



AGENDA

SPECIAL CITY COUNCIL MEETING OF THE CITY OF COACHELLA

THE COUNCIL SITTING AS THE COACHELLA SANITARY DISTRICT,
COACHELLA FIRE PROTECTION DISTRICT, COACHELLA FINANCING AUTHORITY,
COACHELLA EDUCATIONAL AND GOVERNMENTAL ACCESS CABLE CHANNEL CORPORATION,
COACHELLA WATER AUTHORITY, AND SUCCESSOR AGENCY TO THE COACHELLA REDEVELOPMENT AGENCY

March 27, 2020
3:00 PM

Pursuant to Executive Order N-29-20, this meeting may be conducted by teleconference and there will be no in-person public access to the meeting location.

- Submit your public comment to the City Council electronically. Material may be emailed to cityclerk@coachella.org. Transmittal prior to the start of the meeting is required.
- Any correspondence received during or after the meeting will be distributed to the City Council and retained for the official record.
- You may provide telephonic comments by calling the City Clerk at (760)-262-6240 by **no later than 3:00 p.m.** to be added to the public comment queue. At the appropriate time, you will be called so that you may provide your public testimony to the City Council.

CALL TO ORDER:

ROLL CALL:

APPROVAL OF AGENDA:

“At this time the Council/ Board/Corporation/Authority may announce any items being pulled from the Agenda or continued to another date or request the moving of an item on the agenda”

NEW BUSINESS CALENDAR (LEGISLATIVE AND ADMINISTRATIVE):

1. Ordinance No. 1158, an Urgency Ordinance of the City of Coachella Imposing a Temporary Moratorium on Evictions for Nonpayment of Rent During COVID-19 Pandemic
2. Ordinance No. 1159, an Urgency Ordinance of the City of Coachella, California, Prohibiting Violation of Any Emergency Order Issued by the State or County of Riverside.

ADJOURNMENT:

Complete Agenda Packets on the City's website www.coachella.org.



STAFF REPORT
3/27/2020

TO: Honorable Mayor and City Council Members

FROM: Best Best & Krieger LLP, City Attorney

SUBJECT: Ordinance No. 1158, an Urgency Ordinance of the City of Coachella Imposing a Temporary Moratorium on Evictions for Nonpayment of Rent During COVID-19 Pandemic

STAFF RECOMMENDATION:

Approval of the Urgency Ordinance Imposing a Temporary Moratorium on Evictions for Nonpayment of Rent during COVID-19 Pandemic.

DISCUSSION/ANALYSIS:

The Center for Disease Control and Prevention (“CDC”) has been monitoring the outbreak of a respiratory illness caused by a novel coronavirus (“2019-nCoV”) that was initially detected in December 2019. The virus has been named “SARS-CoV-2” and the disease it causes has been named “corona virus disease 2019” (abbreviated COVID-19).

Governments worldwide are responding to the outbreak of COVID-19 which according to John Hopkins University has affected over 175 counties/regions with over 510,000 confirmed cases worldwide. In the US there are over 75,000 confirmed cases with over 1,000 confirmed deaths. On March 4, 2020, the Governor of the State of California declared a state of emergency in the State of California as a result of the threat of COVID-19. On March 8, 2020, the Riverside County Health Officer declared a local and public health state of emergency in response to the increased spread of COVID-19, the disease caused by the novel coronavirus. On March 19, 2020, the City Manager, as the City’s Emergency Services Director, proclaimed the existence of a local emergency. As of March 25, 2020, there are at least 8 confirmed deaths in Riverside, with at least 7 in the Coachella Valley, due to COVID-19.

In response to the global pandemic, experts are urging all individuals — even those who are not displaying symptoms — to practice social distancing, which refers to avoiding close contact with other individuals in order to avoid catching the virus yourself and to avoid passing it on to others. The Centers for Disease Control and Prevention recommends that people who are mildly ill with COVID-19 or other similar illnesses self-isolate to avoid interacting in public. Public and private schools in the region have closed in order to try to slow the spread of the virus. On March 19, 2020, the State of California imposed a “shelter in place” order, which required all persons to stay at home, unless they are essential workers.

While these measures are necessary to fight the global pandemic, they can have extreme economic impacts. Fear of the widening public health crisis has impacted consumer behavior. Bars, restaurants and gyms have been ordered closed, and restaurants may now only provide drive through or pick-up service. All non-essential stores have been ordered closed. This has also reduced non-essential travel. As a result of these emergency measures, tenants within our community may see their incomes reduced or may have to take time off work to care for their health or the health of family members. In the face of this uncertainty, people may need to make difficult financial decisions and may be unable to pay rent due to reduced income.

On March 16, 2020, Governor Newsom issued Executive Order N-28-20, which among other things, suspended any state law that would preempt cities' exercise of their police power to impose substantive limitations on residential or commercial evictions, if the basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses. In addition, under Executive Order N-28-20, the decrease in household or business income or medical expenses would have to have been documented and caused by the COVID-19 pandemic or any government response to COVID-19.

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.

This urgency ordinance proposes a moratorium on evictions for failure to pay rent during this emergency period, if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19. Under the proposed ordinance, a landlord knows of a tenant's inability to pay rent for the covered reasons 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. Notification "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.

For purposes of this ordinance "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

Notably, the ordinance does *not* relieve the tenant from eventually paying the rent to the landlord. Instead, the ordinance provides that the tenant must pay any unpaid rent within six months after the expiration of the local emergency. However, the landlord may not charge a late fee on the rent.

The ordinance is intended to be narrow and no other legal remedies available to landlord are affected by this ordinance.

If approved, the ordinance will go into effect immediately upon adoption and will remain in effect for sixty days, and authorizes the City Manager (Director Emergency Services) to further extend the ordinance during the period of local emergency. In order to prevent inconsistencies in the law, the City Manager may also suspend the local ordinance if a similar federal or state law is adopted.

As of the writing of this staff report, other cities in California, including San Jose, Hayward, Oakland, Sacramento, Los Angeles, San Diego, and Santa Monica have approved, or are considering, similar urgency measures.

California State Senator Scott Wiener and Assembly Member Phil Ting have called on California and the federal government to immediately place an emergency moratorium on evictions — for both renters and businesses — as well as home foreclosures. Any legislation introduced would need a supermajority vote (two-thirds of the Legislature) in both houses of the Legislature to take effect immediately. The City Attorney's Office and staff will continue to track and monitor these proposals at the state level to determine how it may impact Coachella residents and businesses.

During a state of emergency, it is a crime for a landlord to take advantage of the situation by evicting a tenant and then raising the rent above the existing tenant's rent under Penal Code s. 396(f). This ordinance will provide additional protections to tenants. In addition to the City's general police power under article XI, section 5 of the California Constitution, during a local emergency, Government Code, § 8634 and the City's Municipal Code also authorize the City to promulgate orders and regulations necessary to provide for the protection of life and property. The coronavirus outbreak presents a health and financial crisis to all and this situation is unprecedented and constantly evolving.

This urgency measure will provide protections to those who have had unforeseen financial impacts due to COVID-19. Displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close. 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. People experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care.

The Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19. Widespread evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency, and increase the risk of spread of COVID-19.

This situation is unprecedented and the circumstances are changing hourly. The situation is evolving so rapidly that it is hard to capture the full scale of the closures. However, City residents

will be unable to work at any non-essential job that requires physical presence. Businesses are expected to see a sharp drop in revenue, making it difficult to pay workers. Wages are expected to drop sharply and this ordinance will allow individuals to follow the national, state and local directives to stay home without fear of losing their home or business during this emergency.

ALTERNATIVES:

- 1. Do not adopt the Urgency Ordinance.
- 2. Provide additional direction.

FISCAL IMPACT:

None Anticipated.

RECOMMENDED ALTERNATIVE(S):

None.

URGENCY ORDINANCE NO. 1158**AN URGENCY ORDINANCE OF THE CITY OF COACHELLA, CALIFORNIA, ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FROM TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19), AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY**

WHEREAS, 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 has been named “coronavirus disease 2019,” abbreviated COVID-19 (“COVID-19”); and

WHEREAS, on March 8, 2020, the Riverside County Health Officer declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

WHEREAS, 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

WHEREAS, 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

WHEREAS, on March 16, the Governor of the State of California issued an Executive Order 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 19, 2020, the City Manager, as the City’s Emergency Services Director, proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective the City’s response to the novel coronavirus (“COVID-19”); and

WHEREAS, 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; and

WHEREAS, the federal Centers for Disease Control and Prevention, the California Department of Health, and the Riverside County Department of Public Health have all issued recommendations 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

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Coachella have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, 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

WHEREAS, local 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; and

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

WHEREAS, this Ordinance is only intended to be temporary in nature, to promote stability and fairness within the residential rental and non-residential real estate markets in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness and widespread business disruption, 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 places of business; and

WHEREAS, 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 that residential renters can remain in their homes and that tenants of non-residential properties can remain in their places of business and prevent proliferation of homelessness and further spread of COVID-19. Displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing and employment and lack of moving services and supplies as stores and businesses close. 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. Businesses and other tenants of non-residential properties will be similarly harmed, with significant consequences for the public health, safety, and welfare; and

WHEREAS, people experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care. The Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19. Widespread

evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency, and increase the risk of spread of COVID-19; and

WHEREAS, the City desires to prohibit evictions due to non-payment of rent for tenants of all types of properties where the failure to pay rent results from income loss resulting from COVID-19; and

WHEREAS, the City has authority to adopt this Ordinance under the City’s police power and the 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 City’s Municipal Code to protect the peace, health, and safety of the public. The Coachella 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 life and property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Temporary Moratorium on Evictions for Non-Payment of Rent by Tenants Impacted by the COVID-19 Crisis.

A. Notwithstanding anything to the contrary in the Coachella Municipal Code, during the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19.

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 serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a 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 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. 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.

C. For purposes of this ordinance “financial impacts related to COVID-19” include, but are not limited to, tenant lost household or business income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with

others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

D. Violation of this Ordinance shall be punishable as set forth in Sections 1.08.010 and 2.56.100 of the Coachella Municipal Code. In addition, this ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this ordinance.

E. 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 months following the expiration of the local emergency. A landlord may not charge or collect any interest or any late fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed or the reasons stated in this ordinance through the eviction process.

F. No other legal remedies available to landlord are affected by this Ordinance.

G. This Ordinance shall remain in effect through May 31, 2020, unless extended by the City Council or the City's Director of Emergency Services. Notwithstanding the foregoing, and in order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of this Ordinance in the event that the President of the United States, Congress, Governor of the State of California, or California State Legislature adopts an order or legislation that similarly prohibits evictions for failure to pay rent by individuals impacted by the COVID-19 crisis.

SECTION 2. 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 3. 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. 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 Coachella, in furtherance of its police power, 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 4. 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 as the City and public would suffer potentially irreversible displacement of tenants resulting from evictions for failure to pay rent during the COVID-19 crisis. 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. Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent. Under Government Code Section 8634 and the City’s Municipal Code, this Ordinance is necessary to provide for the protection of life and property for the reasons set out herein. 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 5. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published on the City’s website and published once in a newspaper of general circulation published and circulated within the City.

PASSED, APPROVED and ADOPTED this 27th day of March 2020.

Steven A. Hernandez
Mayor

ATTEST:

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

Carlos Campos
City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I, Andrea J. Carranza, Deputy City Clerk of the City of Coachella, California, do hereby certify that Ordinance No. 1158 is a full, true, and correct copy, and was adopted at a special meeting of the Coachella City Council on March 27, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Coachella, California, this 27th day of March 2020.

Andrea J. Carranza, MMC
Deputy City Clerk



STAFF REPORT
3/24/2020

TO: Honorable Mayor and City Council Members

FROM: Best Best & Krieger, City Attorney

SUBJECT: Ordinance No. 1159, an Urgency Ordinance of the City of Coachella, California, Prohibiting Violation of Any Emergency Order Issued by the State or County of Riverside.

STAFF RECOMMENDATION:

Approval of Urgency Ordinance of the City of Coachella, California, Prohibiting Violation of Any Emergency Order Issued by the State or County of Riverside.

The proposed Urgency Ordinance would supplement the City's ability to enforce State and County emergency orders to prevent the spread of any contagious, infectious, or communicable disease by making it unlawful and a public nuisance to violate any such emergency orders and gives the City the authority to enforce them by issuing administrative citations; denying, not renewing, suspending, or revoking a business license; suspending or revoking any conditional use permit; revoking a legal nonconforming status; suspending or revoking any other land use approval; instituting a misdemeanor criminal prosecution; or by filing a civil action to seek abatement.

BACKGROUND:

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 has been named "coronavirus disease 2019," abbreviated COVID-19 ("COVID-19").

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 on March 8, 2020, the Riverside County Public Health Officer declared a local health emergency, and on March 13, 2020, the President of the United States declared a state of national emergency.

Pursuant to Chapter 2.56 of the Coachella Municipal Code, the City Manager in his capacity as the Director of Emergency Services proclaimed the existence of a local state of emergency on March 19, 2020, due to the COVID-19 outbreak, to enhance the City's ability to protect public health and safety.

The Coachella City Council ratified the proclamation of a local state of emergency by Resolution dated March 25, 2020.

The Governor’s May 19, 2020 Executive Order N-33-20 ordered closure of all non-essential retail businesses (subject to certain exceptions), indoor malls and shopping centers, playgrounds for children, and prohibits all public and private group events and gatherings and requires people to stay home (except for essential activities like buying groceries and obtaining medication) in an effort to stem or slow the spread of this communicable virus.

The Governor’s May 19, 2020 Executive Order N-33-20 is made in two capacities, in the Governor’s emergency authority under the California Emergency Services Act (Government Code sections 8550–8669.7) and in his authority as State Public Health Officer.

DISCUSSION/ANALYSIS:

Local Enforcement

The City’s only means to enforce an order of the Governor made under the Emergency Services Act or an order of the State Department of Public Health or Riverside County Health Officer is criminal enforcement by local peace officers and the District Attorney, pursuant to Government Code section 8665 and Health and Safety Code sections 101029 and 120155.

The purpose of the proposed Urgency Ordinance is to supplement the City’s ability to enforce State and County emergency orders by adopting local regulations necessary to allow it to utilize code enforcement procedures and remedies related to civil, administrative, or criminal available for enforcing Municipal Code violations.

The proposed Urgency Ordinance would add Section 1.08.303 *Emergency Order Enforcement* to Chapter 1.08 *General Penalty* of the Coachella Municipal Code, which would provide:

- **Violation Unlawful.** It is unlawful and declared a public nuisance for any person to violate any emergency order made by the Governor of the State of California under the Emergency Services Act or any order of the State Department of Public Health or Riverside County Health Officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease.
- **Remedies.** The City may enforce this ordinance using any remedy available under the law, including:
 - Issuance of an **administrative citation** under Chapter 3.20 of this Code.
 - Denial, nonrenewal, suspension, or revocation of a **business license** under Chapter 5.0 of this Code.
 - Suspension or revocation of any **conditional use permit** under Section 17.74.050 of this Code, revocation of **legal nonconforming status** under Section 17.78.040

of this Code, or suspension or revocation of other **land use approval** under Title 17 of this Code.

- **Misdemeanor criminal prosecution** by the city prosecutor under Section 1.08.010 of this Code.
 - Punishable as provided under Section 2.56.100 of this Code.
 - Filing of a **civil or equitable action** to seek abatement of any violation.
- **Violations Ongoing.** Each and every day a violation is maintained, caused, aided, abetted, concealed, suffered, or permitted is a separate offense.
 - **Remedies Cumulative.** The remedies, procedures, and penalties provided by this Chapter are cumulative to each other and to any other available under City, State, or federal law.

Urgency Nature of this Proposed Ordinance and Procedure

Section 36937 of the California Government Code provides that an ordinance takes effect immediately if it is for the preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the city council.

Staff requests that the City Council find and declare that the adoption of the proposed Ordinance is necessary for the immediate preservation of the public peace, health, and safety. Currently, the City is severely limited in its ability to address violations of emergency orders issued by the State or County. The proposed ordinance addresses this gap and creates a framework for local enforcement. COVID-19 has prompted the declaration of a statewide state of emergency by the Governor of California.

As this is an Urgency Ordinance, it would take effect immediately upon its adoption.

ALTERNATIVES:

1. Do not adopt the Urgency Ordinance.
2. Provide additional direction.

FISCAL IMPACT:

None Anticipated.

RECOMMENDED ALTERNATIVE(S):

None.

URGENCY ORDINANCE NO. 1159

AN URGENCY ORDINANCE OF THE CITY OF COACHELLA, CALIFORNIA, PROHIBITING VIOLATION OF ANY EMERGENCY ORDER ISSUED BY THE STATE OR COUNTY OF RIVERSIDE

WHEREAS, 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 has been named “coronavirus disease 2019,” abbreviated COVID-19 (“COVID-19”); and

WHEREAS, 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 on March 8, 2020, the Riverside County Public Health Officer declared a local health emergency, and on March 13, 2020, the President of the United States declared a state of national emergency; and

WHEREAS, pursuant to Chapter 2.56 of the Coachella Municipal Code, the City Manager in his capacity as the Director of Emergency Services proclaimed the existence of a local state of emergency on March 19, 2020, due to the COVID-19 outbreak, to enhance the City’s ability to protect public health and safety; and

WHEREAS, the Coachella City Council ratified the proclamation of a local state of emergency by Resolution dated March 25, 2020; and

WHEREAS, the Governor’s May 19, 2020 Executive Order N-33-20 ordered closure of all non-essential retail businesses (subject to certain exceptions), indoor malls and shopping centers, playgrounds for children, and prohibits all public and private group events and gatherings and requires people to stay home (except for essential activities like buying groceries and obtaining medication) in an effort to stem or slow the spread of this communicable virus; and

WHEREAS, the Governor’s May 19, 2020 Executive Order N-33-20 is made in two capacities, in the Governor’s emergency authority under the California Emergency Services Act (Government Code sections 8550–8669.7) and in his authority as State Public Health Officer; and

WHEREAS, the City’s only means to enforce an order of the Governor made under the Emergency Services Act or an order of the State Department of Public Health or Riverside County Health Officer is criminal enforcement by local peace officers and the District Attorney, pursuant to Government Code section 8665 and Health and Safety Code sections 101029 and 120155.

WHEREAS, the City desires to supplement its ability to enforce State and County emergency orders by adopting local regulations necessary to allow the City to utilize code

enforcement procedures and remedies related to civil, administrative, or criminal available for enforcing Municipal Code violations; and

WHEREAS, Section 36937 of the Government Code provides that an ordinance takes effect immediately if it is for the preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the city council; and

WHEREAS, the Coachella City Council finds that this Ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City of Coachella and find an urgency to approve said Ordinance immediately based on the facts described above.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COACHELLA DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Preamble. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. Urgency Findings. The City Council finds and declares that the adoption of this Ordinance is necessary for the immediate preservation of the public peace, health, and safety. Currently, the City is severely limited in its ability to address violations of emergency orders issued by the State or County. The proposed Ordinance addresses this gap and creates a framework for local enforcement. COVID-19 has prompted the declaration of a statewide state of emergency by the Governor of California. Therefore, the City Council finds and determines that the immediate preservation of the public peace, health, and safety requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption. Based on the foregoing, the City Council declares this Ordinance is necessary for the immediate preservation of the public peace, health, and safety.

SECTION 3. Municipal Code Amendment. The City Council of Coachella hereby adds Section 1.08.030 of the Coachella Municipal Code, to read as follows:

“1.08.030 - Emergency Order Enforcement

- A. Violation Unlawful. It is unlawful and declared a public nuisance for any person to violate any emergency order made by the Governor of the State of California under the Emergency Services Act or any order of the State Department of Public Health or Riverside County Health Officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease.
- B. Remedies. The City may enforce this Ordinance using any remedy available under the law, including:
 - 1. Issuance of an administrative citation under Chapter 3.20 of this Code.
 - 2. Denial, nonrenewal, suspension, or revocation of a business license under Chapter 5.04 of this Code.

- 3. Suspension or revocation of any conditional use permit under Section 17.74.050 of this Code, revocation of legal nonconforming status under Section 17.78.040 of this Code, or suspension or revocation of other land use approval under Title 17 of this Code.
 - 4. Misdemeanor criminal prosecution by the city prosecutor under Section 1.08.010 of this Code.
 - 5. Punishable as provided under Section 2.56.100 of this Code.
 - 6. Filing of a civil or equitable action to seek abatement of any violation.
- C. Violations Ongoing. Each and every day a violation is maintained, caused, aided, abetted, concealed, suffered, or permitted is a separate offense.
- D. Remedies Cumulative. The remedies, procedures, and penalties provided by this Section are cumulative to each other and to any other available under City, State, or federal law.

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. The City Council of the City of Coachella declares that it would have adopted all the provisions of this ordinance that remain valid if any provisions of this ordinance are declared invalid.

SECTION 5. Effective Date. This Ordinance shall take effect immediately upon its adoption.

SECTION 6. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

PASSED, APPROVED and ADOPTED this 27th day of March 2020.

Steven A. Hernandez
Mayor

ATTEST:

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

Carlos Campos
City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I, Andrea J. Carranza, Deputy City Clerk of the City of Coachella, California, do hereby certify that Ordinance No. 1159 is a full, true, and correct copy, and was adopted at a special meeting of the Coachella City Council on March 27, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Coachella, California, this 27th day of March 2020.

Andrea J. Carranza, MMC
Deputy City Clerk