ORDINANCE NO. 20-011

AN URGENCY ORDINANCE OF THE CITY OF PACIFIC GROVE ESTABLISHING A MORATORIUM ON EVICTIONS

Findings

1. 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 6, 2020, the Monterey County Public Health Officer declared a public health emergency in Monterey County due to COVID-19. Directives from federal, state, and local health officials have advised residents to avoid public gatherings and stay at home to prevent the spread of this disease.
2. 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.
3. On March 17, 2020, the Monterey County Public Health Officer issued a "Shelter in Place" Order.
4. Many tenants have experienced sudden income loss, and further income impacts are anticipated. The loss of wages and business income caused by the effects of COVID-19 may impact tenants' ability to pay rent when due, leaving tenants vulnerable to eviction.
5. Providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population and stabilize the rental housing and commercial property market.
6. During this state of emergency, and in the interests of protecting the public health and welfare and preventing transmission of COVID-19, 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.
7. Nothing in this ordinance waives a tenant's obligations to pay rent that is owed once this ordinance is no longer effective.
8. Article 15 of the Pacific Grove City Charter enables the Council to enact an urgency ordinance when the measure is needed by an emergency to preserve the public peace, health, safety or public welfare.
9. Enactment of a moratorium on evictions does not constitute a "Project" as that term is defined under the California Environmental Quality Act (CEQA), CEQA Guideline Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in section 15378). Furthermore, the City Council finds there is no possibility that adoption of this moratorium could have a significant effect on the environment; therefore, no further environmental review is necessary in accordance with Section 15061(b)(3) of the CEQA Guidelines.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings.
The foregoing Findings are adopted as an integral part of this ordinance as if set forth in full.

SECTION 2. Declaration of Urgency.
The City Council declares this ordinance to be an urgency measure, to take effect immediately upon adoption pursuant to Pacific Grove Charter Article 15. The facts constituting the urgency are as follows:

> The directives from health officials to contain the spread of COVID-19 have resulted in loss of business, furloughs, loss of wages, and lack of work for many 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 wage and business income losses caused by the effects of COVID-19. An emergency measure is necessary to protect tenants from eviction for a temporary period.

SECTION 3. Moratorium on Evictions Due to Nonpayment of Rent During the COVID-19 Emergency.

A. No landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the inability to pay rent is due to (i) the Coronavirus Disease 2019 (COVID-19), (ii) the state of emergency regarding COVID-19, or (iii) following government-recommended COVID-19 precautions.
B. As used in this Section, "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.
    e. Tenant's compliance with an order from a government agency to cease business operation due to COVID-19.
C. To take advantage of the protections afforded under this ordinance, a tenant must do all the following:
    a. Notify the landlord in writing when rent is due that the tenant has a covered reason for delayed payment;
    b. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment;
    c. Pay the portion of rent that the tenant is able to pay; and

a. Notify the landlord in writing when rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant has a covered reason for delayed payment;
b. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment no later than the time upon payment of back-due rent; and
c. Pay the portion of rent that the tenant is able to pay.

D. If a tenant complies with the requirements of this ordinance, the deadline specified in Code of Civil Procedure section 1167 shall be extended for a period of 60 days for any tenant who is served with a complaint that seeks to evict a tenant for nonpayment of rent.
E. This ordinance applies to all tenants.
F. Nothing in this ordinance relieves the tenant of liability for the unpaid rent during or following expiration of this ordinance.
G. This ordinance shall be liberally construed to provide the broadest possible protection to the general welfare.

SECTION 4. Effective Date.
This ordinance shall take immediate effect upon adoption by five-sevenths (5/7ths) vote of the City Council and shall remain in effect the expiration of Governor's Executive Order N-28-20, May 31, 2020, unless otherwise terminated or extended ("Expiration Date").

SECTION 5. Severability.
If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 6. Enforcement
Violations may be prosecuted pursuant to Chapter 1.16 PGMC or enforced pursuant to Chapter 1.19 PGMC. Failure to comply with this Ordinance may result in the assessment of administrative fines.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 1st day of April, 2020, by the following vote:

AYES: Mayor Peake, Mayor Pro Tem Huitt, Councilmembers Amelio, Garfield, Smith and Tomlinson.

NOES: None.

ABSENT: Councilmember McAdams.

APPROVED:

Bill Peake

BILL PEAKE, MAYOR

ATTEST:
DATED: 4/13/2020

Sandra Kandell

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney