



City Council Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2020-00422

March 24, 2020

Discussion Item 25

Title: Ordinance Amending the Temporary Moratorium on Evicting Tenants to Include Commercial Tenants and Declaring the Ordinance to be an Emergency Measure [Two-Thirds Vote Required] {To be published in its entirety upon adoption} (To Be Delivered)

Location: Citywide

Recommendation: Adopt an Ordinance by two-thirds vote amending Sacramento City Ordinance 2020-0015 to establish a moratorium on evicting commercial tenants suffering business income loss due to the implementation of measures to prevent the spread of COVID-19, and declaring the Ordinance to be an emergency measure to take effect immediately.

Contact: Michael Jasso, Assistant City Manager, (916) 808-1380, Office of the City Manager

Presenter: Michael Jasso, Assistant City Manager, (916) 808-1380, Office of the City Manager

Attachments:

- 1-Description/Analysis
- 2-Ordinance (Redline)
- 3-Ordinance (Clean)

Description/Analysis

Issue Detail: On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 19 ("COVID-19"). On March 5, 2020, the Sacramento County Public Health Officer declared a public health emergency in Sacramento County from COVID-19 and then issued an Order of the County Health Officer to Stay at Home or Place of Residence on March 19, 2020. That order imposes strong restrictions on the activities of persons and the operation of businesses throughout the county. Due to these and other actions from federal, state, and local health officials, there has been an unprecedented disruption of business in the city.

On March 16, 2020, the Governor issued Executive Order N-28-20. The order suspends any state law that would preempt or otherwise restrict the city's exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19.

On March 17, 2020, the city council adopted an emergency measure, Ordinance No. 2020-0015, to temporarily protect against the eviction of *residential* tenants who are suffering income loss as a result of the COVID-19 pandemic.

An amendment to the ordinance is needed to likewise protect *commercial* tenants suffering business disruption and income loss.

Once Executive Order N-28-20 (and any extension) expires, the ordinance would expire, and a tenant would then have to make arrangements with the landlord to pay the back rent owed.

Policy Considerations: The city has been impacted by the health crisis of this global pandemic. Sporting events, concerts, and plays, and conferences have been cancelled. School closures have occurred and may continue. Bars and restaurants have been ordered to only serve food for delivery or pick-up; many other businesses have been determined to be non-essential, and thus ordered to effectively cease operations.

The loss of income caused by the effects of COVID-19 and the public health orders have, and will, impact commercial tenants' ability to pay rent when due, leaving them vulnerable to eviction.

During this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is needed avoid further business closures and job losses.

Economic Impacts: Landlords would still be entitled to collect back rent owed when the Governor's Executive Order N-28-20 expires, but not through an eviction process.

Environmental Considerations: The ordinance regulates eviction of tenants and its adoption is an administrative activity that does not result in a direct or indirect physical change to the environment. Therefore, this action is exempt from environmental review under CEQA per CEQA Guidelines section 15378(b)(5).

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: The City Council needs to act to assist commercial tenants facing eviction because they are unable to pay rent due to income losses caused by the CODIV-19 health emergency. The urgent enactment is needed so that the tenants already suffering from the economic effects of CODIV-19 will benefit from the eviction protection.

Financial Considerations: Not applicable.

Local Business Enterprise (LBE): Not applicable.

ORDINANCE NO. 2020-

Adopted by the Sacramento City Council

AN ORDINANCE AMENDING THE TEMPORARY MORATORIUM ON EVICTING TENANTS TO INCLUDE COMMERCIAL TENANTS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Findings.

The City Council finds and declares as follows:

A. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"). On March 5, 2020, the Sacramento County Public Health Officer declared a public health emergency in Sacramento County due to COVID-19, and on March 19, 2020, issued an Order of the County Health Officer to Stay at Home or Place of Residence, which imposes strong restrictions on the activities of persons and the operation of businesses throughout the county.

B. On March 16, 2020, the Governor issued Executive Order N-28-20. The order suspends any state law that would preempt or otherwise restrict the city's exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19.

C. On March 17, 2020, the city council adopted Sacramento City Ordinance No. 2020-0015, establishing a moratorium on residential evictions due to nonpayment of rent during the COVID-19 emergency.

D. The city has been impacted by the health crisis of this global pandemic. Sporting events, concerts, plays, and conferences have been cancelled. School closures have occurred and may continue. Employees have been advised to work at home. Bars and restaurants have been ordered to only serve food for delivery or pick-up; many other businesses have been determined to be non-essential, and thus ordered to effectively cease operations.

E. The loss of income caused by the effects of COVID-19 and the public health orders have, and will, impact commercial tenants' ability to pay rent when due, leaving them vulnerable to eviction.

F. Providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid further business closures and job losses.

F. During this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted.

G. Nothing in this ordinance waives a tenant's obligations to pay back rent owed once this ordinance is no longer effective.

SECTION 2. Moratorium on tenant evictions due to nonpayment of rent during the COVID-19 emergency.

A. Sacramento City Ordinance No. 2020-0015 is amended as follows:

1. Subsection 2.B is amended to read as follows:

B. This ordinance applies to all residential, ~~but not~~ and commercial, tenants.

2. Subsection 2.D is amended to read as follows:

D. As used in this Section 2: ~~"covered reason for delayed payment" means~~
1. For residential tenants, "covered reason for delayed payment" means a tenant's loss of income due to any of the following: (a) tenant was sick with COVID-19 or caring for a household or family member who is sick with COVID-19; (b) tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19 or the state of emergency; (c) tenant's compliance with a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others during the state of emergency; and (d) tenant's need to miss work to care for a home-bound school-age child.

2. For commercial tenants, "covered reason for delayed payment" means a tenant's loss of income due to the tenant's closure of, operating restrictions placed upon, or other loss of patronage of the tenant's business directly resulting from (i) the state-declared emergency, locally-declared emergency, or county stay-at-home order described in Section 1 of this ordinance; or (ii) any other emergency declarations or orders related to COVID-19.

3. Section 4 of Ordinance 2020-0015 is amended to read as follows:

Tenants who were afforded eviction protection under Section 2 of this ordinance shall have up to 120 days after the expiration of the Governor's Executive Order N-28-20, including any extensions, to pay their landlord all unpaid rent without

any related late fees. During that 120-day period, the protections against eviction found in Section 2 of this ordinance apply for such tenants.

- B. Except as amended by subsection A above, all provisions of Sacramento City Ordinance No. 2020-0015 remain unchanged and in full effect.

SECTION 3. Effective Date.

This ordinance takes effect immediately upon adoption.

SECTION 4. Emergency Declaration.

The city council declares this ordinance to be an emergency measure, to take effect immediately upon adoption pursuant to Sacramento City Charter section 32(g)(2). The facts constituting the emergency are as follows:

The directives and orders from health officials to contain the spread of COVID-19 has resulted in involuntary restrictions and closures, loss of business, furloughs, loss of wages, and lack of work for employees. To protect the public health, safety, and welfare, the city must act to prevent eviction of tenants who are unable to pay rent due to business interruption and income losses caused by the effects of COVID-19. An emergency measure is necessary to protect tenants from eviction for a temporary period.

ORDINANCE NO. 2020-

Adopted by the Sacramento City Council

AN ORDINANCE AMENDING THE TEMPORARY MORATORIUM ON EVICTING TENANTS TO INCLUDE COMMERCIAL TENANTS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

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C. On March 17, 2020, the city council adopted Sacramento City Ordinance No. 2020-0015, establishing a moratorium on residential evictions due to nonpayment of rent during the COVID-19 emergency.

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1. Subsection 2.B is amended to read as follows:

B. This ordinance applies to all residential and commercial tenants.

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D. As used in this Section 2:

1. For residential tenants, "covered reason for delayed payment" means a tenant's loss of income due to any of the following: (a) tenant was sick with COVID-19 or caring for a household or family member who is sick with COVID-19; (b) tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19 or the state of emergency; (c) tenant's compliance with a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others during the state of emergency; and (d) tenant's need to miss work to care for a home-bound school-age child.

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