

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Urgency Ordinance Regarding) ORDINANCE NO. 20-_____
Commercial Evictions During the)
COVID-19 Local Emergency)

WHEREAS, pursuant to the City’s police power under Article XI Section 7 of the California Constitution, the City Council of the City of Pittsburg has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the City and its residents; and

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus known as COVID-19 (“COVID-19”); and

WHEREAS, on March 3, 2020, the first case of COVID-19 in Contra Costa County was confirmed; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency due to COVID-19; and

WHEREAS, on March 6, 2020, Contra Costa Health Services (CCHS) released community guidelines for reducing the spread of COVID-19 and issued further guidelines on March 10; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency due to COVID-19; and

WHEREAS, on March 16, 2020, Health Officers from Contra Costa and other Bay Area counties ordered residents to shelter in place; and

WHEREAS, on March 16, 2020, the City Council held a special meeting and voted unanimously to proclaim the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, wherein he found that “the economic impacts of COVID-19 have been significant and could threaten to undermine Californians' housing security and the stability of California businesses,” and that “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, the Executive Order suspended, “[a]ny 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,” of tenants affected by the COVID-19 pandemic; and

WHEREAS, numerous businesses in Pittsburg have closed or are operating on reduced hours, most schools and daycare centers have closed, and as a result many employers have laid off or need to lay off employees; and

WHEREAS, during the local emergency and in the interest of public health and safety, it is essential to provide commercial tenants with short-term protection from eviction due to the inability to pay rent and avoid unnecessary displacement of commercial businesses; and

WHEREAS, for the reasons set forth above, this ordinance is declared by the City Council to be necessary for preserving the public welfare, health, and safety, and for avoiding a current, immediate and direct threat to the health, safety and welfare of the community, and the recitals taken together constitute the City Council’s statement of the reasons constituting such necessity and urgency.

NOW, THEREFORE, the City Council of the City of Pittsburg Does ORDAIN as follows:

Section 1. Findings. The City Council finds that each fact set forth in the preceding recitals is true and correct and incorporated by reference.

Section 2. Moratorium on Evictions. During the period of local emergency declared in response to COVID-19:

A. For commercial properties, no landlord shall endeavor to evict a commercial tenant for non-payment of rent if a commercial tenant is unable to pay rent due to financial impacts related to COVID-19. 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 California Code of Civil Procedure Section 1161(2), file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise seek to evict for non-payment of rent.

B. A landlord knows of a tenant’s inability to pay rent within the meaning of this ordinance if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing, including by email or text, of the inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. Any medical or financial information provided to the landlord shall be held in confidence and used only for evaluating the tenant’s claim.

C. If the tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of rent.

D. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after termination of the local emergency and the tenant must pay within six months of the termination of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this ordinance.

E. For purposes of this Ordinance, the following definitions apply:

(i) "Financial impacts related to COVID-19" means a substantial decrease in business income (including but not limited to a substantial decrease in in business income caused by a reduction in open hours or consumer demand) caused by the COVID-19 pandemic or by any federal, state or local government recommendation to self-quarantine or shelter in place, and is documented.

(ii) "No-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the commercial tenant.

F. This ordinance may be asserted as an affirmative defense in an unlawful detainer action. Any failure to comply with this ordinance does not constitute a criminal offense.

G. This ordinance applies to nonpayment eviction notices no-fault eviction notices served on or after the March 16, 2020, proclamation of local emergency.

SECTION 3. Effective Date. This Ordinance takes effect immediately upon enactment.

SECTION 4. Duration. This Ordinance shall remain in effect until termination of the local emergency.

SECTION 5. Uncodified. This Ordinance shall not be codified.

SECTION 6. Severability. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 7. Publication. The City Clerk shall either (a) have this ordinance published once within 15 days after adoption in a newspaper of general circulation or (b) have a summary of the ordinance published twice in a newspaper of general circulation, once 5 days before its adoption and again 20 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 6th day of April 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Jelani Killings, Mayor

ATTEST:

Alice E. Evenson, City Clerk