

ORDINANCE NO. 2203.

AN ORDINANCE OF THE CITY OF HAWTHORNE ADOPTING REGULATIONS RELATED TO EVICTIONS, AND STATING THE EFFECTIVE DATE AND DURATION OF THE ORDINANCE & ENACTING CHAPTER 9.71 A TO TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF DIVISION VI (CONSUMER PROTECTION) OF THE HAWTHORNE MUNICIPAL CODE.

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California due to the threat posed by the novel coronavirus and the COVID-19 disease resulting therefrom; 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 15, 2020, the Hawthorne City Council adopted RESOLUTION NO. 8175, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY;

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles 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 Hawthorne have experienced or may experience, sudden and unexpected income loss due to the impact 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 27, 2020, Governor Gavin Newsom issued Executive Order No. 37-20, enacting a moratorium on the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020; and

WHEREAS, in the interests of protecting the public health and mitigating the economic impacts of COVID-19, it is essential to avoid displacement of residential and commercial tenants by temporarily prohibiting the eviction of tenants impacted by COVID-19 beyond the moratorium imposed by the Governor of the State of California; and

WHEREAS, such impacted tenants who cannot pay rent in full are encouraged to pay as much rent as possible to reduce the amount owed upon expiration of the temporary

prohibition on evictions; and

WHEREAS, further economic impacts are anticipated, leaving 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 to promote the ability of local businesses to resume operations when safe to do so; and

WHEREAS, on May 14, 2020, the Mayor called for a Special Meeting and the City Council unanimously approved an identical ordinance to Ordinance No. 2203. In the event anyone challenges the Urgency Finding in Ordinance No. 2204, the City Council will consider approving Ordinance No. 2203, to ensure that this eviction moratorium will remain to protect tenants in the city in the event Ordinance No. 2204 is struck down by the Courts.

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 HAWTHORNE ORDAINS AS FOLLOWS:

CHAPTER 9.71 A IS ADDED TO TITLE 9, DIVISION XI OF THE HAWTHORNE MUNICIPAL CODE.

Section 9.71.010 A Eviction Moratorium. A temporary moratorium on eviction for non-payment of rent by residential and commercial tenants impacted by the COVID-19 pandemic is imposed as follows:

1. (a) During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a residential or commercial tenant in either of the following situations: (1) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless immediately necessary for the health and safety because of the existence of a hazardous condition affecting other tenants, neighbors, or the landlord. For the purposes of this section, a hazardous condition shall not include the presence of individuals who have been infected by or exposed 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 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 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 30 days after the date that rent is due, 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.

(b) 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 the tenant must pay within six months of the expiration 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; nor may a landlord seek rent that is delayed for the reasons stated in this Ordinance through the eviction process. Notwithstanding the above, tenants are encouraged to pay as much rent as possible on the due date in order to reduce the amount owed upon expiration of this ordinance.

(c) In order to take advantage of the protections included in the proposed ordinance, a tenant must do each of the following before the expiration of the pay-or-quit notice: (1) notify the owner that the tenant may not be able to make its rental payment (or portion thereof); and (2) provide documentation supporting and/or evidencing such substantial decrease in household or business income or out-of-pocket medical expenses. Notwithstanding the foregoing, a tenant that received a pay-or-quit notice served on or after March 4, 2020 but before March 25, 2020 shall provide the notification and documentation required by this subsection (B) prior to the final adjudication of the subject eviction proceedings. Tenants are encouraged to notify their landlords as soon as they become aware that they may not be able to pay their rent.

2. For purposes of this Ordinance, "financial impacts related to COVID-19" include, but are not limited to, a substantial decrease in a tenant's household or business income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, 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 from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.
3. 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 1161c.

4. This Ordinance applies to 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 the local emergency was proclaimed.

Section 9.71.020 A. Violations. This Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance.

Section 9.71.030 A Effective Date and Duration. Since this Ordinance is identical to Ordinance No. 2204, it shall only become effective in the event that the urgency findings in Ordinance No. 2204 is struck down by any court. Ordinance No. 2203 is the "back-up" ordinance of Ordinance No. 2204 in the event that the urgency findings in Ordinance No. 2004 is successfully challenged. Therefore, Ordinance No. 2203 is effective only if Ordinance No. 2204 is found to be unenforceable for any reason. Also, Ordinance No. 2203 shall only become effective upon the expiration of Executive Order No. 37-20 (May 31, 2020) or upon the expiration of any extensions of the statewide moratorium on evictions. This ordinance shall last for thirty (30) days after the expiration of such statewide moratorium on evictions.

Section 9.71.040 A Incorporation of Executive Order No. N37-20. Nothing in this section shall be interpreted to override the provisions of Executive Order No. 37-20, which provisions are incorporated herein by reference as though fully set forth herein.

Section 9.71.050 A 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 9.71.060 A 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.

PASSED, APPROVED AND ADOPTED on June 9, 2020.


ALEX VARGAS, Mayor
City of Hawthorne, California

ATTEST:


Dr. Paul Jimenez
City Clerk
City of Hawthorne, California

APPROVED AS TO FORM



RUSSELL I. MIYAHIRA, City Attorney
City of Hawthorne, California

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF HAWTHORNE)

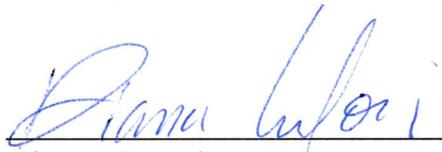
I, **Diana Cucional**, the duly appointed Acting Deputy City Clerk of the City of Hawthorne, California, **DO HEREBY CERTIFY** that the foregoing Ordinance, being Ordinance No. 2203 was duly adopted by the City Council of the City of Hawthorne, at the regular meeting of the City Council held **June 9, 2020** and that it was adopted by the following vote, to wit:

AYES: Councilmembers Awad, Monteiro, Talleda, Valentine, Mayor Vargas.

NOES: None.

ABSTAIN: None.

ABSENT: None.



Diana Cucional
Acting Deputy City Clerk
City of Hawthorne, California