



## Staff Report

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**File #:** TMP-1375, **Version:** 1

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**MEETING DATE:**

May 12, 2020

**SUBJECT:**

ORDINANCE NO. 2020-1486 - AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, EXTENDING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL AND COMMERCIAL TENANTS IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19), AND MODIFYING A TERM THEREOF

**Recommendation**

ADOPT Ordinance No. 2020-1486, an urgency ordinance extending the temporary moratorium on evictions due to nonpayment of rent for residential and commercial tenants impacted by the novel coronavirus (COVID-19), as revised.

**Board or Commission Action**

Not Applicable

**Relevant Council Strategic Theme (If not applicable, please state not applicable below)**

Good Governance

**Relevant Department Goal**

Not Applicable

**Executive Summary**

The proposed ordinance extends the temporary moratorium enacted by the City Council on March 24, 2020 on evictions due to nonpayment of rent for residential and commercial tenants impacted by COVID-19 from May 31 to June 30, 2020.

The existing temporary moratorium provides that tenants must notify their landlords within 30-days after their rent is due. That deadline has been modified in the proposed extension ordinance to conform to the seven (7) day time period set forth in Executive Order N-37-20. If the extension is adopted as proposed, from and after the date of the extension ordinance, a tenant will be required to notify the landlord in writing within seven (7) days after rent is due of lost income and inability to pay full rent due to financial impacts related to COVID-19 and provide documentation to support the claim.

After a tenant satisfies the requirements of the proposed ordinance, their landlord is precluded from initiating or pursuing an eviction action against the tenant during the term of the moratorium. The ordinance does not relieve a tenant of the obligation to pay rent or restrict a landlord's ability to recover rent due. Any unpaid rent and any late fees provided for in an underlying rental agreement will be deferred until after June 30, 2020.

## **Discussion**

COVID-19 has rapidly spread throughout California and San Diego County, causing peril to the health, safety, and welfare of the residents of San Marcos. On March 4, 2020, Governor Newsom declared a State of Emergency in California due to the threat of COVID-19. On March 20, 2020, the San Marcos City Council ratified the Director of Emergency Services' proclamation declaring the existence of an ongoing local emergency pursuant to COVID-19.

In response to the COVID-19 pandemic, both the State and the County have issued stringent "stay at home" orders to curb the spread of COVID-19. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, which closed all non-essential services and business and ordered the public to stay at home to prevent the spread of COVID-19. Similarly, on April 10, 2020, the County issued a "stay at home" order that: (1) requires that all individuals remain at their place of residence, except for employees or customers travelling to and from essential businesses or activities; (2) prohibits all public or private gatherings; (3) closes all non-essential businesses; and (4) prohibits all schools from holding classes or school activities. On April 30, 2020, the County Health Officer extended the County's "stay at home" order indefinitely.

The COVID-19 pandemic and the measures taken by the State and County to address it have caused, and will continue to cause, significant economic hardship to the residents of San Marcos, undermining San Marcos' housing security and the stability of San Marcos' businesses. Many tenants in San Marcos are experiencing or will soon experience substantial loss of income due to business and school closures, the loss of hours or wages, or layoffs related to COVID-19, leaving the tenants vulnerable to eviction.

On March 24, 2020, the City Council enacted a temporary moratorium on evictions due to nonpayment of rent for residential and commercial tenants impacted by COVID-19 ("Temporary Moratorium"). Staff brings the proposed urgency measure forward to extend the Temporary Moratorium on certain evictions to promote housing stability and mitigate the economic impacts of the COVID-19 pandemic. The existing Temporary Moratorium is set to expire at the close of business on May 31, 2020.

Governor Newsom has issued two Executive Orders relating to evictions. On March 16, 2020, Governor Newsom issued Executive Order N-28-20, which provides that local jurisdictions may impose substantial limitations on residential and commercial evictions when the basis for eviction is nonpayment of rent due to the economic impact caused by the COVID-19 pandemic.

On March 27, 2020, Governor Newsom issued Executive Order N-37-20. When triggered, Executive Order N-37-20 extends the time in which tenants may respond to an eviction action for a period of 60 days if they are served while the Order is in effect and prohibits the enforcement of any writ for eviction during that period of time. Executive Order N-37-20 is effective until May 31, 2020, unless extended. The attached ordinance is intended to supplement, but not contradict, applicable federal and state law, including Executive Orders Numbered. N-28-20 and N-37-20.

It should be noted that the ordinance does not impose a specific time period within which tenants are required to pay any accrued rent or late fees imposed by an underlying rental agreement. Jurisdictions which have set specific payback periods have adopted a range of time periods, from 90-days to 12 months. Rather than have

the City impose one structure for every housing circumstance, it is recommended that tenants and landlords negotiate mutually acceptable repayment arrangements. The proposed urgency ordinance would remain in effect until June 30, 2020, unless further extended by the City Council.

Government Code sections 36934 and 36937 empower the City Council to adopt an urgency ordinance that becomes immediately effective if the ordinance is proposed in the interest of health and safety. During this local emergency, and in the interest of protecting public health and safety and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, protect the affordable housing stock in San Marcos, prevent housed individuals from falling into homelessness, and protect local businesses.

The proposed urgency ordinance requires a 4/5 vote of the City Council to pass.

### **Environmental Review**

The proposed Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA). It is recommended that the Council determine that this is not a project as defined in Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. Even if the proposed Ordinance were to be considered a project subject to CEQA, it would be exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the proposed Ordinance would have a significant effect on the environment.

### **Fiscal Impact**

Potential enforcement costs are unknown at this point.

### **Attachment(s)**

1. AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, EXTENDING THE TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR COMMERCIAL AND RESIDENTIAL TENANTS IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19), AND MODIFYING A TERM THEREOF
2. March 24, 2020 Eviction Moratorium Ordinance: ORDINANCE NO. 2020-1485, AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL AND COMMERCIAL TENANTS IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19)
3. Executive Order N-28-20, March 16, 2020
4. Executive Order N-37-20, March 27, 2020

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