with respect to commercial tenants, it is imperative that commercial buildings remain occupied to reduce blighted conditions and potential squatters from damaging property.

If adopted, this moratorium ordinance would do the following:

1. Creates a temporary moratorium on evictions for non-payment of rent by residential or small commercial tenants impacted by the COVID-19 crisis for as long as the City of Azusa City Council maintains the existence of a COVID-19 emergency as reflected in the Emergency Declaration adopted on March 16, 2020 or until May 31, 2020. However, if the California Governor extends the authority of cities to adopt eviction moratoria by extending Executive Order N-28-20, the eviction moratorium imposed by the Urgency Ordinance will continue automatically beyond May 31, 2020 to the earlier date of (i) the Governor’s extension, or (ii) the date City of Azusa City Council terminates its local emergency declaration.

2. From the date of the Urgency Ordinance through its expiration date, landlords are prohibited actions to evict a Small Commercial or Residential 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.<sup>1</sup>
3. There would be no penalties or interest accrued during the moratorium and the six-month period, but the tenant would have to make the landlord whole by December 31, 2020 (for Residential Tenants) and October 31, 2020 (for Small Commercial Tenants). In addition, nothing in the ordinance would prohibit a tenant and landlord from agreeing to a partial payment of rent during the moratorium so as to decrease the tenant’s financial burden after the moratorium.

This ordinance would be a measure that tenants can use to defend against an unlawful detainer action arising from a covered eviction. City staff would publicize the ordinance, but the City would not undertake enforcement as a violation.

**FISCAL IMPACT:**

There is no fiscal impact arising from the proposed ordinance.

Prepared by:

Marco A. Martinez  
City Attorney

Fiscal Impact Review:

Talika M. Johnson  
Director of Finance

Reviewed and Approved:

Sergio Gonzalez  
City Manager

Attachment(s):

- 1) Urgency Ordinance No. 2020-04

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<sup>1</sup> “Financial Impacts related to COVID-19” (“Financial Impact”) include nonpayment of rent 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 opening hours or consumer demand), or substantial out-of-pocket medical expenses, or a Tenant’s lost household income as a result of caring for minor children affected by school, pre-school and/or childcare closures; provided that, the Financial Impact was caused by the COVID-19 pandemic, or by any local, state or federal government response to COVID-19, and is documented by the Tenant.

A “Small business Tenant” shall mean a business that generates five-million dollars (\$5,000,000) or less in annual taxable sales.

**URGENCY ORDINANCE NO. 2020-04**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF AZUSA, CALIFORNIA,  
TEMPORARILY PROHIBITING EVICTIONS OF  
RESIDENTIAL AND CERTAIN COMMERCIAL  
TENANTS ARISING OUT OF FINANCIAL IMPACTS OF  
THE COVID-19 PANDEMIC AND MAKING URGENCY  
FINDINGS THEREOF**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency within the State of California ("State") due to the threat posed by Novel Coronavirus ("COVID-19");

**WHEREAS**, on March 4, 2020, the Los Angeles County Health Officer issued a Declaration of Local Health Emergency due to the introduction of COVID-19 cases to Los Angeles County;

**WHEREAS**, on March 4, 2020, Los Angeles County Board of Supervisors ("Board") concurred and issued a Proclamation ("Proclamation") declaring a local emergency within the County of Los Angeles regarding the imminent spread of COVID-19;

**WHEREAS**, on March 16, 2020, Governor Newsom issued an Executive Order (N-28-20), which removed state law restrictions (e.g., Civil Code Sec. 1940 et. seq or 1954 et. seq.) on local government's ability to impose limitations on residential and commercial evictions when the grounds for eviction is non-payment of rent due to a documented substantial decrease in income or increase in expenditures due to COVID-19, or government emergency orders related to COVID-19;

**WHEREAS**, on March 19, 2020 Governor Newsom issued an Executive Order that requires all persons to remain at home to the extent possible and requires all non-essential businesses to be closed;

**WHEREAS**, on March 19, 2020, Kathryn Barger, Chair of the Los Angeles County Board of Supervisors issued an Executive Order prohibiting residential and commercial evictions in the unincorporated portions of the County under certain circumstances related to COVID-19;

**WHEREAS**, on March 21, 2020 the Los Angeles County Department of Public Health issued a clarifying Safer at Home order, requiring all persons to remain at home to the extent possible, unless engaged in essential businesses;

**WHEREAS**, on March 27, 2020 Governor Newsome issued an Executive Order placing a Statewide moratorium on evictions of residential tenants arising from nonpayment of rent due to circumstances related to COVID-19, but that has been interpreted by the Governor to allow more restrictive orders by local governments;

**WHEREAS**, small businesses that are temporarily closed by the Safer at Home orders are not generating tax revenues needed for public services, and evictions and replacement of such tenants will further delay generation of tax revenues once the Safer at Home orders are lifted. Further, even businesses that continue in operation as “Essential Businesses” such as restaurants, are still subject to reductions in income as a result of the “Safer at Home” orders;

**WHEREAS**, California Government Code section 8630 et seq. authorize the City to declare a local emergency, which the City Council did at a Special City Council meeting on March 16, 2020;

**WHEREAS**, California Government Code sections 8634, 36934 and 36937 authorize the City Council to take action by ordinance to take effect immediately for the preservation of the public peace, health or safety when adopted by a four-fifths vote of the City Council;

**WHEREAS**, as a result of the COVID-19 public health emergency and the precautions recommended by health authorities, many residential and commercial tenants in the City have experienced or expect to experience sudden and unexpected income loss;

**WHEREAS**, further economic impacts are anticipated, leaving residential and commercial tenants potentially unable to pay rent and 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, and prevent housed individuals from falling into homelessness;

**WHEREAS**, during this local emergency, and in the interest of protecting the public health and welfare, it is essential to avoid unnecessary loss of commercial tenants that could create long-term vacancies in commercial areas leading to blight and a loss of important community amenities even after the emergency has ended.

**THE CITY COUNCIL OF THE CITY OF AZUSA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. FINDINGS & TERM OF EVICTION MORATORIUM**

A. The above recitals are true and correct and are incorporated herein by reference as urgency findings in support of the adoption of this ordinance.

B. A temporary moratorium on evictions for non-payment of rent by residential or small commercial tenants (“Tenant” or “Tenants”) impacted by the COVID-19 crisis is imposed for as long as the City of Azusa City Council maintains the existence of a COVID-19 emergency as reflected in the Emergency Declaration adopted on March 16, 2020 or until May 31, 2020. If the California Governor extends the authority of cities to adopt eviction moratoria by extending Executive Order N-28-20, the eviction moratorium imposed by this Ordinance will continue automatically beyond May 31,

2020 to the earlier date of the Governor's extension, or the date City of Azusa City Council terminates its local emergency declaration. Should the Governor, the State or Federal Legislature, or the President issue an order or regulation on the topic of this Ordinance which provides eviction protection that applies Statewide or nationwide, this Ordinance shall be of no further force or effect.

C. Notwithstanding the expiration of the eviction moratorium, the rental payback period, as defined in Section 5, shall survive the expiration of this Ordinance.

SECTION 2. EVICTION MORATORIUM. From the date of this Ordinance through its expiration as set forth in Section 1, in response to COVID-19, no landlord shall take any of the prohibited actions described in Section 3 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.

SECTION 3. PROHIBITED ACTIONS BY LANDLORDS. A landlord who knows or is deemed to know that a Tenant cannot pay some or all of the rent temporarily for the reasons set forth above in Section 2 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 a Tenant for nonpayment of rent.

SECTION 4. PROOF OF INABILITY TO PAY RENT. A landlord shall be deemed to know of a Tenant's inability to pay rent within the meaning of this Ordinance if the Tenant, within 14 days of the date that rent is due, notifies the landlord in writing and provides documentation that the Tenant is unable to pay rent due to Financial Impacts related to COVID-19. For purposes of this Ordinance, "in writing" includes email or other written communications to a landlord or the landlord's representative with whom the Tenant has previously corresponded by email or other traditional written communication. Any medical or financial information provided to the landlord shall be held in confidence, and only be used for evaluating the Tenant's claim.

SECTION 5. CONTINUING OBLIGATIONS OF TENANTS. Nothing in this Ordinance shall relieve the Tenant of liability for the unpaid amount of rent, nor restrict a landlord's ability to recover rent due. A Tenant shall not be deemed in default of rent payment obligations unless the Tenant fails to tender rent payments which were unpaid due to Financial Impacts related to COVID-19 on or before December 31, 2020 if Tenant is a residential Tenant or on or before October 31, 2020 if Tenant is a small commercial Tenant (the "Payback Period"). A landlord shall not impose, charge, or collect a late fee or equivalent surcharge for any rent payments which were unpaid due to Financial Impacts related to COVID-19 during the Payback Period. Tenants and landlords are encouraged to agree to a payment plan during the Payback Period, but nothing in this Ordinance shall be construed to prevent a Tenant from paying a landlord any amount due incrementally during this Payback Period. Any three-day notices to pay or quit or

no-fault eviction notices served prior to the effective date of this ordinance, but not yet expired, are automatically deemed served upon the conclusion of the Payback Period if arising from Financial Impacts related to COVID-19.

SECTION 6. DEFINITIONS. For purposes of this Ordinance:

A. “Financial Impacts related to COVID-19” (“Financial Impact”) include nonpayment of rent 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 opening hours or consumer demand), or substantial out-of-pocket medical expenses, or a Tenant’s lost household income as a result of caring for minor children affected by school, pre-school and/or childcare closures; provided that, the Financial Impact was caused by the COVID-19 pandemic, or by any local, state or federal government response to COVID-19, and is documented by the Tenant.

B. “Small business Tenant” shall mean a business that generates five-million dollars (\$5,000,000) or less in annual taxable sales.

SECTION 7. APPLICATION OF ORDINANCE. This Ordinance applies to terminations of tenancies for nonpayment of rent, including eviction notices, no-fault eviction notices as defined herein, and unlawful detainer actions based on such notices, served or filed during the effective period of this Ordinance and for the Payback Period defined in Section 5. For purposes of this Ordinance, “no-fault eviction notices” refer to any eviction for which the notice to terminate tenancy is not based on alleged fault by the Tenant.

SECTION 8. AFFIRMATIVE DEFENSE. In the event of a violation of this Ordinance, this Ordinance grants an affirmative defense to eviction where an unlawful detainer action is commenced in violation of this Ordinance.

SECTION 9. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that this Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly.

SECTION 10. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby



declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

PASSED, APPROVED, AND ADOPTED this 9th day of April, 2020.

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Robert Gonzales, Mayor

ATTEST:

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Jeffrey Lawrence Cornejo, Jr., City Clerk

APPROVED AS TO FORM:

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Marco A. Martinez, City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF AZUSA            )

I, Jeffrey Lawrence Cornejo Jr., City Clerk of the City of Azusa, do hereby certify that the foregoing Interim Urgency Ordinance No. 2020-04 was duly introduced and adopted at a regular meeting of the City Council on the 9th day of April, 2020, by the following roll-call vote, to wit:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

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Jeffrey Lawrence Cornejo, Jr., City Clerk