EMERGENCY ORDINANCE NO. 1268

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VERNON, CALIFORNIA ENACTING A TEMPORARY EMERGENCY MORATORIUM ON EVICTIONS FOR RENTERS AND OWNERS OF RESIDENTIAL PROPERTIES IN THE CITY AND LATE FEE ASSESSMENTS FOR RENT AND UTILITY PAYMENTS

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

WHEREAS, on March 4, 2020, California Governor Gavin Newsom proclaimed a “state of emergency” throughout the State in response to COVID-19, and in furtherance of this proclamation has issued several Executive Orders that include extraordinary measures directed at slowing the spread of COVID-19 and reducing impacts to residents and businesses; and

WHEREAS, on March 15, 2020, Governor Newsom released statewide guidance, urging the highest risk of population (individuals who are 65 years or older, or have compromised immune system) to self-isolate at home; and

WHEREAS, given these conditions, on March 14, 2020, the Mayor of the City of Vernon, acting as Chief Executive Officer of the Vernon Disaster Council, proclaimed the existence of a local emergency to allow prompt response to emergency conditions at the local level, and provide the City access to federal, state, and local resources during the crisis, and this local emergency was ratified by City Council on March 17, 2020; and

WHEREAS, on March 19, 2020, in an unprecedented step to slow the spread of COVID-19, Governor Newsom issued Executive Order
No. N-33-20 ordering all California residents and businesses to stay and work at home for an indeterminate period of time, with the only exceptions from this order being essential services and industries; and

WHEREAS, Governor Newsom 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, local schools remain closed to prevent further spread of COVID-19. These school closures will cause children to have to stay at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home; and

WHEREAS, the situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, as a result of the public health emergency and the precautions ordered by health authorities, many tenants in Vernon may experience or have already experienced sudden and unexpected income loss; and

WHEREAS, the City Council has reconsidered the conditions giving rise to the “local emergency” proclamation made by the Mayor on March 14, 2020, and ratified by City Council on March 17, 2020, and has
determined that the conditions giving rise to the local emergency continue to exist, and in fact have become more dire since the original proclamation was made; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20 temporarily reducing limits on local governments’ ability to impose their own “substantive limitations on residential or commercial evictions” through May 31, 2020; and

WHEREAS, on March 27, 2020, Governor Newsom issued Executive Order N-37-20 banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020; and

WHEREAS, on April 7, 2020, the City Council of the City of Vernon adopted an Emergency Ordinance enacting a Temporary Emergency Moratorium on Evictions for renters and owners of commercial properties in the City, and directed City staff to prepare a proposed Temporary Emergency Moratorium for renters and owners of residential properties in the City; and

WHEREAS, the City Council desires to temporarily prohibit evictions due to nonpayment of rent for tenants of residential properties in Vernon where the failure to pay rent is due to income loss resulting from COVID-19; and

WHEREAS, the City Council finds this Ordinance is a temporary moratorium intended to promote stability and fairness within the residential rental markets 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, the City Council further finds during the COVID-19
pandemic outbreak, affected tenants who have lost income due to 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, the City Council further finds and declares that it is necessary and appropriate to adopt this Ordinance as an emergency measure, pursuant to Chapter 4.4 of the Charter of the City of Vernon, for the immediate preservation of the public peace, health, or safety, given that displacement through eviction destabilizes the living situation of tenants and impacts the health of Vernon’s residents by uprooting families and disrupting the social ties that are integral to citizens’ welfare and the stability of communities within the City; displacement through eviction causes undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to lack of alternative housing; the ability to stay indoors is necessary to prevent the spread of COVID-19 and protect the public health and safety; which justify adoption of this Ordinance as an emergency measure to be effective immediately upon adoption by a majority vote of the City Council; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred, and the City Council has duly considered all evidence presented in connection with its consideration of this Ordinance.

THE CITY COUNCIL OF THE CITY OF VERNON HEREBY ORDAINS:

SECTION 1: The City Council of the City of Vernon hereby finds and determines that all of the foregoing recitals are true and correct.

SECTION 2: The City Council of the City of Vernon finds
that this action is exempt under the California Environmental Quality Act (CEQA), because it is an administrative activity of government that will not result in direct or indirect physical changes in the environment, and therefore does not constitute a “project” as defined by CEQA Guidelines section 15378.

SECTION 3: Authority. The City Council of the City of Vernon hereby adopts this Ordinance as an emergency measure pursuant to Chapter 4.4. of the Charter of the City of Vernon for the immediate preservation of the public peace, health, and safety, and is adopted and justified based on the findings of the City Council in Recitals of this Ordinance; which are supported by substantial evidence in the record associated with the City Council’s consideration hereof.

SECTION 4: A Temporary Moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 pandemic is imposed as set forth herein.

SECTION 5: During the period of local public health emergency and/or local emergency declared in response to COVID-19:

A. No landlord shall endeavor to evict a residential 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 if any member of the household is sick, in isolation, or under quarantine. 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 CCP 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 and thus knows the tenant has a substantive defense to any eviction 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.

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 (6) months of the expiration of the local emergency.

C. 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. However, the tenant and landlord may, prior to the expiration of the local emergency period or within 90 days of the first missed rent payment, whichever comes first, mutually agree to a plan for repayment of unpaid rent.

D. During this moratorium, a residential tenant shall also be waived any obligation for payment on late fee assessments related to electric, water, fiber, and gas utility charges and service shall not be shut off due to non-payment.

E. For purposes of this Ordinance, “financial impacts related to COVID-19” include, but are not limited to, (1) for residential tenant lost household income as a result of any of the following: (a) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (b) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (c) compliance with a recommendation from a government
health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (d) extraordinary out-of-pocket medical expenses; or (e) child care needs arising from school closures related to COVID-19.

F. 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.

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 residential tenant including, but not limited to, eviction notices served pursuant to Code of Civil Procedure Sections 1161(1), 1161(5), or 1161c.

SECTION 6: This Ordinance may be asserted as an affirmative defense in an unlawful detainer action. Any failure to comply with this Ordinance does not constitute a criminal offense. This Ordinance shall not be read in any way to prohibit any terminations of tenancy for just cause, or other terminations of tenancy where this Ordinance does not apply.

SECTION 7: As applied to notices of termination issued prior to the effective date of this Ordinance, this Ordinance shall apply to tenancies where, as of the effective date of this Ordinance, said tenant remains in possession and/or any unlawful detainer action has not reached final judgment or issuance of a final order, after all appeals have been exhausted. This Ordinance shall be deemed to have taken effect as of March 14, 2020, the date of the City’s proclamation of a “local emergency,” and shall remain in full force and effect for
the period of time set forth in Executive Order N-28-20, as the same may be extended from time to time, unless sooner terminated or repealed by the City Council.

SECTION 8: Severability. If any section, subsection, paragraph, sentence, clause, phrase, or portion thereof, of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, paragraph, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, phrases, or portions thereof, be declared invalid or unconstitutional. To this end, the provisions of this Ordinance are declared to be severable.

SECTION 9: The City Council of the City of Vernon hereby passes this emergency ordinance by a majority vote of the City Council. Accordingly, this measure shall take effect immediately upon adoption pursuant to City Charter Section 4.4.

SECTION 10: Book of Ordinances. The City Clerk shall attest and certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk’s certification to be entered in the Book of Ordinances of the Council of this City. The City Clerk shall cause this ordinance to be published or posted as required by law.

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SECTION 11: This Ordinance shall go into effect and be in full force and effect immediately upon adoption.

APPROVED and ADOPTED this 21st day of April, 2020.

Name: Melissa Ybarra

Title: Mayor

ATTEST:

Lisa Pope, City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman,
Interim City Attorney
I, Lisa Pope, City Clerk of the City of Vernon, do hereby certify that the foregoing Ordinance, being Ordinance No. 1268, was duly passed, approved and adopted by the City Council of the City of Vernon at a regular meeting of the City Council duly held in the City of Vernon on Tuesday, April 21, 2020, and thereafter adopted at a meeting of said City Council by the following vote:

AYES:  
      Councilmembers:

NOES:  
      Councilmembers:

ABSENT: 
      Councilmembers:

ABSTAIN: 
      Councilmembers:

And thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of Vernon.

Executed this ____ day of April, 2020, at Vernon, California.

__________________________________
Lisa Pope, City Clerk

(SEAL)