ORDINANCE NO. 3159

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL TENANTS, COMMERCIAL TENANTS, AND STORAGE UNIT PATRONS EXPERIENCING LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC.

WHEREAS, the City of Ontario, California ("City") is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, Article XI, section 7 of the California Constitution grants the City broad discretionary power to "make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws"; and

WHEREAS, Executive Order N-28-20, issued by Governor Newsom on March 16, 2020, suspends any provision of state law that would preempt or otherwise restrict the City's exercise of its police powers to impose limitations on evictions based on nonpayment of rent arising out of a substantial decrease in household or business income caused by the Coronavirus Disease 2019 (COVID-19) pandemic; and

WHEREAS, Executive Order N-37-20, issued by Governor Newsom on March 27, 2020 amends, supplements and extends the protections afforded by Executive Order N-28-20 related to evictions and foreclosures due to COVID-19 caused nonpayment of rent and/or mortgage payments; and

WHEREAS, City of Ontario Ordinance No. 2990 empowers the City Manager, acting as the Director of Emergency Services, to proclaim the existence or threatened existence of a local emergency when the City is affected or likely affected by a public calamity and the City Council is not in session; and

WHEREAS, the City Manager exercised his right as Director of Emergency Services to proclaim a local emergency on March 14, 2020; and

WHEREAS, the Ontario City Council ratified the proclamation by a unanimous vote of the four Council Members in attendance at the March 17, 2020 meeting of the Ontario City Council; and

WHEREAS, the declaration of a statewide "stay at home" order by Governor Newsom via Executive Order N-33-20 on March 19, 2020, has required the closure of businesses within "non-essential" industries, and has led to severe economic impacts across the state, including the lay off or a reduction in income for many California residents; and

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

WHEREAS, there is existing evidence that COVID-19 is active in the State of California, and the City of Ontario; 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 housing, business and storage displacement to protect the City's affordable housing stock, to prevent housed individuals from falling into homelessness, to prevent the displacement and closure of local and small businesses, and to prevent the displacement of stored items during the statewide "stay at home" order issued by the Governor; 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, and safety; and

WHEREAS, the City Council finds and determines eviction of residential tenants, commercial tenants and storage unit patrons must be regulated in order to protect the public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The recitals set forth above are true and correct and are hereby adopted as findings in support of this Urgency Ordinance as if fully set forth herein.

In accordance with California Government Code, Section 36937 and in order to protect the public health, safety and welfare, the City Council also makes the following findings in support of the urgent nature of this Ordinance:

- A. The City Council finds that this Urgency Ordinance is enacted in order to protect the public health, safety and welfare by adopting regulations that mitigate existing and ongoing impacts and threats to the public peace, health, and safety that would be caused by residential tenants, commercial tenants and storage unit patrons being displaced in this time of public health emergency; and
- B. The City Council further finds that the regulations contained in this Urgency Ordinance are reasonable and beneficial and assure that a lawful regulatory program is in place immediately to address the immediate threats to the public peace, health and safety.
- <u>SECTION 2.</u> <u>Temporary Moratorium on Evictions</u>. A temporary moratorium on eviction for non-payment of rent by residential tenants, commercial tenants and storage unit patrons impacted by the COVID-19 crisis is imposed as follows:
- A. Until the period of local emergency proclaimed in response to COVID-19 concludes, no landlord shall endeavor to evict a residential tenant, commercial tenant or storage unit patron, in accordance with this Urgency Ordinance, if the tenant or patron

demonstrates that the inability to pay rent or fees is due to COVID-19, the state of emergency regarding COVID-19, or following government recommended COVID-19 precautions. To take advantage of the protections afforded under this subsection A, a tenant or patron must satisfy all of the following requirements:

- 1. Prior to the date of this Order, the tenant/patron paid rent due to the landlord or storage unit operator pursuant to an agreement.
- 2. The tenant/patron notifies the landlord or storage unit operator in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant/patron needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:
- (a) The tenant/patron was unavailable to work because the tenant/patron was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;
- (b) The tenant/patron experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or
- (c) The tenant/patron needed to miss work to care for a child whose school was closed in response to COVID-19.
- 3. The tenant/patron retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant/patron's changed financial circumstances, to support the tenant/patron's assertion of an inability to pay. This documentation may be provided to the landlord or storage unit operator no later than the time of payment of back-due rent.
- B. If a residential or commercial tenant complies with the requirements of subsection A, a landlord shall not do any of the following:
- 1. Initiate a cause of action for judicial foreclosure pursuant to Code of Civil Procedure Section 725a et seq.;
- 2. Initiate a cause of action for unlawful detainer pursuant to Code of Civil Procedure Section 1161 et seq.;
- 3. Initiate any other statutory cause of action that could be used to evict or otherwise eject a tenant or occupant of real property;
- 4. Serve a notice to terminate tenancy pursuant to Code of Civil Procedure Section 1161 et seq, to evict for nonpayment of rent; or
 - 5. Otherwise seek to evict for nonpayment of rent.

- C. If a storage unit patron complies with the requirements of subsection A, a storage unit operator shall not do any of the following:
- 1. Prevent a storage unit patron from accessing their stored items during the normal hours of operation of the storage unit facility; or
- Send to the storage unit patron a Notice of Lien Sale pursuant to Business and Professions Code, Division 8, Chapter 10, or any other applicable statute regulating storage unit operators.
- 3. Conduct a Lien Sale pursuant to Business and Professions Code, Division 8, Chapter 10, or any other applicable statute regulating storage unit operators.
- D. 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.
- E. Nothing in this Urgency Ordinance shall relieve a commercial tenant from timely paying for electricity, water, sewer, garbage, HVAC, property tax, or other common area maintenance fees and/or charges that are required pursuant to a valid lease. Any modification of these as to the payment of the fees and changes is at the discretion of the parties to the valid lease.
- F. Nothing in this Urgency Ordinance shall relieve a tenant/patron of liability for unpaid rent or storage fees, which the landlord/operator may seek after expiration of the local emergency and the tenant/patron must pay within six months of the expiration of the local emergency. Six months after the end of the emergency if the rent or storage fees are unpaid, a landlord/operator may charge or collect a late fee for rent/fees that is delayed for the reasons stated in this Urgency Ordinance; or a landlord/operator may seek rent or storage fees that is delayed for the reasons stated in this Urgency Ordinance through the eviction or other appropriate legal process.
- G. This Urgency Ordinance applies to evictions and unlawful detainer actions served or filed on or after the date of adoption of this Urgency Ordinance.

SECTION 3. Violations

- A. Violation of this Urgency Ordinance shall be punishable as a misdemeanor as set forth in Chapter 1-2.01(c) of the Ontario Municipal Code. Nothing in this Urgency Ordinance shall be construed to diminish or supersede the provisions of Penal Code Section 396.
- B. This Urgency Ordinance grants a defense to a tenant/patron in the event that an unlawful detainer or other legal action is commenced in violation of this Urgency Ordinance.

<u>SECTION 4</u>. <u>Term</u>. This Urgency Ordinance shall remain in effect for the period of local emergency declared in response to COVID-19 within the City.

<u>SECTION 5</u>. <u>Effective Date</u>. This Urgency Ordinance was adopted by the necessary four-fifths vote of the members of the City Council pursuant to California Government Code Sections 36934 and 36937(b), and shall take effect immediately upon passage.

<u>SECTION 6</u>. Uncodified. This Urgency Ordinance shall not be codified.

SECTION 7. Severability. If any section, sentence, clause or phrase of this Urgency Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Urgency Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Urgency Ordinance are severable. The City Council of the City of Ontario hereby declares that it would have adopted this Urgency Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 8. 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 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 9. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a copy thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 7th day of April 2020.

PAUL'S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

COLE HUBER LLP CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Urgency Ordinance No. 3159 was duly introduced and adopted at the regular meeting of the City Council of the City of Ontario held on the 7th day of April 2020, by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS: LEON, DORST-PORADA, WAPNER,

BOWMAN AND VALENCIA

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Urgency Ordinance No. 3159 duly passed and adopted by the Ontario City Council at their regular meeting held April 7, 2020 and the entire Ordinance was published on April 14, 2020 in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

Inland Valley Daily Bulletin

(formerly The Daily Report) 9616 Archibald Avenue Suite 100 Rancho Cucamonga, CA 91730 909-987-6397 legals@inlandnewspapers.com

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ONTARIO CITY OF-LEGAL ATTN: CITY CLERKS OFFICE 303 EAST B STREET ONTARIO, CA 91764

FILE NO. Ord. NO 3159

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of San Bernardino

I am a citizen of the United States, I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of INLAND VALLEY DAILY BULLETIN, a newspaper of general circulation printed and published daily for the City of Ontario, County of San Bernardino, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Bernardino, State of California, on the date of August 24, 1951, Case Number 70663. The notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

04/14/2020

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at Rancho Cucamonga, San Bernardino Co., California, on this 14th day of April, 2020.

Evenglin almide

Signature

(Space below for use of County Clerk Only)

Legal No.

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ORDINANCE NO. 3159

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL TENANTS, COMMERCIAL TENANTS, AND STORAGE UNIT PATRONS EXPERIENCING LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC.

WHEREAS, the City of Ontario, California ("City") is a municipal corporation, duly organized under the Ca Constitution and laws of the State of California; and

WHEREAS, Article XI, section 7 of the California Constitution grants the City broad discretionary power to "make and within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws"; and

WHEREAS, Executive Order N-28-20, issued by Governor Newsom on March 16, 2020, suspends any provision of state I would preempt or otherwise restrict the City's exercise of its police powers to impose limitations on evictions by nonpayment of rent arising out of a substantial decrease in household or business income caused by the Coronavirus Diser (COVID-19) pandemic; and

WHEREAS, Executive Order N-37-20, issued by Governor Newsom on March 27, 2020 amends, supplements and exte protections afforded by Executive Order N-28-20 related to evictions and foreclosures due to COVID-19 caused nonpays rent and/or mortgage payments; and

WHEREAS, City of Ontario Ordinance No. 2990 empowers the City Manager, acting as the Director of Emergency Serv proclaim the existence or threatened existence of a local emergency when the City is affected or likely affected by a calamity and the City Council is not in session; and

WHEREAS, the City Manager exercised his right as Director of Emergency Services to proclaim a local emergency or 14, 2020; and

WHEREAS, the Ontario City Council ratified the proclamation by a unanimous vote of the four Council Members in atte at the March 17, 2020 meeting of the Ontario City Council; and

WHEREAS, the declaration of a statewide "stay at home" order by Governor Newsom via Executive Order N-33-20 on 19, 2020, has required the closure of businesses within "non-essential" industries, and has led to severe economic impacts the state, including the lay off or a reduction in income for many California residents; and

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

WHEREAS, there is existing evidence that COVID-19 is active in the State of California, and the City of Ontario; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmi-COVID-19, it is essential to avoid unnecessary housing, business and storage displacement to protect the City's aff housing stock, to prevent housed individuals from falling into homelessness, to prevent the displacement and closure of is small businesses, and to prevent the displacement of stored items during the statewide "stay at home" order issued Governor; and

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

WHEREAS, the City Council finds and determines eviction of residential tenants, commercial tenants and stora patrons must be regulated in order to protect the public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The recitals set forth above are true and correct and are hereby adopted as findings in support of this Undinance as if fully set forth herein.

In accordance with California Government Code, Section 36937 and in order to protect the public health, safety and welf-City Council also makes the following findings in support of the urgent nature of this Ordinance:

A. The City Council finds that this Urgency Ordinance is enacted in order to protect the public health, safety and by adopting regulations that mitigate existing and ongoing impacts and threats to the public peace, health, and safety the be caused by residential tenants, commercial tenants and storage unit patrons being displaced in this time of public emergency; and

B. The City Council further finds that the regulations contained in this Urgency Ordinance are reasonable and be and assure that a lawful regulatory program is in place immediately to address the immediate threats to the public peace and safety.

SECTION 2. Temporary Moratorium on Evictions. A temporary moratorium on eviction for non-payment of residential tenants, commercial tenants and storage unit patrons impacted by the COVID-19 crisis is imposed as follows:

A. Until the period of local emergency proclaimed in response to COVID-19 concludes, no landlord shall endeavor to residential tenant, commercial tenant or storage unit patron, in accordance with this Urgency Ordinance, if the tenant or demonstrates that the inability to pay rent or fees is due to COVID-19, the state of emergency regarding COVID-19, or for government recommended COVID-19 precautions. To take advantage of the protections afforded under this subsection tenant or patron must satisfy all of the following requirements:

 Prior to the date of this Order, the tenant/patron paid rent due to the landlord or storage unit of pursuant to an agreement.

The tenant/patron notifies the landlord or storage unit operator in writing before the rent is due, or v
reasonable period of time afterwards not to exceed 7 days, that the tenant/patron needs to delay all or some payment
because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:

(a) The tenant/patron was unavailable to work because the tenant/patron was sick with a suspected or care of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID 19;

(b) The tenant/patron experienced a lay-off, loss of hours, or other income reduction resulting from COVIC state of emergency, or related government response; or

(c) The tenant/patron needed to miss work to care for a child whose school was closed in response to COVID-1

3. The tenant/patron retains verifiable documentation, such as termination notices, payroll checks, paybank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant/changed financial circumstances, to support the tenant/patron's assertion of an inability to pay. This documentation

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- If a residential or commercial tenant complies with the requirements of subsection A, a landlord shall not do an following:
 - 1. Initiate a cause of action for judicial foreclosure pursuant to Code of Civil Procedure Section 725a et seq.;
 - 2. Initiate a cause of action for unlawful detainer pursuant to Code of Civil Procedure Section 1161 et sea.;
- Initiate any other statutory cause of action that could be used to evict or otherwise eject a tenant or or of real property;
- 4. Serve a notice to terminate tenancy pursuant to Code of Civil Procedure Section 1161 et seq. to e nonpayment of rent; or
 - 5. Otherwise seek to evict for nonpayment of rent.
- If a storage unit patron complies with the requirements of subsection A, a storage unit operator shall not do an following:
- Prevent a storage unit patron from accessing their stored items during the normal hours of operation storage unit facility; or
- Send to the storage unit patron a Notice of Lien Sale pursuant to Business and Professions Code, Div Chapter 10, or any other applicable statute regulating storage unit operators.
- Conduct a Lien Sale pursuant to Business and Professions Code, Division 8, Chapter 10, or any other api statute regulating storage unit operators.
- D. For purposes of this Urgency Ordinance, "in writing" includes email or text communications to a landlord landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or fi information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.
- E. Nothing in this Urgency Ordinance shall relieve a commercial tenant from timely paying for electricity, water, garbage, HVAC, property tax, or other common area maintenance fees and/or charges that are required pursuant to lease. Any modification of these as to the payment of the fees and changes is at the discretion of the parties to the valid lease.
- F. Nothing in this Urgency Ordinance shall relieve a tenant/patron of liability for unpaid rent or storage fees, whele landlord/operator may seek after expiration of the local emergency and the tenant/patron must pay within six months expiration of the local emergency. Six months after the end of the emergency if the rent or storage fees are unlandlord/operator may charge or collect a late fee for rent/fees that is delayed for the reasons stated in this Urgency Ord or a landlord/operator may seek rent or storage fees that is delayed for the reasons stated in this Urgency Ordinance thro eviction or other appropriate legal process.
- G. This Urgency Ordinance applies to evictions and unlawful detainer actions served or filed on or after the adoption of this Urgency Ordinance.

SECTION 3. Violations

- A. Violation of this Urgency Ordinance shall be punishable as a misdemeanor as set forth in Chapter 1-2.01(c) Ontario Municipal Code. Nothing in this Urgency Ordinance shall be construed to diminish or supersede the provisions of the provisions of the provision of the provis
- B. This Urgency Ordinance grants a defense to a tenant/patron in the event that an unlawful detainer or other lega is commenced in violation of this Urgency Ordinance.
- Term. This Urgency Ordinance shall remain in effect for the period of local emergency declared in rest COVID-19 within the City.
- SECTION 5. Effective Date. This Urgency Ordinance was adopted by the necessary four-fifths vote of the member City Council pursuant to California Government Code Sections 36934 and 36937(b), and shall take effect immediately passage.

SECTION 6. Uncodified. This Urgency Ordinance shall not be codified.

- SECTION 7. Severability. If any section, sentence, clause or phrase of this Urgency Ordinance or the application th any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutional shall not affect other provisions or applications of this Urgency Ordinance which can be given effect without the invalid programment of this end the provisions of this Urgency Ordinance are severable. The City Council of the City of hereby declares that it would have adopted this Urgency Ordinance and each section, sentence, clause or phrase irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared in the provision of the council of the co unconstitutional.
- SECTION 8. This Urgency Ordinance is exempt from the requirements of the California Environmental Qual ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or real foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a). Further, this Ordinance is exem CEQA as there is no possibility that this Ordinance or its implementation would have a significant negative effect environment. 14 Cal. Code Regs. § 15061(b)(3).
- SECTION 9. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a copy thereof to be puwithin fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and aga same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 7th day of April 2020.

I, VICKI KASAD, Assistant City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Urgency Ordinance I was duly introduced and adopted at the regular meeting of the City Council of the City of Ontario held on the 7th day of Ap by the following roll call vote, to wit:

LEON, DORST PORADA, WAPNER, BOWMAN AND VALENCIA AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS: NONE ABSENT: NONE COUNCIL MEMBERS:

Dated: April 7, 2020

s/VICKI KASAD, MMC, ASSISTANT CITY CLERK

Publish: Inland Valley Daily Bulletin

April 14, 2020

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