

**ORDINANCE NO. U-1188-20**

**AN URGENCY ORDINANCE OF THE CITY OF AVALON ENACTING  
A TEMPORARY MORATORIUM ON RENT INCREASES, LIMITING  
HOTEL OCCUPANCIES TO THOSE ENGAGED IN ESSENTIAL  
SERVICES AND ACTIVITIES AND SETTING FORTH THE FACTS  
CONSTITUTING SUCH URGENCY**

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

**SECTION 1. Findings.**

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes which has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”).
- B. On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.
- C. 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 a broader spread of COVID-19.
- 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.
- E. On March 16, 2020, the City Council proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective City response to the novel coronavirus (“COVID-19”).
- F. On March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, authorizing local governments’ through their police power to impose substantive limitations on residential or commercial evictions for nonpayment of rent for tenants financially impacted by COVID-19 through May 31, 2020.
- G. On March 16, 2020, the Los Angeles County Public Health Officer issued an order countywide that (1) prohibits gatherings where at least 50 or more people are expected to attend, (2) puts limits and regulations on gatherings of 10-49 people, (3) limits restaurants to drive-through/takeout/delivery only, and (4) closes bars (that don’t serve food), gyms, movie theaters, etc.

- H. On March 17, 2020, the City Council proclaimed the existence of a local emergency to assist in a coordinated public health response to reduce transmission and illness severity, provide assistance to health care providers, coordinate and mitigate public services that may be disrupted from this emergency, and mitigate any other effects of this emergency on the citizens of the City and allow the City of Avalon to seek reimbursement for costs associated with the emergency and response to the novel coronavirus (“COVID-19”).
- I. The Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to strict adherence to social distancing guidelines, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Other counties throughout the state have issued essentially “shelter in place” directives.
- J. On March 19, 2020 the Los Angeles County Public Health Officer issued a second countywide order, the Safer at Home For Control of COVID-19 Order, which was further clarified on March 21, 2020. This public health order prohibits all public and private group gatherings and events and requires people to stay in their homes with limited exceptions; and requires closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters and all similar gathering places. The purpose of the order is to further restrict and limit gathering of persons and require closures of non-essential retail businesses in an effort to stem or slow the spread of the virus.
- K. On March 19, 2020, the Governor of the State of California, also issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors.
- L. On March 25, 2020, the Avalon City Council adopted an Urgency Ordinance (U 1186-20) enacting a temporary moratorium on evictions due to nonpayment of rent by residential and commercial tenants impacted by the novel coronavirus (covid-19), enacting a curfew and loitering restriction and prohibition on certain transient occupancies.
- M. As of the date of this ordinance and in order to prevent further exposure, many businesses have imposed work from home policies; meetings, events and social gatherings are cancelled as people remain at home; customers are not patronizing restaurants and stores or hiring domestic help or travelling. With tourism coming to a halt and no customers patronizing restaurants, hotels and other retail establishments that employ hourly workers, hourly cutbacks and employee terminations and furloughs have occurred.

- N. As a result of the public health emergency and the precautions recommended by health authorities, many tenants in Avalon have experienced or expect soon to experience sudden and unexpected income loss.
- O. 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.
- P. Schools are closed to prevent further spread of COVID-19. These school closures will cause children to have to remain 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
- Q. The situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction, which was the basis for the moratorium on evictions. Adding increased financial burden through rental increases at a time of extreme economic strain will further exacerbate the economic strain on residents and further threaten the public peace, health, safety and welfare by threatening housing security and increasing the potential for homelessness, which can exacerbate the vulnerability to COVID-19 exposure.
- R. Reducing spread of COVID-19 is particularly crucial in Avalon, an island with only one small hospital, the Catalina Island Medical Center. Measures to prevent the spread of COVID-19 and keeping residents in their homes are necessary to avoid overwhelming the small hospital, including measures to ensure proper social distancing and compliance with state and county health orders. This includes maintaining the rental status quo during the period of local emergency.
- S. This Ordinance is temporary in nature and only intended to promote stability and fairness within the residential 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. Avalon residents are likely to feel the economic and social impacts of COVID-19 faster than other areas across the country due to (1) the limited number of residential units, (2) the economy's reliance upon tourism, and (3) the small population. Due to the limited supply of residential units, Avalon is in a unique position with respect to needing to temporarily limit rent increases

- T. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to adopt this ordinance related to the protection of life and property, to ensure renters can remain in their homes without added burden of increased rents and prevent proliferation of homelessness and further spread of COVID-19. It is of concern that landlord's would add to a renter's financial burden at a time when most businesses are closed and the economy is slowing to halt as people remain home. Nevertheless, the ordinance creates a mechanism for a landlord to seek an exception to the rule to ensure a just and reasonable return.
- U. Maintaining the rental status quo and reducing housing insecurity is also conducive to public health, allowing people to follow the advice and directives of public health officials to close, and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction. Increasing the rental burden at this time may create an incentive for people to leave their homes and work, in violation of state and county health orders in order to make increased rental obligations. The City desires to avoid that incentive.
- V. Upon proclamation of a disaster, the City Council is authorized to make and issue regulations on matters reasonably related to the protection of life and property as affected by such emergency. Under conditions of the declared local emergency, it is deemed necessary in the interest of public safety to ;limit rent increases during the period of local emergency in the City of Avalon. It is also imperative to overwhelm of the one hospital on the island by limiting occupancies to avoid non-essential visitors to the island who may be carrying the virus unknowingly. Life and property is deemed to be in peril and speed is of the essence.
- W. State and county health orders and social distancing directives suggest that transient occupancies are not a safe practice and should be avoided unless provided for workforce for essential activities. As such, non-essential hotel occupancies are not safe and violate the spirit of the county and state health directives to stay home. Further, with very limited medical facilities on the island and in an effort to avoid overwhelm of the hospital during this unprecedented health pandemic, new non-essential hotel occupancies should not be permitted during the period of emergency.
- X. This Ordinance is adopted pursuant to the City's police powers and powers afforded to the city in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and the Title 4, Chapter 2 of the Avalon Municipal Code to protect the peace, health, and safety of the public. The Avalon City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City and finds urgency to approve this ordinance immediately based on the facts described herein and detailed in the staff report. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of health, life and property.

SECTION 2. Temporary Moratorium on Rent Increases for Residential Tenants During the COVID-19 Crisis.

A. The amount of monthly rent due to a landlord for rental of a residential dwelling unit shall not be increased during the period of local emergency (March 25, 2020 through May 31, 2020). This provision shall not apply if the unit or property is exempt from rent control under California Civil Code, Chapter 2.7 (commencing with Section 1954.50), or if the unit or property is otherwise exempt from local rent control under State law. Any landlord may apply in writing to the City Council for an exception to this rule, and an exception may be granted, following a public hearing and upon showing by that the landlord that it will not receive a just and reasonable return on the investment without the increase.

SECTION 3. Limitation on Hotel Occupancies to Persons Engaged in Essential Activities.

A. In compliance with the Governor’s Order N-33-20 and the Los Angeles County Safer at Home Order, as may be further amended, hotels within the City of Avalon shall only operate as follows during the period of declared local emergency:

- a. To serve as short-term lodging facilities that are used for the following COVID-19 mitigation and containment measures and essential activities:
  - i. Lodging to protect the homeless population;
  - ii. Lodging for persons who have been displaced and cannot return to their residence because there is a person residing at the residence that must isolate or quarantine or is at a higher risk of severe illness;
  - iii. Lodging for persons who need to isolate or quarantine
  - iv. To house essential workers performing functions that are essential to maintain the continuity of operations for critical infrastructure as those terms are defined in the Governor’s Order N-33-20, and to house workers for Essential Businesses and Essential Infrastructure and Healthcare Operations, as those terms are defined in the Los Angeles County Safer At Home Order.

SECTION 4. Enforcement.

Violation of this ordinance shall be punishable as set forth in Title 1, Chapter 9 and Title 4, Chapter 2 of the Avalon Municipal Code.

SECTION 5. This ordinance shall take effect immediately upon adoption and remain in effect until May 31, 2020. In order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of any provision in this ordinance in the event that the President of the United States, Congress, Governor of the State of California or California State Legislature or other body with jurisdiction adopts an order or legislation that similarly regulates the activities covered in this Ordinance.

SECTION 6. Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

SECTION 7. Environmental Review.

The City Council finds that adoption and implementation of this ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo on rents and to limit non-essential hotel occupancies to prevent the spread of the virus. No new development will result from the proposed action. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Avalon, in furtherance of its police power to protect public health and safety, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

SECTION 10. Urgency Declaration; Effective Date.

The City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and herein. 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, especially given state and county directives to stay at home. Loss of income as a result of COVID-19 may inhibit City residents from fulfilling their financial obligations, including payment of rent . Further economic impacts are anticipated, leaving tenants vulnerable to eviction, which was the basis for the moratorium on evictions. Adding increased financial burden through rental increases at a time of extreme economic strain will further exacerbate the economic strain on residents and further threaten the public peace, health, safety and welfare by threatening housing security and increasing the potential for homelessness, which can exacerbate the vulnerability to COVID-19 exposure. It is of concern that landlords would add to a renter’s financial burden at a time when most businesses are closed and the economy is slowing to halt as people remain home. Maintaining the status quo of rents for a temporary period is also conducive to public health, allowing tenants to follow the advice and directives of public health officials to close and allowing employees to avoid public contact during times of a public health crisis without fear of increased rental burdens. Increasing the rental burden at this time may create an incentive for people to leave their homes and work, in violation of state and county health orders in order to make increased rental obligations. The City desires to avoid that incentive. Under Government Code Section 8634 and AMC Title 4, Chapter

2, this ordinance is necessary to provide for the protection of life and property for the reasons set out herein and to immediately slow the spread of the virus and avoid overwhelm of the one hospital on the island by limiting occupancies to avoid non-essential visitors to the island who may be carrying the virus unknowingly. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

SECTION 11. Certification.


The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of April, 2020.

Ayes: Mayor Marshall, Councilmembers Cassidy, Lavelle, Ponce and De La Rosa  
Noes: None  
Absent: None  
Abstain: None

  
Ann H. Marshall, Mayor

ATTEST:

  
Denise A. Radde, City Clerk

Date: 04/08/20

APPROVED AS TO FORM:

  
Scott Campbell, City Attorney


STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    ) SS.  
CITY OF AVALON                )

I, GABRIELLE MORONES, DEPUTY CITY CLERK OF THE CITY OF AVALON, do hereby certify that the foregoing is a true and correct copy of Ordinance No. U 1188-20, and was adopted by the Avalon City Council at it's regular meeting of April 7, 2020, by the following vote:

Ayes:            Mayor Marshall, Councilmembers de la Rosa, Lavelle, MacGugan-Cassidy,  
                    and Ponce.  
Noes:            None  
Absent:          None  
Abstain:         None

and that the same has not been amended nor repealed.

Dated this 8<sup>th</sup> day of April, 2020.

  
\_\_\_\_\_  
Gabrielle Morones  
Deputy City Clerk  
City of Avalon, California