

## URGENCY ORDINANCE NO. 4290

### AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA ENACTING A TEMPORARY MORATORIUM ON FORECLOSURES AND EVICTIONS DUE TO NON-PAYMENT OF RENT BY RESIDENTIAL AND COMMERCIAL 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;

**WHEREAS**, 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;

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

**WHEREAS**, The City Council desires to only to promote stability and fairness within the residential and commercial rental market 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;

**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 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 and commercial tenants where the failure to pay rent results from income loss resulting from the novel coronavirus (COVID-19);

**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;

**WHEREAS**, it is urgent that the City provide these protections 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. Until July 10, 2020, 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.

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 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 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. 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 on or after the date on which a local emergency was proclaimed.

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 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. 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.

## 2. Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.

A. Until July 10, 2020, commercial landlords in the City are hereby prohibited from (a) charging rent and (b) evicting commercial tenants for nonpayment of rent with respect to tenants whose businesses are subject to the Orders or are otherwise limited or closed (voluntarily or by mandate) to prevent or reduce the spread of COVID-19 and who demonstrate lost income and inability to pay rent as a result of such limitation or closure or other demonstrated financial impact related to COVID-19.

B. A landlord knows of a tenant's lost income and inability to pay rent within the meaning of this Urgency ordinance if the tenant, within 30 days after the date rent is due, notifies the landlord in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant's business related to COVID-19, with appropriate supporting documentation. If a tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds to the income they generated during the period of loss. 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. All financial information provided to the landlord shall be kept in confidence and only used for evaluating the tenant's claim or enforcing this provision.

C. 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.

D. 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. 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.

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

### 3. Temporary Suspension on Residential and Commercial Foreclosures.

A. Until July 10, 2020, no foreclosure action against a property owner shall be initiated or proceed during the period of declared local emergency in the City of Pomona for any mortgagor with a demonstrated financial impact related to COVID-19. Nothing in this urgency ordinance shall relieve the mortgagor of liability for any unpaid mortgage payments, which the mortgagee may seek after expiration of the local emergency and the mortgagor must pay within six months of the expiration of the local emergency, unless a different time is agreed to between the parties or provided for by law. The respective rights and obligations of the parties in any foreclosure proceeding shall be adjudicated in the appropriate court of law with jurisdiction over the matter at the conclusion of the local emergency.

B. Violation of this urgency ordinance shall be punishable as set forth in Article III of Chapter 14 of the Pomona Municipal Code.

C. No other legal remedies available to parties to any foreclosure proceeding are affected by this urgency ordinance.

D Mortgagees are strongly encouraged to offer payment plans to mortgagors to avoid foreclosure after the period of local emergency.

**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 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).

**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 \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

CITY OF POMONA:

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

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

APPROVED AS TO FORM:

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

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 duly introduced at a regular meeting of the City Council of the City of Pomona held on JUNE 1, 2020, and was adopted at the regular meeting of the City Council of the City of Pomona held on JUNE 1, 2020 by the following vote:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

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