



OFFICE OF THE CITY ATTORNEY  
Long Beach, California

**ORD-2**

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March 24, 2020

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 8.100, relating to a temporary prohibition on evictions due to COVID-19 and declaring the urgency thereof, read the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

On March 17, 2020 the City Council gave direction to our office to draft and submit to Council an ordinance temporarily prohibiting evictions of residential and commercial tenants due to non-payment of rent resulting from adverse impacts associated with COVID-19.

As you know, the COVID-19 pandemic and local government response thereto is rapidly evolving. The passage of time has allowed for a more thorough analysis of the likely consequences of the direction given by the Council. As a result, there are three substantive issues which our office would like to highlight for your consideration and possible further direction:

1. Although the Council's motion specifically directed that the ordinance require tenants to provide notice of imminent non-payment of rent and documentation of the reasons therefore PRIOR to the date on which rent would otherwise have been due, it seems that such a requirement is likely to result in a significant percentage of tenants being prohibited from taking advantage of protections for which they would otherwise qualify. The ordinance as drafted requires that a tenant give notice and documentation of a COVID-19 related non-payment on or before the date of expiration of a three-day notice to pay or quit resulting from such non-payment.

2. The Governor declared a State of Emergency on March 4, 2020. Presumably there are tenants who have been impacted by COVID-19 who would qualify for eviction protection starting on that date. The advance notice

requirement, however, makes it impossible in practice for such tenants to take advantage of the eviction protection. We have included a provision which allows tenants who received three-day notices to pay or quit between March 4 and March 24 to provide the required COVID-19-related notice and documentation to their landlord at any time prior to final adjudication of their unlawful detainer proceeding.

3. In order to promote tenant awareness of their rights under the proposed ordinance, we have included an obligation that pay-or-quit notices issued between March 25, 2020 and May 31, 2020 must include certain additional notification language. Such noticing requirements place an additional burden on landlords, but are generally consistent with the Tenant Protection Act of 2019 and Section 8.99 of the Long Beach Municipal Code.

Our office will, of course, amend the proposed ordinance on the floor to reflect further direction, if any, by the Council on these issues. It is our intention that by highlighting these issues for Council and the public, any changes to the ordinance made on the floor at the direction of the Council will not require an additional reading of the ordinance, and the proposed ordinance, as possibly amended, will be of immediate force and effect (assuming passage as an urgency ordinance).

Pursuant to your request on March 17, 2020, this ordinance is attached hereto and is submitted for your consideration.

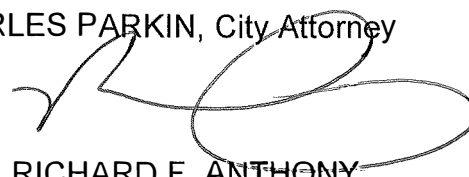
**SUGGESTED ACTION:**

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

A handwritten signature in black ink, appearing to read 'Richard F. Anthony', written over a large, faint circular stamp or watermark.

RICHARD F. ANTHONY  
Deputy City Attorney

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 8.100, TO TEMPORARILY PROHIBIT EVICTIONS DUE TO COVID-19 THROUGH MAY 31, 2020; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California due to the threat posed by the novel coronavirus and the COVID-19 disease resulting therefrom; and

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and many residential and commercial tenants have experienced, or will soon experience, sudden income loss resulting from COVID-19 and/or governmental response thereto; and

WHEREAS, such income loss will impact some tenants' ability to pay rent when due, leaving such tenants vulnerable to eviction and possible homelessness; and

WHEREAS, in the interests of protecting the public health and mitigating the economic impacts of COVID-19, it is essential to avoid displacement of tenants by temporarily prohibiting the eviction of tenants impacted by COVID-19; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20 which, among other things, suspended the application of certain state laws which might limit a municipality's ability to exercise its police powers in connection with temporary eviction moratoriums;

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1 NOW, THEREFORE, The City Council of the City of Long Beach ordains as  
2 follows:

3 Section 1. Chapter 8.100 is added to the Long Beach Municipal Code to  
4 read as follows:

5 Chapter 8.100

6 TEMPORARY PROHIBITION OF EVICTIONS DUE TO COVID-19

7  
8 8.100.010 Purpose.

9 In order to protect the public health and mitigate the economic impacts  
10 of the novel coronavirus and the COVID-19 disease resulting therefrom, this  
11 Chapter shall temporarily prohibit certain evictions as more particularly  
12 described herein.

13  
14 8.100.020 Definitions.

15 The following words and phrases, whenever used in this Chapter,  
16 shall be construed as defined in this Section:

17 A. COVID-19. The term "COVID-19" shall mean the novel  
18 coronavirus SARS-CoV-2 and disease resulting therefrom.

19 B. Owner. The term "owner" shall mean any person or entity,  
20 acting as principal or as an agent, renting residential or commercial real  
21 property.

22 C. Pay-or-quit notice. The term "pay-or-quit notice" shall mean the  
23 notice to be delivered to a tenant resulting from non-payment of rent as  
24 required by, and in accordance with, California law, including without  
25 limitation Section 1161 et seq of the Code of Civil Procedure.

26  
27 8.100.030 Prohibition on Evictions.

28 A. The owner of residential or commercial real property shall not

1 take action to evict a residential or commercial tenancy if (1) the basis for the  
2 eviction is non-payment of rent, or a foreclosure, arising out of a substantial  
3 decrease in household or business income (including, but not limited to, a  
4 substantial decrease in household income caused by layoffs or a reduction  
5 in the number of compensable hours of work, or a substantial decrease in  
6 business income caused by a reduction in opening hours or consumer  
7 demand), or substantial out-of-pocket medical expenses; and (2) the  
8 decrease in such household or business income or such out-of-pocket  
9 medical expenses was caused by the COVID-19 pandemic, or by any local,  
10 state or federal government (including school districts) response to COVID-  
11 19, and is documented and communicated to the owner in accordance  
12 herewith.

13 B. In order to take advantage of the protections included in  
14 subsection 8.100.030.A., a tenant must do each of the following before the  
15 expiration of the pay-or-quit notice: (1) notify the owner that the tenant will  
16 not be able to make its rental payment (or portion thereof); and (2) provide  
17 documentation supporting and/or evidencing such substantial decrease in  
18 household or business income or out-of-pocket medical expenses.  
19 Notwithstanding the foregoing, a tenant which received a pay-or-quit notice  
20 dated on or after March 4, 2020 but before March 25, 2020 shall provide the  
21 notification and documentation required by this subsection (B) prior to the  
22 final adjudication of the subject eviction proceedings.

23 C. Nothing in this Chapter shall relieve a tenant of the obligation  
24 to pay rent, nor restrict an owner's ability to recover rent due; provided,  
25 however, an owner may not recover late fees which would have otherwise  
26 been applicable to rental payments validly delayed and repaid in accordance  
27 with this Chapter.

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1 8.100.040 Pay-or-Quit Notices.

2 Any pay-or-quit notices dated between March 25, 2020 and May 31,  
3 2020 shall include the following language (or substantially similar): "The City  
4 of Long Beach has declared a state of emergency in response to COVID-19.  
5 If you cannot pay your rent due to a loss of income or medical expenses  
6 resulting from COVID-19, you need to notify [provide owner or agent contact  
7 information] immediately. You may qualify for protections against eviction  
8 and you may have a right to delay your rent payment and to repay such  
9 delayed rent over a six-month period".

10  
11 8.100.050 Grace Period.

12 Tenants which are protected against eviction under this Chapter shall  
13 have until November 30, 2020 to pay all delayed rent (without any associated  
14 late charges); provided, however, that all of such delayed and unpaid rent  
15 shall become immediately payable should a tenant fail to make a regularly  
16 scheduled monthly rental payment after May 31, 2020, and such failure to  
17 make a regularly scheduled payment persists after the expiration of a pay-  
18 or-quit notice applicable thereto.

19  
20 8.100.060 Affirmative Defense.

21 This Chapter may be asserted as an affirmative defense in an unlawful  
22 detainer action.

23  
24 8.100.070 Application.

25 This Chapter shall apply retroactively to March 4, 2020, except to the  
26 extent a tenant has surrendered possession of its premises or an eviction  
27 lawsuit has been finally adjudicated, prior to March 25, 2020.

28

1           8.100.080    Severability.

2                    If any provision of this Chapter is found to be unconstitutional or  
3 otherwise invalid by any court of competent jurisdiction, that invalidity shall  
4 not affect the remaining provisions of this Chapter which can be implemented  
5 without the invalid provisions, and to this end, the provisions of this article are  
6 declared to be severable. The City Council hereby declares that it would  
7 have adopted this Chapter and each provision hereof irrespective of whether  
8 any one or more provisions are found invalid, unconstitutional or otherwise  
9 unenforceable.

10  
11                   Section 2. This ordinance is an emergency ordinance duly adopted by the  
12 City Council by a vote of five of its members and shall take effect at 12:00 a.m. on March  
13 25, 2020. The City Clerk shall certify to a separate roll call and vote on the question of the  
14 emergency of this ordinance and to its passage by the vote of five members of the City  
15 Council of the City of Long Beach, and cause the same to be posted in three conspicuous  
16 places in the City of Long Beach.

17  
18                   Section 3. This ordinance shall also be adopted by the City Council as a  
19 regular ordinance, to the end that in the event of any defect or invalidity in connection with  
20 the adoption of this ordinance as an emergency ordinance, the same shall, nevertheless,  
21 be and become effective on the thirty-first (31st) day after it is approved by the Mayor. The  
22 City Clerk shall certify to the passage of this ordinance by the City Council of the City of  
23 Long Beach and shall cause the same to be posted in three (3) conspicuous places in the  
24 City of Long Beach.

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I hereby certify that on a separate roll call and vote which was taken by the City Council of the City of Long Beach upon the question of emergency of this ordinance at its meeting of March 24, 2020, the ordinance was declared to be an emergency by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Recusal(s): Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I further certify that thereafter, at the same meeting, upon a roll call and vote on adoption of the ordinance, it was adopted by the City Council of the City of Long Beach by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

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\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

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Recusal(s): Councilmembers: \_\_\_\_\_

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I further certify that the foregoing ordinance was thereafter adopted on final reading by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2020, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

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\_\_\_\_\_

Recusal(s): Councilmembers: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor

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