

**URGENCY ORDINANCE NO. 2974**

**AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO THE NONPAYMENT OF RENT FOR RESIDENTIAL AND NON-ESSENTIAL COMMERCIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19)**

WHEREAS, in late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China. On January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the likely source of the illness; and

WHEREAS, on January 30, 2020, the World Health Organization ("WHO") declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom 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 a broader spread of COVID-19; and

WHEREAS, on March 11, 2020, WHO publicly characterized COVID-19 as a pandemic; and

WHEREAS, on March 16, 2020, Governor Newsom 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 ... including, but not limited to, any such provision of Civil Code Sections 1940 et seq." to the extent such provisions would otherwise restrict such exercise; and

WHEREAS, on March 16, 2020, the County of Los Angeles ordered the closure of all gyms, bars, and ordered all restaurants to close their sit-in areas and offer take-out or delivery services only; and

WHEREAS, on March 19, 2020, the County of Los Angeles issued a Mandatory Stay at Home Order, ordering the closure of all non-essential businesses until April 19, 2020; and

WHEREAS, on March 19, the City of El Monte (the "City") adopted Urgency Ordinance No. 2971 enacting a temporary moratorium on evictions due to the nonpayment of rent for residential tenants; and

WHEREAS, on March 27, 2020, Governor Newsom issued Executive Order N-37-20 ("Executive Order N-37-20") which prevents evictions for a period of 60 days of "a tenant from a residence or dwelling unit for nonpayment of rent" who satisfies requirements set forth in said order; and

WHEREAS, the moratorium established under Executive Order N-28-20 currently expires on May 31, 2020; and

WHEREAS, as of April 2, 2020, the County of Los Angeles Department of Public Health (the "Health Department") has identified 4045 cases of COVID-19 in Los Angeles County and resulting in 78 deaths; and

WHEREAS, the COVID-19 pandemic has resulted in the closure of many businesses, which is expected to lead to hourly cutbacks and has already resulted in employee terminations; and

WHEREAS, this Urgency Ordinance enacts a temporary moratorium intended to promote stability and fairness within the residential and commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness 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

WHEREAS, displacement through eviction destabilizes the living situation of tenants and impacts the health of the City's residents by uprooting children from schools, disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City; and

WHEREAS, 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

WHEREAS, during the COVID-19 pandemic outbreak, affected tenants who have lost income due to the 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, Government Code Sections 36934 and 36937(b) authorize the City to adopt an Urgency Ordinance for the immediate preservation of the public peace, health and safety, provided that such Urgency Ordinance is passed by a four-fifths vote of the City Council.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The recitals above are true and correct and incorporated herein by reference.

**SECTION 2.** Urgency Ordinance No. 2971, in its entirety, is hereby repealed, replaced and superseded by this Urgency Ordinance and shall be of no further force or effect.

**SECTION 3. Title.** This Urgency Ordinance shall be known as the "COVID-19 Eviction Moratorium Ordinance."

**SECTION 4. Urgency Findings.** The purpose of this Urgency Ordinance is to promote housing stability during the COVID-19 pandemic and to prevent avoidable homelessness. This Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety because the COVID-19 pandemic has the potential of destabilizing the residential and commercial rental market for all of the reasons described herein. This Urgency Ordinance is intended to enable tenants in the City, whose employment and income have been affected by the COVID-19 pandemic, to be temporarily exempt from eviction for non-payment of rent and to reduce the risk that these events will lead to, such as anxiety, stress, and potential homelessness for the affected City residents and their communities, thereby serving the public peace, health, safety, and public welfare. The temporary moratorium on evictions for non-payment imposed by this Urgency Ordinance is created pursuant to the City's general police powers to protect the health, safety, and welfare of its residents and exists in addition to any rights and obligations under state and federal law.

**SECTION 5. Definitions**

- A. "Affected Tenant" means a Tenant who satisfies one (1) or more of the criteria in paragraph A of Section 8, of this Urgency Ordinance, below.
- B. "Health Department" means the County of Los Angeles Department of Public Health.

- C. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Rental Unit.
- D. "Mobilehome" means a structure transportable in one (1) or more sections, designed and equipped to contain not more than one (1) dwelling unit, to be used with or without a foundation system.
- E. "Mobilehome Park" means any area or tract of land where two (2) or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate mobilehomes used for human habitation for permanent, as opposed to transient, occupancy.
- F. "Mobilehome Owner" means a person who owns a Mobilehome and rents or leases the Mobilehome Park lot on which the Mobilehome is located.
- G. "Mobilehome Resident" means a person who rents a mobilehome from a Mobilehome Owner.
- H. "Notice of Termination" shall mean the notice informing a Tenant Household or Mobilehome Resident of the termination of its tenancy in accordance with California Civil Code Section 1946.1 and California Code of Civil Procedure Section 1161, as amended.
- I. "Rental Unit" means: (i) a Mobilehome, building, structure or the part of a structure that is used as a home, residence, or sleeping structure by one (1) person who maintains a household or by two (2) or more persons who maintain a common household; (ii) a rented lot within a Mobilehome Park where a Mobilehome Owner's Mobilehome coach is located; or (iii) a building, structure or part of a structure that is used for a legally permitted and duly licensed business or other non-residential service or activity (e.g., commercial, industrial, professional office, entertainment, recreational and/or retail uses etc.)
- J. "Tenant" means a residential or commercial tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupy a Rental Unit. The term "Tenant" is inclusive of the defined terms "Tenant Household", "Mobilehome Resident" and "Mobilehome Owner."
- K. "Tenant Household" means one (1) or more Tenant(s) who occupy any individual Rental Unit, including each dependent of any Tenant whose primary residence is the Rental Unit.

**SECTION 6. Application.** This Urgency Ordinance applies to Affected Tenants in any Rental Unit and Landlords of Affected Tenants.

**SECTION 7. Moratorium on Eviction and Termination of Tenancies for Affected Tenants.**

- A. For the period commencing on the effective date of this Urgency Ordinance and ending upon the expiration date of Executive Order N-37-20 or any extension to the moratorium established thereunder by the Governor, a Landlord may not terminate the tenancy of a Tenant who qualifies as an Affected Tenant for non-payment of rent. As of the date of this Urgency Ordinance, the moratorium established under Executive Order N-37-20 is set to expire on May 31, 2020. During the term of the moratorium established under this Urgency Ordinance, a Landlord shall not serve a notice pursuant to California Code of Civil Procedure Sections 1161 or 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise endeavor to evict an Affected Tenant for nonpayment of rent.

- B. The moratorium established under this Urgency Ordinance is intended to have greater scope and longer duration than the moratorium established under Executive Order N-37-20.

#### **SECTION 8. Just Cause Termination.**

- A. The provisions of Section 8 of this Urgency Ordinance notwithstanding, a Landlord, subject to compliance with the requirements of this Urgency Ordinance may terminate the tenancy of a Tenant who otherwise qualifies as an Affected Tenant if a Landlord can show any of the following circumstances apply thereby rendering the termination a "Just Cause Termination":
1. Nuisance Behavior. The Affected Tenant, after written notice to cease, continues to be so disorderly or to cause such a nuisance as to destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Rental Unit. Such nuisance or disorderly conduct includes violations of state and federal criminal law that destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Rental Unit, and may be further defined in the regulations adopted by the City, including but not limited to regulations established by ordinance or resolution.
  2. Refusing Access to the Unit. The Affected Tenant, after written notice to cease and a reasonable time to cure, continues to refuse the Landlord reasonable access to the Rental Unit, so long as the Landlord is not abusing the right of access under California Civil Code Section 1954, as amended.
  3. Unapproved Holdover Subtenant. The Affected Tenant holding over at the end of the term of the oral or written rental agreement is a subtenant who was not approved by the Landlord.
  4. Ellis Act Removal. The Landlord seeks in good faith to recover possession of the Rental Unit to remove the building in which the Rental Unit is located permanently from the residential or commercial rental market under the Ellis Act and, having complied in full with the Ellis Act and any related ordinance of the City, including the provision of relocation assistance as may be required by applicable state law.
  5. Owner Move-In. With respect to residential tenancies, the Landlord seeks in good faith, honest intent, and without ulterior motive to recover possession for: (a) the Landlord's own use and occupancy as the Landlord's principal residence for a period of at least thirty-six (36) consecutive months commencing within three (3) months of vacancy; or (b) the principal residence of the Landlord's spouse, domestic partner, parent(s), child or children, brother(s), or sister(s) (each an "authorized family member") for a period of at least thirty-six (36) consecutive months and commencing within three (3) months of vacancy, so long as the Rental Unit for the Landlord's authorized family member is located in the same building as the Landlord's principal residence and no other Rental Unit in the building is vacant. It shall be a rebuttable presumption that the Landlord has acted in bad faith if the Landlord or the Landlord's qualified relative, for whom the Tenant was evicted, does not move into the Rental Unit within three (3) months from the date of the Tenant's surrender of possession of the premises or occupy said unit as his/her principal residence for a period of at least thirty-six (36) consecutive months. The Landlord shall have provided relocation assistance as may be required by applicable state law.
  6. Order to Vacate. The Landlord seeks in good faith to recover possession of the Rental Unit in order to comply with a court or governmental agency's order to vacate, order to comply, order to abate, or any other City

enforcement action or order that necessitates the vacating of the building in which the Rental Unit is located as a result of a violation of any other provision of law, and provides a notice of the right to reoccupy. The Landlord shall have provided relocation assistance as may be required by applicable state law.

7. Vacation of Unpermitted Rental Unit. The Landlord seeks in good faith to recover possession of an unpermitted Rental Unit in order to end the unpermitted use. The Landlord shall have provided relocation assistance as may be required by applicable state law.

8. Criminal Activity.

a. The Tenant Household, after receiving a written notice to cure (which notice shall include the return provisions listed in subsection d, below) by removing the Violating Tenant (as defined below) from the household, and, where necessary, amending the lease to remove the Violating Tenant's name, fails to do so within a reasonable time, by one (1) of the following methods as further described in the regulations:

- i. Filing a restraining order or providing evidence to the Landlord of similar steps being taken to remove the Violating Tenant from the household.
- ii. Removing the Violating Tenant from the household and providing written notice to the landlord that the Violating Tenant has been removed.

b. For purposes of this subsection 8, a "Violating Tenant" shall mean an adult Tenant that is indicted by a grand jury or held to answer pursuant to Penal Code Section 872, as amended, for a serious felony as defined by Penal Code Section 1192.7(c), as amended, or a violent felony as defined by Penal Code Section 667.5(c), as amended, which occurred during the tenancy and within 1,000 feet of the premises on which the Rental Unit is located.

c. The past criminal history of a Tenant shall not be a factor in determining whether the Tenant is a Violating Tenant.

d. If a Violating Tenant, as defined above, is acquitted from the charges or the charges are dismissed or reduced, he or she may return to the Rental Unit as a Tenant, so long as: (1) the Tenant Household still resides in the Rental Unit; and (2) the Tenant Household consents to the Violating Tenant's return.

B. Relocation Assistance and Deposits.

1. Nothing in this Urgency Ordinance shall operate to relieve a Landlord of any obligation to provide a Tenant Household with relocation assistance to the extent required by State law. Such assistance must be provided to the Tenant Household concurrent with delivery of the Notice of Termination to the Tenant Household where applicable.

2. Refund of Security Deposit. A Landlord shall refund to the Tenant Household any security deposit paid by the Tenant Household, provided however, that the Landlord may withhold any properly itemized deductions from the security deposit pursuant to California Civil Code Section 1950.5, as amended.

## **SECTION 9. Affirmative Defense to Eviction; Penalties and Remedies.**

A. Affirmative Defense. Each Landlord that seeks to terminate a tenancy of an

Affected Tenant must comply with this Urgency Ordinance. Non-compliance with any applicable component of this Urgency Ordinance shall constitute an affirmative defense for an Affected Tenant against any unlawful detainer action under California Code of Civil Procedure Section 1161, as amended. To assert this defense and to establish Affected Tenant status, a Tenant shall have first notified the Landlord in writing before rent is due, or within a reasonable period of time afterwards not to exceed thirty (30) calendar days, that the Tenant needs to delay all or some payment of rent attributable to an inability to pay the full amount due to reasons related to the novel coronavirus (COVID-19) pandemic, including but not limited to the following:

1. The Tenant was unable to work because the Tenant: (i) was sick with COVID-19 and hospitalized or otherwise required to stay and home and self-quarantine by written order of the Health Department; and (ii) the Tenant was either ineligible to receive or use paid leave; unable to make use of accrued but unused paid vacation time or exhausted all such leave and vacation time before being able to return to work; or
  2. The Tenant experienced a lay-off, work furlough, reduction in work hours or income reduction resulting from the COVID-19 pandemic and/or related emergency responses of governmental entities, including orders and/or declarations of the Governor of the State of California and the Health Department; or
  3. The Tenant: (i) needed to miss work to care for a minor child whose school was closed in response to the COVID-19 pandemic or to care for a household or family member who was sick with COVID-19; and (ii) the Tenant was either ineligible to receive or use paid leave; unable to make use of accrued but unused paid vacation time or exhausted all such leave and vacation time before the minor's school was re-opened or the Tenant was otherwise able to return to work; or
  4. For commercial Tenants, the Tenant: (i) is commercial business entity or the principal owner or co-owner of a commercial business entity whose name appears on the lease for the Rental Unit occupied by the business entity; (ii) is not a corporation, limited liability company or limited partnership whose business headquarters are located outside of the City or who are otherwise incorporated outside of the State of California; and (iii) is a "Non-Essential Business" within the meaning of the Safer at Home Order for the Control of COVID-19 and was required to cease all commercial operations while said order was in effect. For purposes of this Urgency Ordinance the term "Safer at Home Order for the Control of COVID-19" means that certain order of the same name that was first issued by the Health Department on March 19, 2020 and later revised on March 21, 2020 and all subsequent revisions or clarifications to the same as may later be issued by the Health Department.
- B. Along with the notification referenced under paragraph A of this section, above, the Affected Tenant must also include true and correct copies of verifiable documentation that reasonably corroborate any or all of the permitted reasons for the non-payment of rent under paragraph A of this section, above. The following documentation shall create a rebuttable presumption that the Affected Tenant has satisfied one (1) or more of the permitted reasons for non-payment of rent set forth under paragraph A of this section, above, but are not necessarily the exclusive form of documentation corroborating such reasons:
1. A written notice or like documentation from the Affected Tenant's employer citing COVID-19 as a reason for reduced work hours, work furlough, or termination; or

2. Employer paycheck stubs, payroll checks, bank statements, or medical bills or signed letters or statements from the Affected Tenant's employer or supervisor explaining the Affected Tenant's changed financial circumstances; or
  3. Notification from a school declaring a school closure related to COVID-19; or
  4. For an Affected Tenant that is a commercial business, a copy of any governmental order identifying the Affected Tenant as a Non-Essential Business as defined by Health Department order; any notice from a governmental entity ordering the commercial business to close and/or cease operations and/or any governmental license or permit identifying the business' headquarters as being located within the City.
- A. Obligation of Affected Tenant to pay unpaid rent. Nothing in this Urgency Ordinance shall relieve an Affected Tenant of liability for any unpaid rent following the expiration of the moratorium established under this Urgency Ordinance. The foregoing notwithstanding and except as otherwise agreed to in writing by the Affected Tenant and the Landlord, the Affected Tenant shall be given a period of one hundred and twenty (120) calendar days from the end of the moratorium term to pay all unpaid back-rent for the months in which the moratorium was in effect. **During this 120-day period for the repayment of unpaid back-rent, an Affected Tenant shall continue to be afforded the protections set forth under this Urgency Ordinance specific as to the payment of rent sums that became during the moratorium period but which were unpaid. A Landlord shall not assess, and the Residential Tenant shall not be liable for, the payment of any late fees or penalties for the delay in payment of rent sums that became due but which were unpaid by the Affected Tenant during the period of the moratorium established under this Urgency Ordinance.**

C. Civil Remedies

1. Any Landlord that fail(s) to comply with this Urgency Ordinance may be subject to civil proceedings for displacement of Affected Tenant(s) initiated by the City or the Affected Tenant Household for actual and exemplary damages.
2. Whoever is found to have violated this Urgency Ordinance shall be subject to appropriate injunctive relief and shall be liable for damages, costs and reasonable attorneys' fees.
3. Treble damages shall be awarded for a Landlord's willful failure to comply with the obligations established under this Urgency Ordinance.
4. Nothing herein shall be deemed to interfere with the right of a Landlord to file an action against a Tenant or non-Tenant third party for the damage done to said Landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

**SECTION 10. Environmental.** This Urgency Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (Cal. Code Regs., tit.14, § 15378, subd. (a).) Further, this Urgency Ordinance is exempt from CEQA as there is no possibility that it or its implementation would have a significant negative effect on the environment. (Cal. Code Regs., tit.14, § 15061, subd. (b)(3).)

**SECTION 11. Inconsistent Provisions.** Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of this Urgency Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to

the extent necessary to implement the provisions of this Urgency Ordinance.


**SECTION 12. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Urgency Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

**SECTION 13. Construction.** The City Council intends this Urgency Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Urgency Ordinance shall be construed in light of that intent. To the extent the provisions of the El Monte Municipal Code as amended by this Urgency Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Urgency Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

**SECTION 14. Publication and Effective Date.** This Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council by Government Code Sections 36934 and 36937 and shall be in full force and effect upon its adoption by a four-fifths (4/5) vote of the City Council. The City Clerk shall cause this Urgency Ordinance to be published once in a newspaper of general circulation within fifteen (15) days after its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at the regular meeting of this 7th day of April, 2020.

  
\_\_\_\_\_  
(Andre Quintero, Mayor  
City of El Monte

ATTEST:  
  
\_\_\_\_\_  
Catherine A. Eredia, City Clerk  
City of El Monte

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    )  
CITY OF EL MONTE            )        SS:

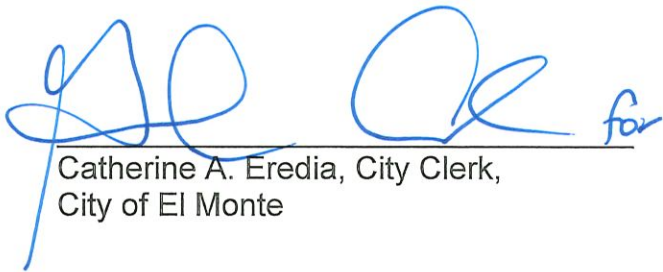
I, Catherine A. Eredia, City Clerk of the City of El Monte, hereby certify that the foregoing Urgency Ordinance No. 2974 was passed and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 7th day of April, 2020 and that said Urgency Ordinance was adopted by the following votes, to-wit:

AYES:            Mayor Quintero, Mayor Pro Tem Morales, Councilmembers Ancona, Martinez Muela and Velasco

NOES:           None

ABSTAIN:       None

ABSENT:        None

  
Catherine A. Eredia, City Clerk,  
City of El Monte