ORDINANCE NO. 2908

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY OF REDLANDS
ENACTING A TEMPORARY MORATORIUM ON RESIDENTIAL AND
COMMERCIAL EVICTIONS DUE TO NONPAYMENT OF RENT BY
TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM
INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-
19), AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

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 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 March 10, 2020, the Board of Supervisors for the county of San Bernardino
and the Department of Public Health declared a local emergency and local public health emergency
to aid the regional healthcare and governmental community in responding to COVID-19; 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 in preventing the spread of and addressing the
effects of COVID-19; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued his
Executive Order N-28-20 (a copy of which is attached hereto as “Exhibit “A”), pursuant to his
emergency powers under Government Code Sections 8567 and 8571, that suspended any provision of
state law that would preempt or otherwise restrict the City’s exercise of its police power to
impose substantive limitations on residential and commercial evictions or nonpayment of rent
arising out of a decrease in household or business income caused by the COVID-19 pandemic; and

WHEREAS, On March 17, 2020, this City Council proclaimed the existence of a local
emergency to ensure the availability of mutual aid and an effective the City's response to the
COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of
Health, and the San Bernardino County Department of Public Health 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 of the date of this ordinance and in order to prevent further exposure, many businesses have imposed work from home policies; meetings, events and social gatherings are being cancelled as people remain at homes; customers are not patronizing restaurants and stores or hiring domestic help or travelling. With more businesses moving towards working from home, less of the workforce will be patronizing restaurants, hotels and other retail establishments that employ hourly workers, which is expected to lead to hourly cutbacks and potentially employee terminations; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residential and commercial tenants in Redlands have experienced, or expect soon to experience, sudden and unexpected income loss; 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, most, if not all, local schools are closed to prevent further spread of COVID-19 which will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid; and

WHEREAS, hourly wage earners are unlikely to be paid for time off, and the inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home; and

WHEREAS, the situation is unprecedented and evolving rapidly, and further economic impacts are anticipated leaving tenants vulnerable to eviction; and

WHEREAS, this ordinance is temporary in nature and only intended to promote stability and fairness within the rental market in the City pursuant to the Governor’s Executive Order N-28-20 and during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness and loss of businesses, thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes and businesses; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to adopt this ordinance related to the protection of life and property, to ensure renters can remain in their homes, and businesses, and prevent proliferation of homelessness and economic state, and further spread of COVID-19. Displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close. During the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have
little or no income and thus be unable to secure other housing if evicted; and

WHEREAS, people experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care, and the Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19; and

WHEREAS, widespread evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency, and increase the risk of spread of COVID-19; and

WHEREAS, the City desires to prohibit evictions due to nonpayment of rent where the failure to pay rent results from income loss resulting from COVID-19; and

WHEREAS, this ordinance is adopted pursuant to the City's police powers and powers afforded to the City in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law, and Chapter 2.52 of the Redlands Municipal Code, to protect the peace, health, and safety of the public. The City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living and conducting business within the City and finds urgency to approve this ordinance immediately based on the facts described herein, and detailed in the staff report. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of life and property;

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOW:

Section 1. Temporary Moratorium on Evictions for Non-Payment of Rent by Tenants Impacted by the COVID-19 Crisis.

A. During the period from the effective date of this ordinance through and including May 31, 2020, no landlord shall endeavor to evict a residential or commercial tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 and otherwise complies with the provisions of this ordinance.

B. 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 CCP 1161(2), file or prosecute an unlawful detainer action based on a three (3)-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this ordinance if the tenant, within thirty (30) days after the date that rent is due, or with thirty (30) days after the effective date of this ordinance if paid rent is due and upcoming, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this 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.
C. For purposes of this ordinance, "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following: (i) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (ii) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (iii) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (iv) extraordinary out-of-pocket medical expenses; or (v) child care needs arising from school closures related to COVID-19.

D. This ordinance applies to nonpayment 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.

E. Violation of this ordinance shall be punishable as set forth in Chapter 2.52 of the Redlands Municipal Code. In addition, this ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this ordinance.

F. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of this ordinance. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed or the reasons stated in this ordinance through the eviction process.

G. No other legal remedies available to landlord are affected by this ordinance.

H. This ordinance shall remain in effect until May 31, 2020. Notwithstanding the foregoing, the effectiveness of this ordinance shall be suspended in the event that the President of the United States, Congress, Governor of the State of California, or California State Legislature adopts an order or legislation that similarly prohibits evictions for failure to pay rent by individuals impacted by the COVID-19 crisis.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this ordinance.

Section 3. Environmental Review. The City Council finds that adoption and implementation of this ordinance is not a "project" for purposes of the California Environmental Quality Act ("CEQA"), as that term is defined by CEQA Guidelines sections 15061 (b)(3), and 15378(b)(5). No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Redlands, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

Section 4. Urgency Declaration; Effective Date. This City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation
and protection of the public peace, health and safety as detailed above, as the City and public
would suffer potentially irreversible displacement of tenants resulting from evictions for failure to
pay rent during the COVID-19 crisis. 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 and business displacement, to protect the City’s affordable housing stock, and to prevent
housed individuals from falling into homelessness. Loss of income as a result of COVID-19 may
inhibit City residents and businesses from fulfilling their financial obligations, including payment
of rent. Under Government Code section 8634, this ordinance is necessary to provide for the
protection of life and property for the reasons set out herein. This City Council therefore finds and
determines that the immediate preservation of the public peace, health and safety, and protection
of life and property, require that this ordinance be enacted as an urgency ordinance pursuant to
Government Code section 36937 and take effect immediately upon adoption by four-fifths of the
City Council.

Section 5. The Mayor shall sign this ordinance and the City Clerk shall certify to the
adoption of this ordinance and shall cause it, or a summary of it, to be published once in the
Redlands Daily Facts, a newspaper of general circulation within the City and thereafter this
ordinance shall take effect as provided by law.

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Paul W. Foster, Mayor

ATTEST:

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Jeanne Donaldson, City Clerk

I, Jeanne Donaldson, City Clerk of the City of Redlands, hereby certify that the foregoing
ordinance was duly adopted by the City Council at a regular meeting thereof held on the 26th day
of March, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

____________________________
Jeanne Donaldson, City Clerk
EXECUTIVE ORDER N-28-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS the economic impacts of COVID-19 have been significant, and could threaten to undermine Californians’ housing security and the stability of California businesses; and

WHEREAS many Californians are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with their rents, mortgages, and utility bills; and

WHEREAS Californians who are most vulnerable to COVID-19, those 65 years and older, and those with underlying health issues, are advised to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19; and

WHEREAS because homelessness can exacerbate vulnerability to COVID-19, California must take measures to preserve and increase housing security for Californians to protect public health; and

WHEREAS local jurisdictions, based on their particular needs, may therefore determine that additional measures to promote housing security and stability are necessary to protect public health or to mitigate the economic impacts of COVID-19; and

WHEREAS local jurisdictions may also determine, based on their particular needs, that promoting stability amongst commercial tenancies is also conducive to public health, such as by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures, or to mitigate the economic impacts of COVID-19; and

WHEREAS in addition to these public health benefits, state and local policies to promote social distancing, self-quarantine, and self-isolation require that people be able to access basic utilities—including water, gas, electricity, and telecommunications—at their homes, so that Californians can work from home, receive public health information, and otherwise adhere to policies of social distancing, self-quarantine, and self-isolation, if needed; and
WHEREAS many utility providers, public and private, covering electricity, gas, water, and sewer, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19; and

WHEREAS many telecommunication companies, including internet and cell phone providers, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19;

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) The time limitation set forth in Penal Code section 396, subdivision (f), concerning protections against residential eviction, is hereby waived. Those protections shall be in effect through May 31, 2020.

2) Any 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 as described in subparagraphs (i) and (ii) below—including, but not limited to, any such provision of Civil Code sections 1940 et seq., or 1954.25 et seq.—is hereby suspended to the extent that it would preempt or otherwise restrict such exercise. This paragraph 2 shall only apply to the imposition of limitations on evictions when:

   (i) The basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses; and

   (ii) The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

The statutory cause of action for judicial foreclosure, Code of Civil Procedure section 725a et seq.; the statutory cause of action for unlawful detainer, Code of Civil Procedure section 1161 et seq., and any other statutory cause of action that could be used to evict or otherwise eject a residential or commercial tenant or occupant of residential real property after foreclosure is suspended only as applied to any tenancy, or residential real property and any
occupation thereof, to which a local government has imposed a limitation on eviction pursuant to this paragraph 2, and only to the extent of the limitation imposed by the local government.

Nothing in this Order shall relieve a tenant of the obligation to pay rent, nor restrict a landlord’s ability to recover rent due.

The protections in this paragraph 2 shall be in effect through May 31, 2020, unless extended.

3) All public housing authorities are requested to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the housing authority.

4) The Department of Business Oversight, in consultation with the Business, Consumer Services, and Housing Agency, shall engage with financial institutions to identify tools to be used to afford Californians relief from the threat of residential foreclosure and displacement, and to otherwise promote housing security and stability during this state of emergency, in furtherance of the objectives of this Order.

5) Financial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.

6) The California Public Utilities Commission is requested to monitor measures undertaken by public and private utility providers to implement customer service protections for critical utilities, including but not limited to electric, gas, water, internet, landline telephone, and cell phone service, in response to COVID-19, and on a weekly basis publicly report these measures.

Nothing in this Order shall be construed to invalidate any limitation on eviction enacted by a local jurisdiction between March 4, 2020 and this date.

Nothing in this Order shall in any way restrict state or local authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential real property.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.
I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of March 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State