



NOTICE IS HEREBY GIVEN, that the undersigned Mayor Debbie Stone of the City of Upland, pursuant to legal requirements, does hereby call a special meeting of the Upland City Council.

**Tuesday, March 31, 2020**

**5:00 p.m.**

**City Council Chamber**

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Debbie Stone, Mayor

**AGENDA ATTACHED**

**DUE TO THE ONGOING EMERGENCY CONCERNING THE COVID-19 VIRUS, THIS CITY COUNCIL MEETING WILL BE CONDUCTED PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDER N-29-20 WHICH SUSPENDS CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT.**

**RESIDENTS MAY OBSERVE THE MEETING REMOTELY VIA LIVESTREAM ON THE CITY WEBSITE OR ON SPECTRUM CABLE TV CHANNEL 3 AND FRONTIER CABLE TV CHANNEL 26**

**FOR DETAILED INFORMATION ON HOW TO PARTICIPATE IN REMOTE PUBLIC COMMENT PLEASE VISIT OUR WEBSITE AT: [www.uplandca.gov/city-council-agendasminutes](http://www.uplandca.gov/city-council-agendasminutes) OR CONTACT THE CITY CLERK'S OFFICE AT 909-931-4120**

**AGENDA ATTACHED**



## **Special Meeting**

**March 31, 2020**

**5:00 PM**

**City Council Chambers**

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**CITY COUNCIL**

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1. CALL TO ORDER AND ROLL CALL
2. ORAL COMMUNICATIONS

Pursuant to Government Code Section 54954.2, any member of the public may address any item listed on the agenda. Anyone wishing to address the legislative body should submit a speaker card to the City Clerk at or prior to speaking. Speakers shall keep their comments to no more than three (3) minutes.

3. CONSIDERATION OF URGENCY ORDINANCE OF THE CITY OF UPLAND CITY COUNCIL ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND/OR COMMERCIAL TENANT EVICTIONS

consider adopting an urgency ordinance to temporarily prohibit residential and/or commercial evictions due to financial hardships arising out of the COVID-19 pandemic, and depending on the Council's direction adopt such ordinance on either of the following motions:

1. Read by title only and adopt Urgency Ordinance, "URGENCY ORDINANCE OF THE CITY OF UPLAND CITY COUNCIL ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND COMMERCIAL TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF"; or
2. Read by title only and adopt Urgency Ordinance, "URGENCY ORDINANCE OF THE CITY OF UPLAND CITY COUNCIL ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF."

Adoption of either urgency ordinance will require a four-fifths vote of the Council for adoption whereupon it will take effect immediately. (Staff Person: Rosemary Hoerning)

4. UPLAND - CORONAVIRUS (COVID-19) EMERGENCY AND ACTIONS

Discuss the actions taken by the City to date regarding the Coronavirus (COVID-19) emergency and give direction to the City Manager regarding future actions. (Staff Person: Rosemary Hoerning)

5. CITY MEETINGS DURING COVID-19 EMERGENCY

Discuss and provide direction to the City Manager. (Staff Person: Rosemary Hoerning)

6. ADJOURNMENT: The next regularly scheduled City Council meeting is Monday, April 13, 2020

**NOTE:** All Agenda items and back-up materials are available for public review at the Upland Public Library, downstairs reference desk at 450 North Euclid Avenue, the City Clerk's Office at 460 North Euclid Avenue and the City website at [www.uplandca.gov](http://www.uplandca.gov).

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 909.931.4120. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II]

**POSTING STATEMENT:** On March 26, 2020 a true and correct copy of this agenda was posted on the bulletin boards at 450 N. Euclid Avenue (Upland Public Library) and 460 N. Euclid Avenue (Upland City Hall) and the City Website at [www.uplandca.gov](http://www.uplandca.gov)



## STAFF REPORT

**ITEM NO. 3.**

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**DATE:** March 31, 2020  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, CITY MANAGER  
**SUBJECT:** CONSIDERATION OF URGENCY ORDINANCE OF THE CITY OF UPLAND CITY COUNCIL ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND/OR COMMERCIAL TENANT EVICTIONS

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### RECOMMENDED ACTION

It is recommended the City Council consider adopting an urgency ordinance to temporarily prohibit residential and/or commercial evictions due to financial hardships arising out of the COVID-19 pandemic, and depending on the Council's direction adopt such ordinance on either of the following motions:

1. Read by title only and adopt Urgency Ordinance, "URGENCY ORDINANCE OF THE CITY OF UPLAND CITY COUNCIL ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND COMMERCIAL TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF"; or
2. Read by title only and adopt Urgency Ordinance, "URGENCY ORDINANCE OF THE CITY OF UPLAND CITY COUNCIL ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF."

Adoption of either urgency ordinance will require a four-fifths vote of the Council for adoption whereupon it will take effect immediately.

### GOAL STATEMENT

The proposed action supports adopting provisions to temporarily prohibit evictions due to financial hardships arising out of the COVID-19 pandemic.

## **BACKGROUND**

In response to a global outbreak of a novel coronavirus, also known as COVID-19, city, county, state, and federal officials have taken decisive actions in the last several weeks in order to minimize the spread of COVID-19, including:

- March 4, 2020: California Governor Newsom declared a state of emergency in order to address the spread of COVID-19.
- March 12, 2020: San Bernardino County Health Officer temporarily prohibited large gatherings of 250 people or more.
- March 13, 2020: United States President Trump declared a national emergency.
- March 13, 2020: City of Upland City Council adopted a resolution proclaiming the existence of a local emergency concerning the COVID-19 virus.
- March 16, 2020: Governor Gavin Newsom issued Executive Order N-28-29, which includes the suspension of any provision of state law that would preempt or otherwise restrict the City's exercise of its police powers to impose limitations on residential or commercial evictions based on nonpayment of rent arising out of substantial decrease in household or business income caused by the COVID-19 pandemic.
- March 17, 2020: San Bernardino County Public Health issued an Order canceling all gatherings, revoking and replacing the Order dated March 12, 2020. The Order also closes non-essential businesses.
- March 18, 2020: City of Upland out of an abundance of caution to protect the public and its employees from the spread of the COVID-19 virus temporarily closed public access to City facilities until further notice. Essential operations are still in place and the public may access these services by phone or e-mail.
- March 19, 2020: Governor Gavin Newsom issued Executive Order N-33-20, which includes an Order of the State Public Health Officer ordering all individuals in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations (essential services).
- These actions along with the recommendations provided by the Center for Disease Control and the Department of Public Health are intended to protect the health and safety of the public and minimize the spread of the COVID-19 virus.

The temporary emergency measures to protect the health and safety of the public and employees from spread of COVID-19 create significant economic impacts and threaten the housing security for many in California. Even further economic impacts are anticipated, leaving tenants vulnerable to eviction.

## **ISSUES/ANALYSIS**

As the public is being asked to practice social distancing and avoid public places in order to reduce the spread of COVID-19, the economy has taken a tremendous and sudden downturn as businesses close their doors per guidance and/or orders given by various governmental officials and entities. Businesses are suffering tremendous losses and reducing work hours and/or laying off employees. Furthermore, many schools nationwide, including all schools in Upland, have closed for an extended time period, leaving many working parents without daycare options and forced to stay home from work, often unpaid.

With certain businesses temporarily closed, and their workers displaced, there is a concern that the sudden reduction in household income could affect the ability of renters to meet their

ongoing rent obligations. Similarly, those businesses suffering from closures or significantly reduced operating hours, may find it difficult to meet their own commercial rent obligations. This could result in a sudden and unanticipated waive of eviction notices and, potentially, unlawfull detainer actions.

In recognition of the potential harms that such a wave of evictions could cause, the Governor’s Executive Order of March 16, 2020 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.

Many other cities have accordingly adopted urgency ordinances prohibiting evictions of residential and/or commercial tenants for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19. The County of San Bernardino has also adopted such a moratorium, but it applies only in unincorporated areas.

The City Attorney has prepared two, alternative versions of an urgency ordinance that would establish such a temporary moratorium in the City on the eviction of residential and commercial tenants impacted by COVID-19 pandemic. One applies only to residential tenants. The other applies to both residential and commercial tenants. Both would go into effect immediately and apply to evictions based on the nonpayment of rent due to a financial hardship related to COVID-19.

Both would require tenants to notify landlords in writing within 30 days after the rent is due of lost income and inability to pay full rent due to circumstances related to COVID-19 and to provide supporting documentation. Both would go into effect immediately upon adoption of the ordinance and last until May 31, 2020, unless the City’s emergency declaration is ended sooner.

### **FISCAL IMPACTS**

There is no direct financial impact to the City.

### **ALTERNATIVES**

Provide alternative direction to staff.

### **ATTACHMENTS:**

**Urgency Ordinance regarding residential evictions**

**Urgency Ordinance regarding residential and commercial evictions**

**Comparison - Residential vs. Residential + Commercial**

## URGENCY ORDINANCE

### AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF

#### I. Recitals.

A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

B. 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

C. On March 12, 2020, the Health Officer of the County of San Bernardino temporarily prohibited large gatherings of 250 people or more in responding to COVID-19; and

D. 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

E. On March 17, 2020, the Health Officer of the County of San Bernardino adopted a new order that places a prohibition on certain types of public gatherings until 11:59 p.m. on April 6, 2020. This order replaced the Health Officer's March 12th Order; and

F. On March 13, 2020, the City Council adopted Resolution No. 6529 declaring the existence of a local emergency concerning the COVID-19 virus pursuant to Government Code Section 8630; and

G. The Centers for Disease Control and Prevention, the California Department of Public Health, and the San Bernardino County Health Officer have all issued recommendations and/or orders 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

H. As a result of the public health emergency and the precautions recommended by health authorities, tenants in Upland have experienced or expect soon to experience sudden and unexpected income loss; and

I. 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

J. On March 16, 2020, the Governor issued an executive order, pursuant to his emergency powers under Government Code Sections 8567 and 8571, that suspended any provision of state law that would preempt or otherwise restrict the City's exercise of its police power to impose substantive limitations on residential evictions based on nonpayment of rent arising out of a substantial decrease in household income caused by the COVID-19 pandemic; and

K. Further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

L. 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

M. 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, and safety.

## II. Ordinance.

The City Council of the City of Upland does ordain as follows:

SECTION 1. Temporary Moratorium on Residential Evictions. A temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis is imposed as follows:

A. Until the period of local emergency declared in response to COVID-19 concludes, or until May 31, 2020, whichever date is sooner, no landlord shall endeavor to evict a residential tenant when the basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or substantial out-of-pocket medical expenses) caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not do any of the following:

1. Initiate a cause of action for judicial foreclosure pursuant to Code of Civil Procedure Section 725a *et seq.*;

2. Initiate a cause of action for unlawful detainer pursuant to Code of Civil Procedure Section 1161 *et seq.*;

3. Initiate any other statutory cause of action that could be used to evict or otherwise eject a residential tenant or occupant of residential real property;

4. Serve a notice to terminate tenancy pursuant to Code of Civil Procedure Section 1161 *et seq.*, to evict for nonpayment of rent; or

5. Otherwise seek to evict for nonpayment of rent.

C. A landlord knows of a tenant's inability to pay rent within the meaning of this Urgency 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 the circumstances set forth in Section 1.A. of this Ordinance, and provides documentation to support the claim.

D. For purposes of this Urgency 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.

E. Nothing in this Urgency 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. Six months after the end of the emergency if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Urgency Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Urgency Ordinance through the eviction or other appropriate legal process.

F. This Urgency Ordinance applies to evictions and unlawful detainer actions served or filed on or after the date on which a local emergency was proclaimed to exist within the City of Upland.

## SECTION 2. Violations.

A. This Urgency Ordinance shall be punishable as set forth in Chapter 1.16 of the Upland Municipal Code. Nothing in this Urgency Ordinance shall be construed to diminish or supersede the provisions of Penal Code Section 396.

B. This Urgency Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Urgency Ordinance.

SECTION 3. Urgency; Term. The City Council finds that, as a result of the COVID-19 emergency and the negative economic impacts resulting from the public health measures required to address that emergency, as more fully described in the recitals of this Ordinance, the public health, safety and welfare will be placed immediately at risk unless this Ordinance and its regulations are immediately put into effect. 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. This Urgency Ordinance shall remain in effect for the period of local emergency declared in response to COVID-19 within the City, or until May 31, 2020, whichever date is sooner.

SECTION 4. Effective Date. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its introduction and shall become effective at midnight tonight, March 18, 2020 upon its adoption by a minimum 4/5 vote of the City Council.

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

SECTION 6. Severability. The City Council declares that, should any section, subsection, subdivision, sentence, clause, phrase, or portion of this Urgency Ordinance for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance. The City Council hereby declares that it would have adopted this Urgency Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. Certification and Publication. The City Clerk shall certify to the adoption of this Urgency Ordinance and shall cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 31st day of March, 2020.

\_\_\_\_\_  
Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Urgency Ordinance was passed, approved, and adopted at a Special meeting of the City Council of the City of Upland held on the 31st day of March, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

\_\_\_\_\_  
Keri Johnson, City Clerk

## URGENCY ORDINANCE NO.

### AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND COMMERCIAL TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF

#### I. Recitals.

A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

B. 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

C. On March 12, 2020, the Health Officer of the County of San Bernardino temporarily prohibited large gatherings of 250 people or more in responding to COVID-19; and

D. 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

E. On March 17, 2020, the Health Officer of the County of San Bernardino adopted a new order that places a prohibition on certain types of public gatherings until 11:59 p.m. on April 6, 2020. This order replaced the Health Officer's March 12th Order; and

F. On March 13, 2020, the City Council adopted Resolution No. 6529 declaring the existence of a local emergency concerning the COVID-19 virus pursuant to Government Code Section 8630; and

G. The Centers for Disease Control and Prevention, the California Department of Public Health, and the San Bernardino County Health Officer have all issued recommendations and/or orders 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

H. As a result of the public health emergency and the precautions recommended by health authorities, tenants in Upland have experienced or expect soon to experience sudden and unexpected income loss; and

I. 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

J. On March 16, 2020, the Governor issued an executive order, pursuant to his emergency powers under Government Code Sections 8567 and 8571, that suspended any provision of state law that would preempt or otherwise restrict the City's exercise of its police power to impose substantive limitations on residential evictions based on nonpayment of rent arising out of a substantial decrease in household income caused by the COVID-19 pandemic; and

K. Further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

L. 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 and business displacement, to protect the City's affordable housing stock, to prevent housed individuals from falling into homelessness, and to prevent local businesses from closing; and

M. 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, and safety.

II. Ordinance.

The City Council of the City of Upland does ordain as follows:

SECTION 1. Temporary Moratorium on Residential and Commercial Evictions. A temporary moratorium on eviction for non-payment of rent by residential and commercial tenants impacted by the COVID-19 crisis is imposed as follows:

A. Until the period of local emergency declared in response to COVID-19 concludes, or until May 31, 2020, whichever date is sooner, no landlord shall endeavor to evict a residential or commercial tenant when the basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household income or business revenue (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, substantial out-of-pocket medical expenses, or substantial loss of business revenue) caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not do any of the following:

1. Initiate a cause of action for judicial foreclosure pursuant to Code of Civil Procedure Section 725a *et seq.*;

2. Initiate a cause of action for unlawful detainer pursuant to Code of Civil Procedure Section 1161 *et seq.*;

3. Initiate any other statutory cause of action that could be used to evict or otherwise eject a residential or commercial tenant or occupant of residential or commercial real property;

4. Serve a notice to terminate tenancy pursuant to Code of Civil Procedure Section 1161 *et seq.*, to evict for nonpayment of rent; or

5. Otherwise seek to evict for nonpayment of rent.

C. A landlord knows of a tenant's inability to pay rent within the meaning of this Urgency 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 the circumstances set forth in Section 1.A. of this Ordinance, and provides documentation to support the claim.

D. For purposes of this Urgency 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.

E. Nothing in this Urgency 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. Six months after the end of the emergency if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Urgency Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Urgency Ordinance through the eviction or other appropriate legal process.

F. This Urgency Ordinance applies to evictions and unlawful detainer actions served or filed on or after the date on which a local emergency was proclaimed to exist within the City of Upland.

## SECTION 2. Violations.

A. This Urgency Ordinance shall be punishable as set forth in Chapter 1.16 of the Upland Municipal Code. Nothing in this Urgency Ordinance shall be construed to diminish or supersede the provisions of Penal Code Section 396.

B. This Urgency Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Urgency Ordinance.

SECTION 3. Urgency; Term. The City Council finds that, as a result of the COVID-19 emergency and the negative economic impacts resulting from the public health measures required to address that emergency, as more fully described in the recitals of this Ordinance, the public health, safety and welfare will be placed immediately at risk unless this Ordinance and its regulations are immediately put into

effect. 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. This Urgency Ordinance shall remain in effect for the period of local emergency declared in response to COVID-19 within the City, or until May 31, 2020, whichever date is sooner.

SECTION 4. Effective Date. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its introduction and shall become effective at midnight tonight, March 18, 2020 upon its adoption by a minimum 4/5 vote of the City Council.

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

SECTION 6. Severability. The City Council declares that, should any section, subsection, subdivision, sentence, clause, phrase, or portion of this Urgency Ordinance for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance. The City Council hereby declares that it would have adopted this Urgency Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. Certification and Publication. The City Clerk shall certify to the adoption of this Urgency Ordinance and shall cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 31st day of March, 2020.

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Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Urgency Ordinance was passed, approved, and adopted at a Special meeting of the City Council of the City of Upland held on the 31st day of March, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

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Keri Johnson, City Clerk

## **URGENCY ORDINANCE NO.**

### **AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND COMMERCIAL TENANT EVICTIONS AND DECLARING THE URGENCY THEREOF**

#### **I. Recitals.**

A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

B. 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

C. On March 12, 2020, the Health Officer of the County of San Bernardino temporarily prohibited large gatherings of 250 people or more in responding to COVID-19; and

D. 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

E. On March 17, 2020, the Health Officer of the County of San Bernardino adopted a new order that places a prohibition on certain types of public gatherings until 11:59 p.m. on April 6, 2020. This order replaced the Health Officer's March 12th Order; and

F. On March 13, 2020, the City Council adopted Resolution No. 6529 declaring the existence of a local emergency concerning the COVID-19 virus pursuant to Government Code Section 8630; and

G. The Centers for Disease Control and Prevention, the California Department of Public Health, and the San Bernardino County Health Officer have all issued recommendations and/or orders 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

H. As a result of the public health emergency and the precautions recommended by health authorities, tenants in Upland have experienced or expect soon to experience sudden and unexpected income loss; and

I. 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

J. On March 16, 2020, the Governor issued an executive order, pursuant to his emergency powers under Government Code Sections 8567 and 8571, that suspended any provision of state law that would preempt or otherwise restrict the City's exercise of its police power to impose substantive limitations on residential evictions based on nonpayment of rent arising out of a substantial decrease in household income caused by the COVID-19 pandemic; and

K. Further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

L. 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 and business displacement, to protect the City's affordable housing stock, ~~and~~ to prevent housed individuals from falling into homelessness, and to prevent local businesses from closing; and

M. 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, and safety.

## II. Ordinance.

The City Council of the City of Upland does ordain as follows:

SECTION 1. Temporary Moratorium on Residential and Commercial Evictions. A temporary moratorium on eviction for non-payment of rent by residential and commercial tenants impacted by the COVID-19 crisis is imposed as follows:

A. Until the period of local emergency declared in response to COVID-19 concludes, or until May 31, 2020, whichever date is sooner, no landlord shall endeavor to evict a residential or commercial tenant when the basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household income or business revenue (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, ~~or~~ substantial out-of-pocket medical expenses, or substantial loss of business revenue) caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not do any of the following:

1. Initiate a cause of action for judicial foreclosure pursuant to Code of Civil Procedure Section 725a *et seq.*;

2. Initiate a cause of action for unlawful detainer pursuant to Code of Civil Procedure Section 1161 *et seq.*;

3. Initiate any other statutory cause of action that could be used to evict or otherwise eject a residential or commercial tenant or occupant of residential or commercial real property;

4. Serve a notice to terminate tenancy pursuant to Code of Civil Procedure Section 1161 *et seq.*, to evict for nonpayment of rent; or

5. Otherwise seek to evict for nonpayment of rent.

C. A landlord knows of a tenant's inability to pay rent within the meaning of this Urgency 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 the circumstances set forth in Section 1.A. of this Ordinance, and provides documentation to support the claim.

D. For purposes of this Urgency 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.

E. Nothing in this Urgency 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. Six months after the end of the emergency if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Urgency Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Urgency Ordinance through the eviction or other appropriate legal process.

F. This Urgency Ordinance applies to evictions and unlawful detainer actions served or filed on or after the date on which a local emergency was proclaimed to exist within the City of Upland.

## SECTION 2. Violations.

A. This Urgency Ordinance shall be punishable as set forth in Chapter 1.16 of the Upland Municipal Code. Nothing in this Urgency Ordinance shall be construed to diminish or supersede the provisions of Penal Code Section 396.

B. This Urgency Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Urgency Ordinance.

SECTION 3. Urgency; Term. The City Council finds that, as a result of the COVID-19 emergency and the negative economic impacts resulting from the public health measures required to address that emergency, as more fully described in the recitals of this Ordinance, the public health, safety and welfare will be placed immediately at risk unless this Ordinance and its regulations are immediately put into

effect. 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. This Urgency Ordinance shall remain in effect for the period of local emergency declared in response to COVID-19 within the City, or until May 31, 2020, whichever date is sooner.

SECTION 4. Effective Date. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its introduction and shall become effective at midnight tonight, March 18, 2020 upon its adoption by a minimum 4/5 vote of the City Council.

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

SECTION 6. Severability. The City Council declares that, should any section, subsection, subdivision, sentence, clause, phrase, or portion of this Urgency Ordinance for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance. The City Council hereby declares that it would have adopted this Urgency Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. Certification and Publication. The City Clerk shall certify to the adoption of this Urgency Ordinance and shall cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 31st day of March, 2020.

\_\_\_\_\_  
Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Urgency Ordinance was passed, approved, and adopted at a Special meeting of the City Council of the City of Upland held on the 31st day of March, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

\_\_\_\_\_  
Keri Johnson, City Clerk





## STAFF REPORT

**ITEM NO. 4.**

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**DATE:** March 31, 2020  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, CITY MANAGER  
**SUBJECT:** UPLAND - CORONAVIRUS (COVID-19) EMERGENCY AND ACTIONS

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### **RECOMMENDED ACTION**

It is recommended that the City Council discuss the actions taken by the City to date regarding the Coronavirus (COVID-19) emergency and give direction to the City Manager regarding future actions.

### **GOAL STATEMENT**

The proposed action supports the City's goal to protect the health, safety, and welfare of the citizens of Upland.

### **BACKGROUND**

On January 30, 2020, the World Health Organization declared the outbreak to be a "public health emergency of international concern". This was followed on January 31, 2020 by the United States Human Services Secretary declaring a public health emergency. Cases internationally, within the US and within California continue to rise. On March 11, 2020 the World Health Organization declared the Novel Coronavirus outbreak a pandemic. In response to these events the City took the following actions:

- March 12, 2020: The City and the Historic Downtown Upland canceled the "Irish for a Day 5k and 1k walk/run" and the "Irish Festival" scheduled for March 14, 2020.
- March 13, 2020: The City of Upland City Council adopted a resolution proclaiming the existence of a local emergency concerning the COVID-19 virus.
- March 17, 2020: The City closed the Upland Public Library and Gibson Senior Center through the end of March. Staff worked to adapt the Senior Lunch Program to accommodate seniors during this period. Cancelled the Farmer's Market at City Hall parking lot on Saturdays until further notice (Based on subsequent orders, this market

may resume for only the sale of food products). The Recreation department suspended registrations and passport services until further notice. Additionally, all classes, activities, upcoming events and tours were cancelled.

- March 18, 2020: The City, out of an abundance of caution to protect the public and its employees from the spread of the COVID-19 virus, temporarily closed public access to City facilities until further notice. Essential operations are still in place and the public may access these services by phone or e-mail.
- In addition to these steps the City has acquired personal protective equipment for safety personnel and are in the process of obtaining additional supplies. The City is in contact with the County on a daily basis and has activated its Emergency Operations Center.

## **ISSUES/ANALYSIS**

The San Bernardino County Department of Public Health (DPH) has issued guidelines for public gatherings and provided other guidance to the public in an effort to protect our population from any possible spread of the virus. The DPH has established fines and penalties for violations of these guidelines and is the enforcement agency of the guidelines. The DPH can be contacted by the public to investigate potential violators by reporting at <http://bit.ly/CovidNotifSBC> and DPH will take action as deemed appropriate..

## **FISCAL IMPACTS**

The temporary emergency measures to protect the health and safety of the public and employees from spread of COVID-19 will create significant economic impacts. The City is tracking all expenditures associated with the emergency and submitting proper documentation for potential future reimbursement.

## **ALTERNATIVES**

Provide alternative direction to staff.

## **ATTACHMENTS:**

No Attachments Available



## STAFF REPORT

**ITEM NO. 5.**

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**DATE:** March 31, 2020  
**TO:** MAYOR AND CITY COUNCIL MEMBERS  
**FROM:** ROSEMARY HOERNING, CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, CITY MANAGER  
**SUBJECT:** CITY MEETINGS DURING COVID-19 EMERGENCY

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### RECOMMENDED ACTION

It is recommended that the City Council discuss and provide direction to the City Manager.

### GOAL STATEMENT

The proposed action supports the City's goal of implementing measures to protect the health and safety of the public and City employees from the spread of COVID-19 pandemic that is compliant with city, county, state, and federal Orders and provides for the continuation of essential governmental services.

### BACKGROUND

A majority of the Council members requested this item be placed on the agenda to discuss how to proceed forward with the City Council, Planning Commission, and City Committees and Boards during this temporary period when group gatherings are restricted, and social distancing, and stay at home measures are in effect.

The global outbreak of a novel coronavirus, also known as COVID-19, has caused city, county, state, and federal officials to take decisive actions in the last several weeks in order to minimize the spread of COVID-19, including:

- March 4, 2020: California Governor Newsom declared a state of emergency in order to address the spread of COVID-19.
- March 12, 2020: San Bernardino County Health Officer temporarily prohibited large gatherings of 250 people or more and the Governor Newsom issued an Executive Order, which included suspending certain requirements of the Brown Act for meetings in which members of the legislative body participate via teleconferencing.
- March 13, 2020: United States President Trump declared a national emergency.
- March 13, 2020: City of Upland City Council adopted a resolution proclaiming the existence of a local emergency concerning the COVID-19 virus

- March 16, 2020: Governor Gavin Newsom issued Executive Order N-28-29, which includes the suspension of any provision of state law that would preempt or otherwise restrict the City's exercise of its police powers to impose limitations on residential or commercial evictions based on nonpayment of rent arising out of substantial decrease in household or business income caused by the COVID-19 pandemic.
- March 17, 2020: San Bernardino County Department of Public Health issued an Order canceling all gatherings, revoking and replacing the Order dated March 12, 2020. The Order also closes non-essential businesses.
- March 17, 2020: Governor Gavin Newsom issued Executive Order N-29-20 further relaxing Brown Act requirements for legislative body meetings to facilitate teleconferencing meeting methods.
- March 18, 2020: City of Upland out of an abundance of caution to protect the public and its employees from the spread of the COVID-19 virus temporarily closed public access until further notice. Essential operations are still in place and the public may access these services by phone or e-mail.
- March 19, 2020: Governor Gavin Newsom issued Executive Order N-33-20, which includes an Order of the State Public Health Officer ordering all individuals in the State of California to stay home, or at their place of residence, except as needed to maintain continuity of operations (essential services).
- These actions along with the recommendations provided by the Center for Disease Control and Department of Public Health are intended to protect the health and safety of the public and minimize the spread of the COVID-19 virus.

These temporary emergency measures and actions by the city, county, state, and federal agencies to protect the health and safety of the public and employees from spread of COVID-19 have resulted in the relaxation of the Brown Act requirements to facilitate remote meetings. The city and other jurisdictions are using technology to provide remote teleconferencing that provides the ability for public participation in order to conduct government meetings needed to continue business operations.

## **ISSUES/ANALYSIS**

It remains to be seen how long the COVID-19 emergency and the need for the various orders and restrictions will continue. While it continues, the City will continue to use teleconferencing as allowed by the Governor's executive order to conduct City business at public meetings. The City Council held its first meeting under the new teleconferencing rules on March 23, and the Planning Commission did the same on March 25. Although teleconferencing creates certain practical challenges, it will allow the City to conduct the public meetings necessary for the ongoing function of the City and provision of City services during the current emergency. City Council meetings will still be necessary to conduct an array of City business, some of which can only be done by the City Council and some of which are essential to providing City services. These include but are by no means limited to adoption of the City budget, regular approval of the City's check register, approval of many professional service contracts, appointment of shareholder proxies, awarding public works contracts, calling elections (including ballot measures), establishing new or amended service fees (including Prop 218 fees), approving final subdivision maps and accepting dedications and completed construction work, hearing land use appeals, and adoption of all new Municipal Code amendments. Planning Commission meetings will likewise be required to review land use applications, Zoning Code amendments, and other related matters. The Finance Committee must also meet quarterly. The City has some latitude to adjust its meeting calendar to accommodate the current emergency, but it cannot immediately postpone all City business nor postpone any particular action indefinitely.

## **FISCAL IMPACTS**

All items exceeding \$50,000 require the City Council approval.

**ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

**Anticipated City Council items**

**ANTICIPATED CITY COUNCIL ITEMS:**

<b>Monthly Check Register</b>	<b>Monthly</b>
<b>Bridge Development – Public Hearing</b>	<b>4-1-20</b>
<b>West Consolidated Water Company Shareholder Proxy</b>	<b>4-13-20</b>
<b>Villa Serena Development – Public Hearing</b>	<b>4-13-20</b>
<b>Fire Code Adoption</b>	<b>4-13-20</b>
<b>Nobel GIS Mapping, Phase II – Water Facilities</b>	<b>4-27-20</b>
<b>Enclave – Public Hearing</b>	<b>4-27-20</b>
<b>Upland Acres 3 – Park Fee Agreement (Bondenhammer)</b>	<b>4-27-20</b>
<b>Purchase &amp; Sale Agreement – 4 lots on Euclid Ave south of the 210</b>	<b>4-27-20</b>
<b>Pump Station Demolition Project - Award (Reservoir Replacement)</b>	<b>4-27-20</b>
<b>SB-743 VMT Workshop</b>	<b>4-29-20</b>
<b>FY2020-21 Budget - Workshop</b>	<b>5-11-20</b>
<b>Arrow Hwy – Street Design (Professional Services)</b>	<b>5-11-20</b>
<b>Assessor Dwelling Unit – Zoning Code Amendment</b>	<b>5-25-20</b>
<b>7<sup>th</sup> St and Harrington Street Project – Award</b>	<b>5-25-20</b>
<b>Citywide PCC Concrete Repairs – Award</b>	<b>5-25-20</b>
<b>TKE Engineering Professional Services Contract – Extension – PW</b>	<b>5-25-20</b>
<b>FY2020-21 Budget – Workshop</b>	<b>5-26-20</b>
<b>Call Elections – Resolution</b>	<b>6-8-20</b>
<b>Tax Measure – Resolution</b>	<b>6-8-20</b>
<b>Planning Commission Appointments</b>	<b>6-8-20</b>
<b>Traffic Signal Maintenance Agreement</b>	<b>6-8-20</b>
<b>FY2020-21 Budget – Approval</b>	<b>6-22-20</b>
<b>7.5MG Reservoir Replacement - Award</b>	<b>6-22-20</b>
<b>SB-743 VMT</b>	<b>6-22-20</b>
<b>Wireless Communications Ordinance – Public Hearing</b>	<b>6-22-20</b>
<b>Annealta Professional Services Contract Extension – Planning</b>	<b>6-22-20</b>
<b>Interwest Professional Services Contract Extension – Planning</b>	<b>6-22-20</b>

Not a comprehensive list