



# CITY COUNCIL AGENDA REPORT



**DEPARTMENT:** City Manager and City Attorney

**MEETING DATE:** April 7, 2020

**PREPARED BY:** Craig Steele, City Attorney

**AGENDA LOCATION:** AR-1

---

**TITLE:** An Urgency Ordinance Adopting Emergency Regulations Prohibiting Commercial Evictions for Non-Payment of Rent and “No-Fault” Evictions and Declaring the Urgency Thereof, Ordinance No. 2020-05U

**OBJECTIVE:** To consider adopting, on an urgency basis, a temporary ban on commercial evictions in the City for non-payment of rent to be consistent with the County order on the same subject during the period of local emergency related to the COVID-19 virus, and to accompany the City’s temporary ban on residential evictions and “no-fault” evictions

**BACKGROUND:** The State of California is currently in a state of emergency related to the spread of the COVID-19 virus. The City of Monrovia and Los Angeles County have issued similar emergency orders. Recognizing the potential enormous impact of the current “stay at home” orders on residents and businesses, the County of Los Angeles has issued an Executive Order that bans residential and commercial evictions for non-payment of rent at least through May 31, 2020, along with a temporary prohibition on “no-fault” evictions. Governor Newsom has issued an Executive Order that authorizes cities to adopt the same kind of restrictions to protect public health and safety.

At the City Council meeting on March 31, 2020, the City Council adopted a temporary ban on residential evictions for non-payment of rent, and “no fault” residential evictions. During that discussion, the Council deferred action on a potential ordinance banning the same type of evictions in the commercial context and directed staff to bring back a separate urgency ordinance regarding commercial tenants for further consideration and decision. This commercial ordinance generally follows the language of the Los Angeles County order for consistency, but adds language requiring tenants to show that they have applied for available state and federal aid programs, as the City Council added to the residential eviction ban. Los Angeles County has restricted both residential and commercial evictions in the unincorporated areas of the County. The proposed urgency ordinance would add to the ban on residential evictions a temporary ban on commercial evictions.

The ordinance also would ban “no-fault” evictions, where a tenant is simply evicted for no reason, during the period of the emergency. If this practice was not banned during this period, it would leave a loophole in the ban on evictions for non-payment of rent. There are two other main differences between the City ordinances and the County order. The first is that the ordinance bans the “threat” of eviction as well as actual eviction proceedings, to ensure that landlords cannot cause tenants who are experiencing financial hardship additional stress and disadvantage by being threatened with a prohibited eviction. The second difference is that the County order currently would expire on May 31, 2020, although it can be extended. The proposed City ordinance is in effect throughout the local emergency, although it could be shortened if the City Council deems it advisable.

**ANALYSIS:** In addition to Los Angeles County, a number of cities in the San Gabriel Valley and throughout the State have adopted some form of temporary ban on evictions for non-payment of rent

# AR-1

and, in most cases, “no-fault” evictions. The City Council will determine whether these restrictions are appropriate for Monrovia in the current circumstances. Arguably, although many businesses are closed and suffering deep financial distress, emergency State and federal programs may help some of those businesses weather this crisis, and commercial landlords will be less likely to implement early evictions. Commercial tenants and landlords may be better able to work out solutions than residential tenants and landlords. Given the “safer at home” orders which will be in effect for some weeks, residential tenants who are facing substantial financial hardship may be more imminently at risk of eviction. In both cases, the City will encourage landlords and tenants to communicate and cooperate, and to take advantage of any aid available to them. In either case, an ordinance would require tenants to pay back rent, and to pay as much of the monthly rent as they are able. Obviously, an eviction ban would have significant financial impacts on landlords as well, unless banks and creditors provide some relief to them.

However, there is also an argument to be made that existing State and County pauses on the eviction process will protect all tenants, at least over the next two months. Governor Newsom’s Executive Order has put a pause on eviction lawsuits for 60 days and, as a practical matter court closures and litigation delays will stall any eviction proceedings at least until the end of May.

If the City Council chooses to adopt this ordinance, it would be an urgency ordinance, and would go into effect immediately. Pursuant to State law, the ordinance would require a 4/5 vote for adoption.

**ENVIRONMENTAL IMPACT:** None.

**FISCAL IMPACT:** No direct fiscal impact on the City.

**OPTIONS:** The Council’s options are to:

1. Adopt a temporary commercial eviction ban by urgency ordinance.
2. Take no immediate action, relying on existing State and County measures to protect tenants.
4. Provide further direction to staff.

**RECOMMENDATION:** Pleasure of the City Council.

**COUNCIL ACTION REQUIRED:** If the City Council decides to adopt an urgency ordinance, the appropriate motion would be a motion to adopt Ordinance No. 2020-05U by 4/5 vote.

**ORDINANCE NO. 2020-05-U**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA, ADOPTING EMERGENCY REGULATIONS PROHIBITING COMMERCIAL EVICTIONS FOR NON-PAYMENT OF RENT AND “NO-FAULT” EVICTIONS AND DECLARING THE URGENCY THEREOF**

**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, which has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

**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; and

**WHEREAS**, on January 26, 2020, the first case of COVID-19 in Los Angeles County was confirmed, and as of March 27, 2020, at least four cases have been confirmed in the City of Monrovia; and

**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 to prevent the spread of and otherwise address the effects of COVID-19; and

**WHEREAS**, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, which suspended “[a]ny provision of state law that would preempt or otherwise restrict a local government’s exercise of its police power to impose substantive limitations on residential or commercial evictions” of certain tenants affected by the COVID-19 pandemic; and

**WHEREAS**, on March 17, 2020, the City Council ratified the City Manager’s proclamation of the existence of a local emergency in response to the COVID-19 pandemic; and

**WHEREAS**, on March 19, 2020, the Los Angeles County Public Health Officer issued a countywide health order for residents to remain “safer at home” until further notice; and

**WHEREAS**, on March 31, 2020, the Monrovia City Council adopted an urgency ordinance to prohibit residential evictions for non-payment of rent on certain conditions and “no fault” evictions during the local state of emergency; and

**WHEREAS**, the Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Health Officer have all issued recommendations including but not limited to social distancing, staying home if sick, canceling

or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

**WHEREAS**, as a result of the public health emergency and the precautions recommended by health authorities, many residents and commercial tenants in Monrovia have experienced or expect soon to experience sudden and unexpected income loss; and

**WHEREAS**, as a result of the Los Angeles County Public Health Officer's countywide health order for residents to remain "safer at home," many potential customers of commercial tenants in Monrovia are unable to patronize the tenants' businesses; and

**WHEREAS**, the eviction of commercial tenants results in the loss of local, family owned businesses, the loss of jobs for employees, and negative impacts surrounding to businesses, potentially leading to urban decay; and

**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; and

**WHEREAS**, commercial tenants who operate businesses within the City may have to close their businesses in response to emergency orders, which will substantially decrease or eliminate their income, and businesses that are permitted to remain open also are likely to experience a significant loss of income while the emergency orders are in effect; and

**WHEREAS**, further economic impacts are anticipated, leaving residential and commercial tenants vulnerable to eviction; and

**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 displacement of the City's varied and valued businesses, to ensure that the economy of the region and State recover as quickly as possible when this emergency ends; and

**WHEREAS**, commercial landlords may have more options to obtain relief from temporary reductions in rent payments than tenants do; and

**WHEREAS**, the Governor's Executive Orders No. N-28-20 and N-37-20, and the Los Angeles County ban on residential and commercial evictions dated March 19, 2020 do not adequately and completely protect residents and businesses in the City of Monrovia from the public health and safety impacts that residential and commercial evictions during this state of emergency could cause; and

**WHEREAS**, in the interest of public peace, health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority to issue these regulations related to the protection of the public peace, health or safety.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROVIA HEREBY ORDAINS AS FOLLOWS:**

**Section 1. Findings.** The City Council finds that each fact set forth in the preceding recitals is true and correct and incorporated by reference.

**Section 2. Commercial Eviction Moratorium.** A temporary moratorium on eviction for non-payment of rent by commercial tenants substantially impacted by the COVID-19 crisis is imposed as follows:

a. During the period of local emergency declared in response to COVID-19, no commercial property owner or agent ("collectively, landlord) shall take any action, or threaten, to evict a tenant or lessee (collectively, "tenant") in either of the following situations: (1) for nonpayment of rent, late fees, or other fees or charges, if the tenant demonstrates that the tenant is unable to pay the same due to financial impacts related to COVID-19, or (2) for a no-fault eviction unless immediately necessary for the health and safety of tenants, neighbors, or the landlord, which shall be confirmed by the City's Building Official prior to any such eviction, other than based on illness of the tenant or any other occupant. 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 Code of Civil Procedure section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to, or threaten to, evict the tenant for nonpayment of rent.

b. A landlord knows of a tenant's inability to pay rent within the meaning of this Ordinance if the tenant, within seven (7) days after the date that rent is due, notifies the landlord in writing that the tenant has lost business income or incurred extraordinary expenses related to COVID-19 and is unable to pay full rent, late charges, or other fees or charges, due to financial impacts related to COVID-19, **and** within 30 days after the date the rent is due, provides written documentation to the landlord to support the tenant's inability to pay all or part of the rent due. Tenants shall also supply to the landlord within 30 days after the rent is due documentation to show that the tenant has applied for applicable state and federal aid programs. No landlord shall take action, or threaten, to evict a tenant solely because the tenant is unable to provide adequate documentation of financial impacts related to COVID-19 within the time provided by this Ordinance if the tenant is unable to contact a bank, accountant or other financial record-keeper and continues to make good faith efforts to do so.

c. For purposes of this Ordinance, "financial impacts" means a substantial loss of the tenant's monthly business income due to business closure, loss of compensable business, sales, or fees, or extraordinary out-of-pocket medical expenses. A financial impact is "related to COVID-19" if it was the result of any of the following: (1) a key employee or manager of the tenant's diagnosis with COVID-19 or that person's need to care for a household or immediate family member who is diagnosed with COVID-19; (2) loss of business, fees or business income resulting from the "safer at home" order, a business closure, or other economic or employer impacts of COVID-19; (3) compliance with a recommendation or order from the County Health Officer to close the business, stay at home, isolate, self-quarantine, or avoid congregating with others during the COVID-19 state

of emergency; (4) extraordinary out-of-pocket expenses related to diagnosis and testing for and/or treatment of COVID-19; or (5) the business owner, manager or key employees' need to provide additional child care as a result of school closures related to COVID-19.

d. For purposes of this Ordinance, a notification "in writing" to the landlord includes email or text communications from the tenant to a landlord or the landlord's representative if that is the method of written communication that has been used previously, or correspondence by regular mail, if that is the method of written communication that has been used previously and the parties have not agreed to use email or text messaging.

e. For purposes of this Ordinance, "written documentation" of a substantial financial impact shall include, without limitation, written notifications from banks, employers, clients or customers, written documents from doctors, or local or County health care providers and officials, time cards, medical or childcare bills, and income statements, bank statements or deposit records showing substantial financial impact. Any medical or financial information provided to the landlord by the tenant shall be held in confidence, and shall be used only for evaluating the tenant's claim.

f. During the period of local emergency declared in response to COVID-19, a residential tenant shall timely pay that portion of the rent that the tenant is able to pay. 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 which the tenant must pay in full within six (6) months following the expiration or termination of the local emergency. Six (6) months following the end of the local emergency, if the rent is unpaid, a landlord may charge or collect a late fee for rent that is further delayed for the reasons stated in this Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process. No fee for the late payment of rent shall be charged by a landlord during the period of the local emergency or for six (6) months after the end of the emergency.

g. This Ordinance prevents the enforcement of nonpayment eviction notices, no-fault 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 on March 13, 2020.

**Section 3. Urgency.** The City Council finds that the COVID-19 pandemic has increased the risk of housing displacement, loss of income, and homelessness for many people in the City of Monrovia and surrounding areas, as more fully described in the recitals of this Ordinance. The City Council further finds that, unless this Ordinance is effective and its regulations are immediately put in place, the public health, safety and welfare will be at risk. Therefore, the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937(b) and that it take effect immediately upon adoption pursuant to Government Code section 36934, and its urgency is hereby declared.

**Section 4. Violations.** Violations of this Ordinance shall be punishable as set forth in Chapter 1.16 of the Monrovia Municipal Code. In addition, this Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance.

**Section 5. Duration.** This Ordinance shall remain in effect for the duration of the local emergency unless amended or repealed earlier by the City Council.

**Section 6. Uncodified.** This Ordinance shall not be codified.

**Section 7. Severability.** If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this Ordinance.

**Section 8. Effective Date.** Based upon the findings in Section 3, above, this Ordinance shall take effect immediately upon its adoption by a minimum 4/5 vote of the City Council.

**Section 9. Certification.** The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law. The City Manager is directed to widely publicize the adoption of this Ordinance.

**PASSED AND ADOPTED** by the City Council of the City of Monrovia on this 7th day of April, 2020

\_\_\_\_\_  
Tom Adams, Mayor

ATTEST:

\_\_\_\_\_  
Alice D. Atkins, MMC, City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Craig Steele, City Attorney