CONSIDERATION OF AN UNCODIFIED ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON EVICTING RESIDENTIAL AND COMMERCIAL TENANTS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE

INITIATED OR REQUESTED BY:

[ ] Council [ ] Staff

[ ] Other

REPORT COORDINATED OR PREPARED BY:

Aaron Laurel, City Manager
Doug Drozd, Government Affairs Manager

ATTACHMENT [ ] Yes [ ] No [ ] Information [ ] Direction [ ] Action

OBJECTIVE

In response to the global novel coronavirus disease (COVID-19) outbreak and the Governor’s Executive Order N-28-20, which suspends all provisions of state law that would preempt or otherwise restrict a local government’s exercise of its police power to impose substantive limitations on residential and commercial evictions, this item recommends that the Council adopt an ordinance to establish a temporary moratorium on evicting tenants who suffer substantial wage or business losses due to the implementation of measures to prevent the spread of COVID-19.

RECOMMENDED ACTION

Staff respectfully recommends that the Council adopt an uncodified ordinance establishing a temporary moratorium on evicting tenants who suffer substantial wage or business losses due to the implementation of measures to prevent the spread of the coronavirus disease, and declaring the ordinance to be an emergency measure to take effect immediately.

BACKGROUND

On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of COVID-19. On March 10, 2020, the Board of Supervisors of Yolo County ratified and extended the County's Director of Emergency Services' declaration and proclamation of a local health emergency. Due to directives from federal, state and local health officials, events have been cancelled, schools have been closed, and residents have been advised to avoid public gatherings and stay and work at home to prevent the spread of this disease.

Due to these measures, restaurant and retail business has significantly declined, parents have missed work to care for home-bound school-age children, and hours have been cut back, resulting in workers being impacted by lost wages and layoffs. Businesses of all types are in a state of uncertainty over the near and long-term impacts of the measures on their revenues. The loss of wages caused by the effects of COVID-19 will undoubtedly hinder a residential tenant's ability to pay rent when due, leaving tenants vulnerable to eviction and homelessness. Furthermore, the substantial loss of economic activity due to these measures could impact a commercial entity's ability to pay rent when due.

To address this matter, the Governor issued Executive Order N-28-20 on March 16, 2020. This Executive Order suspends all provisions 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, among other directives.

Article III of West Sacramento City Municipal Code Chapter 16.64 provides for certain tenant protections but does not contemplate the uniquely challenging issues presented by the current public health emergency. Therefore, staff is recommending an uncodified ordinance to establish a temporary moratorium to prohibit landlords from evicting residential or commercial tenants who are unable to pay the full amount of rent due to lost wages or business caused by the effects of COVID-19.

ANALYSIS

Staff’s proposed ordinance would establish a temporary moratorium to prohibit landlords from evicting residential and commercial tenants who are unable to pay the full amount of rent due to substantial lost wages or business caused by the effects of COVID-19. The tenant will be required to notify the landlord that their inability to pay rent was due to wage or business revenue losses caused by the COVID-19 pandemic before the rent payment is due, and to provide documentation to support the claim. Landlords who fail to comply would face administrative penalties.
Once the local emergency declaration is repealed, this ordinance would be repealed. A tenant would then have 120 days to pay the back rent owed to their landlord, but no late fees could be imposed.

Staff believes this is a necessary and appropriate policy action because many tenants, residents, and commercial businesses have experienced sudden income loss, and further income impacts are anticipated. The loss of business and wages caused by the effects of COVID-19 may impact a tenant’s’ ability to pay rent when due, leaving both residential and commercial tenants vulnerable to eviction.

Providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population, support local businesses, and stabilize the rental housing market by reducing displacement. During this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants. It is also imperative that commercial tenants be able to stay in place so that our economy can recover after the current emergency ends.

Prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted.

Environmental Considerations
The adoption of this ordinance is not considered a project under the California Environmental Quality Act (CEQA), per Public Resources Code Section 21065.

Commission Recommendation
N/A

Strategic Plan Integration
The actions recommended in this report help effectuate the City Council’s Strategic Plan Goal, "West Sacramento: A Preferred Place to Live, Work and Play" taking immediate action to provide eviction relief to those affected by the COVID-19 outbreak.

Alternatives
The Council's primary alternatives are summarized below.

1. To adopt Ordinance 20-05 relating to a temporary moratorium on evicting residential and commercial tenants and declaring the ordinance to be an emergency measure to take effect immediately upon adoption;
2. To adopt Ordinance 20-05 relating to a temporary moratorium on evicting residential and commercial tenants and declaring the ordinance to be an emergency measure to take effect immediately upon adoption, with directed changes;
3. To decline to adopt Ordinance 20-05 relating to a temporary moratorium on evicting residential and commercial tenants and declaring the ordinance to be an emergency measure to take effect immediately upon adoption.

Staff is prepared to implement alternatives 1 and 2. Staff strongly discourages alternative 3, as the ongoing COVID-19 outbreak and the resulting economic and housing impacts demand that the City act decisively to address a potential eviction crisis.

Coordination and Review
This report was produced in coordination with the City Attorney’s office.

Budget/Cost Impact
There is no cost associated with the adoption of this ordinance.

ATTACHMENT(S)
1. Ordinance 20-05 relating to a temporary moratorium on evicting residential and commercial tenants and declaring the ordinance to be an emergency measure to take effect immediately upon adoption
ORDINANCE 20-05

AN UNCODIFIED ORDINANCE ENACTING A TEMPORARY MORATORIUM ON EVICTING RESIDENTIAL AND COMMERCIAL TENANTS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

The City Council of the City of West Sacramento does ordain as follows:

Section 1. Purpose and Authority. The purpose of this Ordinance is to enact a temporary moratorium on evicting residential tenants. As such, the City Council finds and declares as follows:

A. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"). On March 10, 2020, the Board of Supervisors of Yolo County ratified and extended the County's Director of Emergency Services' March 6, 2020 declaration and proclamation of a local health emergency. Due to directives from federal, state, and local health officials, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease. On March 16, 2020, the West Sacramento Director of Emergency Operations issued a Declaration of Local Emergency related to COVID-19.

B. On March 16, 2020, the Governor issued Executive Order N-28-20, suspended state statutes that restrict the authority of cities to adopt local measures limiting residential and commercial evictions.

C. The city and its residents and businesses has been impacted by the health crisis of this global pandemic. Events, concerts, plays, and conferences have been cancelled. School closures have occurred and may continue. Many employees have been advised to work at home. Bars and restaurants have largely closed due to guidance from the state government. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home for extended periods.

D. Many residential tenants have experienced sudden income loss, and further income impacts are anticipated. The loss of wages caused by the effects of COVID-19 may impact residential tenants' ability to pay rent when due, leaving tenants vulnerable to eviction.

E. Many commercial tenants have experienced sudden loss of business, or in some case closure, and further negative economic impacts are anticipated. The loss of business caused by the effects of COVID-19 may impact commercial tenants' ability to pay rent when due, leaving tenants vulnerable to eviction.

F. Providing residential and commercial tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population, support our local economy, and stabilize the rental housing market by reducing displacement.
F. During this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of residential tenants. Prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted.

G. Nothing in this ordinance waives a tenant’s obligations to pay back rent owed once this ordinance is no longer effective.

Section 2. Moratorium on evictions due to nonpayment of rent during the COVID-19 emergency.

1. No landlord shall endeavor to evict a residential or commercial tenant for nonpayment of rent if the tenant, in accordance with this Ordinance, demonstrates that the tenant’s inability to pay rent is due to the Coronavirus Disease 2019 (COVID-19), the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.

2. To take advantage of the protections afforded under this Ordinance, a tenant must do all the following:
   a. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment;
   b. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment; and,
   c. Pay the portion of rent that the tenant is able to pay.

3. As used in this Ordinance, “covered reason for delayed payment” means a residential or commercial tenant’s substantial loss of income due to any of the following: (a) residential tenant or commercial business owner was sick with COVID-19 or caring for a household or family member who was sick with COVID-19; (b) residential tenant experienced a lay-off, loss of hours, or other substantial income reduction resulting from COVID-19 or the state of emergency; (c) residential tenant’s compliance with a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (d) residential tenant’s need to miss work to care for a home-bound school-age child; (e) commercial tenant’s business was required to close in compliance with a recommendation from a government agency; or, (f) commercial tenant experienced a substantial loss of business resulting from COVID-19 or the state of emergency.

4. If a tenant complies with the requirements of section 3, a landlord shall not serve a notice pursuant to California Code of Civil Procedure sections 1161 and 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise endeavor to evict the tenant for nonpayment of rent.

5. Nothing in this Ordinance relieves the tenant of liability for the unpaid rent after expiration of this Ordinance.

SECTION 3. 120-Day Payback Period.

Residential and commercial tenants who were afforded eviction protection under this Ordinance shall have up to 120 days after this Ordinance terminates to pay their landlord all unpaid rent. During that 120-day period, the protections against eviction found in this Ordinance apply for such tenants.
SECTION 4. Effective Date and Term.

1. This Ordinance takes effect immediately upon enactment.

2. This Ordinance remains in effect until the Governor’s Executive Order N-28-20 is no longer in effect, unless earlier terminated by the City Council.

SECTION 5. Emergency Declaration.

The City Council declares this ordinance to be an emergency measure that is needed for the immediate preservation of the public peace, health and safety, pursuant to the authority granted to general law cities under Government Code Section 36937(b) and Government Code Section 8634. The facts constituting the emergency are as follows: The directives from health officials to contain the spread of COVID-19 has resulted in loss of business, furloughs, loss of wages, and lack of work for employees. To protect the public health, safety, and welfare, the city must act immediately to prevent eviction of tenants who are unable to pay rent due to wage losses or loss of business caused by the effects of COVID-19. An emergency measure is necessary to protect tenants from eviction for a temporary period.

SECTION 6. Publication.

Within fifteen (15) days after its passage, it shall be published at least once in a newspaper of general circulation published and circulated within the City of West Sacramento.

PASSED AND ADOPTED by the City Council of the City of West Sacramento this eighteenth day of March, 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

______________________________
Christopher L. Cabaldon, Mayor

ATTEST: Approved as to form:

______________________________
Kryss Rankin, City Clerk

______________________________
Jeffrey Mitchell, City Attorney

CODIFY _______ UNCODIFY __________

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