

ORDINANCE 1683-U

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SEAL BEACH ADOPTING EMERGENCY REGULATIONS
PROHIBITING RESIDENTIAL AND COMMERCIAL EVICTIONS FOR
NON-PAYMENT OF RENT AND “NO-FAULT” EVICTIONS AND
DECLARING THE URGENCY THEREOF**

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, which 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, as of April 1, 2020 at least two cases have been confirmed in the City of Seal Beach; 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 to prevent the spread of and otherwise address the effects of COVID-19; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, which 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 certain tenants affected by the COVID-19 pandemic; and

WHEREAS, on March 19, 2020, the City Council ratified the City Manager’s proclamation of the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Orange County Health Officer 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 a result of the public health emergency and the precautions recommended by health authorities, many residential and commercial tenants in Seal Beach have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, as a result of the State and local public health directions for residents to remain at home and ordering businesses to close, many potential customers of commercial tenants in Seal

Beach are unable to patronize many businesses, many of which are subject to commercial leases or rental agreements; and

WHEREAS, the eviction of commercial tenants results in the loss of local, family owned businesses, the loss of jobs for employees, and negative impacts surrounding to businesses, potentially leading to urban decay; 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, commercial tenants who operate businesses within the City may have to close their businesses in response to emergency orders, which will substantially decrease or eliminate their income, and businesses that are permitted to remain open also are likely to experience a significant loss of income while the emergency orders are in effect; and

WHEREAS, further economic impacts are anticipated, leaving residential and commercial tenants vulnerable to eviction; 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 displacement, to protect the City's affordable housing stock, and to prevent housed individuals from falling into homelessness; and

WHEREAS, the Governor's Executive Orders No. N-28-20 and N-37-20 and Orange County Health Orders do not adequately and completely protect residents and businesses in the City of Seal Beach from the public health and safety impacts that residential and commercial evictions during this state of emergency could cause; 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 or safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEAL BEACH HEREBY ORDAINS 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. Residential Eviction Moratorium. A temporary moratorium on eviction of residential and tenants impacted by the COVID-19 pandemic is imposed as follows:

a. During the period of local emergency declared in response to COVID-19, no landlord shall take any action to evict a tenant in either of the following situations: (1) for nonpayment of rent, late fees, or other fees or charges, if the landlord knows that the tenant is unable to pay the same due to financial impacts related to COVID-19, or (2) for a no-fault eviction unless immediately necessary for the health and safety of tenants, neighbors, or the landlord, other than based on illness of the tenant or any other occupant of the residential rental unit, which shall be confirmed by the City's Building Official prior to any such eviction. 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 Code of Civil Procedure section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to, or threaten to, evict the tenant for nonpayment of rent.

b. A landlord knows of a tenant's inability to pay rent within the meaning of this Ordinance if the tenant, within seven (7) days after the date that rent is due, notifies the landlord in writing that the tenant has incurred financial impacts as defined in this Ordinance or incurred extraordinary expenses related to COVID-19, and is unable to pay full rent, late charges, or other fees or charges, due to those financial impacts related to COVID-19, **and** within 30 days after the date the rent is due, provides written documentation to the landlord to support the tenant's inability to pay all or part of the rent due, and evidence that the tenant has applied for available state and federal aid programs for which the tenant is eligible. No landlord shall take action to evict a tenant solely because the tenant is unable to provide adequate documentation of financial impacts related to COVID-19 within the time provided by this Ordinance if the tenant is unable to contact the tenant's employer or other source of income and continues to make good faith efforts to do so.

c. For purposes of this Ordinance, "financial impacts" means a substantial loss of the tenant's monthly household income due to business closure, loss of compensable hours of work or wages, or extraordinary out-of-pocket medical expenses. A financial impact is "related to COVID-19" if it was the result of any of the following: (1) the tenant's own diagnosis with COVID-19 or the tenant's need to care for a household or immediate family member who is diagnosed with COVID-19; (2) a layoff, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation or order from the County Health Officer to stay at home, isolate, self-quarantine, or avoid congregating with others during the COVID-19 state of emergency; (4) extraordinary out-of-pocket expenses related to diagnosis and testing for and/or treatment of COVID-19; or (5) additional child care costs arising from school closures related to COVID-19.

d. For purposes of this Ordinance, a tenant's notification "in writing" to the landlord includes email or text communications from the tenant to a landlord or the landlord's representative if that is the method of written communication that has been used previously, or correspondence by regular mail, if that is the method of written communication that has been used previously and the parties have not agreed to use email or text messaging.

e. For purposes of this Ordinance, "written documentation" of a substantial financial impact shall include, without limitation, written notifications from employers, written documents

from doctors or local or County health care providers and officials, multiple pay stubs showing comparisons of income, medical or childcare bills, and bank statements or deposit records. Any medical or financial information provided to the landlord by the tenant shall be held in confidence, and shall be used only for evaluating the tenant's claim.

f. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency, and which the tenant must pay in full within six (6) months following the expiration or termination of the local emergency. Six (6) months following the end of the local emergency, if the rent is unpaid, a landlord may charge or collect a late fee for rent that is further delayed for the reasons stated in this Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process. No fee for the late payment of rent shall be charged by a landlord during the period of the local emergency or for six (6) months after the end of the emergency.

g. For purposes of this Ordinance, "no-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to Code of Civil Procedure sections 1161(1), 1161(5), or 1161b.

h. This Ordinance prevents the enforcement of nonpayment eviction notices, no-fault 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 in Seal Beach on March 13, 2020 and shall constitute a defense to any such action by a landlord in violation of this Ordinance.

i. The term "tenant" in this Ordinance refers to leases, rental agreements, or any other agreement pursuant to which a person has been given permission to occupy real property owned by another in exchange for financial or other consideration.

Section 3. Commercial Eviction Moratorium. A temporary moratorium on eviction for non-payment of rent by commercial tenants substantially impacted by the COVID-19 crisis is imposed as follows:

a. During the period of local emergency declared in response to COVID-19, no landlord shall take any action to evict a tenant in either of the following situations: (1) for nonpayment of rent, late fees, or other fees or charges, if the tenant demonstrates that the tenant is unable to pay the same due to financial impacts related to COVID-19, or (2) for a no-fault eviction unless immediately necessary for the health and safety of tenants, neighbors, or the landlord, which shall be confirmed by the City's Building Official prior to any such eviction, other than based on illness of the tenant or any other occupant. 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 Code of Civil Procedure section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to, or threaten to, evict the tenant for nonpayment of rent.

b. A landlord knows of a tenant's inability to pay rent within the meaning of this Ordinance if the tenant, within seven (7) days after the date that rent is due, notifies the landlord in writing that the tenant has lost income or incurred extraordinary expenses related to COVID-19 and is unable to pay full rent, late charges, or other fees or charges, due to financial impacts related to COVID-19, **and** within 30 days after the date the rent is due, provides written documentation to the landlord to support the tenant's inability to pay all or part of the rent due, and evidence that the tenant has applied for available state and federal aid programs for which the tenant is eligible. No landlord shall take action, or threaten, to evict a tenant solely because the tenant is unable to provide adequate documentation of financial impacts related to COVID-19 within the time provided by this Ordinance if the tenant is unable to contact the tenant's bank, bookkeeper, or accountant and continues to make good faith efforts to do so.

c. For purposes of this Ordinance, "financial impacts" means a substantial loss of the tenant's monthly business income due to business closure, loss of compensable business, sales, or fees, or extraordinary out-of-pocket medical expenses. A financial impact is "related to COVID-19" if it was the result of any of the following: (1) a key employee or manager of the tenant's diagnosis with COVID-19 or that person's tenant's need to care for a household or immediate family member who is diagnosed with COVID-19; (2) a layoff, loss of hours, loss of business, fees or business income resulting from the "safer at home" order, business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation or order from the County Health Officer to stay at close the business, stay at home, isolate, self-quarantine, or avoid congregating with others during the COVID-19 state of emergency; (4) extraordinary out-of-pocket expenses related to diagnosis and testing for and/or treatment of COVID-19; or (5) the business owner's, manager's or key employees' need to provide additional child care as a result of school closures related to COVID-19.

d. For purposes of this Ordinance, a notification "in writing" to the landlord includes email or text communications from the tenant to a landlord or the landlord's representative if that is the method of written communication that has been used previously, or correspondence by regular mail, if that is the method of written communication that has been used previously and the parties have not agreed to use email or text messaging.

e. For purposes of this Ordinance, "written documentation" of a substantial financial impact shall include, without limitation, written notifications from employers, clients or customers, written documents from doctors, or local or County health care providers and officials, multiple pay stubs showing comparisons of income, medical or childcare bills, and income statements, bank statements or deposit records. Any medical or financial information provided to the landlord by the tenant shall be held in confidence, and shall be used only for evaluating the tenant's claim.

f. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency, and which the tenant must pay in full within six (6) months following the expiration or termination of the local emergency. Six (6) months following the end of the local emergency, if the rent is unpaid, a landlord may charge or collect a late fee for rent that is further delayed for the reasons stated in this Ordinance;

or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process. No fee for the late payment of rent shall be charged by a landlord during the period of the local emergency or for six (6) months after the end of the emergency.

g. This Ordinance prevents the enforcement of nonpayment eviction notices, no-fault 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 on March 13, 2020.

i. The term “tenant” in this Ordinance refers to a lease, rental agreement, or any other agreement pursuant to which a person has been given permission to occupy real property owned by another in exchange for financial or other consideration.

Section 4. Urgency. The City Council finds that the COVID-19 pandemic has increased the risk of housing displacement, loss of income, and homelessness for many people in the City of Seal Beach and surrounding areas, as more fully described in the recitals of this Ordinance. The City Council further finds that, unless this Ordinance is effective and its regulations are immediately put in place, the public health, safety and welfare will be at risk. Therefore, the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937(b) and that it take effect immediately upon adoption pursuant to Government Code section 36934, and its urgency is hereby declared.

Section 5. Violations. Violations of this Ordinance shall be punishable as set forth in Chapter 1.15 of the Seal Beach Municipal Code. In addition, this Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance.

Section 6. Duration. This Ordinance shall remain in effect for the duration of the local emergency.

Section 7. Uncodified. This Ordinance shall not be codified.

Section 8. Severability. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this Ordinance.

Section 9. Effective Date. Based upon the findings in Section 3 of this Ordinance, this Ordinance shall take effect immediately upon its adoption by a minimum 4/5 vote of the City Council.

Section 10. Certification. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law. The City Manager is directed to widely publicize the adoption of this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Seal Beach on this 7th day of April, 2020, by the following vote:

AYES: Sustarsic, Kalmick, Moore, Varipapa, Massa-Lavitt

NOES: None

ABSTAIN: None

Schelly Sustarsic

Schelly Sustarsic, Mayor

ATTEST:

G. Harper

Gloria D. Harper, City Clerk

APPROVED AS TO FORM

C. Steele

Craig Steele, City Attorney