URGENCY ORDINANCE NO. 1249-U

AN URGENCY ORDINANCE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, AMENDING URGENCY ORDINANCE 1244U RELATING TO COMMERCIAL EVICTION PROTECTIONS AND RESIDENTIAL RENT DEFERRALS DUE TO THE COVID-19 PANDEMIC

WHEREAS, pursuant to Government Code Section 36937(b), any ordinance for the immediate 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, shall take effect immediately upon its adoption; and

WHEREAS, in December 2019, an outbreak of respiratory illness due to a novel coronavirus (COVID-19) was first identified in Wuhan City, Hubei Province, China; and

WHEREAS, the Center for Disease Control and Prevention (CDC) considers COVID-19 to be a very serious public health threat with outcomes ranging from very mild (including some with no reported symptoms) to severe, including illness resulting in death; and

WHEREAS, on January 30, 2020, the World Health Organization declared a Public Health Emergency of International Concern over the global spread of COVID-19; and

WHEREAS, on January 31, 2020, Health and Human Services declared a Public Health Emergency for the United States to aid the nation’s healthcare community in responding to COVID-19; and

WHEREAS, the California Department of Public Health (CDPH) has activated its Medical and Health Coordination Center, and the Office of Emergency Services recently activated the State Operations Center to provide support and guide actions to preserve public health; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency for the State of California; and

WHEREAS, on March 11, 2020, the World Health Organization characterized COVID-19 as a “pandemic”; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-20 regarding COVID-19 further enhancing State and local government’s ability to respond to the COVID-19 pandemic; and

WHEREAS, on March 12, 2020, the Mayor of the City of South El Monte, pursuant to Section 2.60.060 of the South El Monte Municipal Code, signed a proclamation which proclaimed the existence of a local emergency based on COVID-19 ("Proclamation"); and

WHEREAS, on March 13, 2020, President Trump declared a National State of Emergency in response to increased spread of COVID-19; and
WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20, in response to the COVID-19 pandemic, which permits, but does not require, cities and counties to adopt measures against evictions; and

WHEREAS, on March 17, 2020, the City Council of the City of South El Monte ratified the Proclamation; and

WHEREAS, the commercial protections and authorizations under Executive Order N-28-20 has been extended to March 31, 2021 pursuant to paragraph 2 of Executive Order N-80-20; and

WHEREAS, on April 7, 2020, the City Council of the City of South El Monte adopted Urgency Ordinance 144U, which residential renters qualifying for the protections under Governor's Executive Order N-37-20 have a 180 day period in which they may pay lawfully charged rent to their landlords (as more particularly specified therein), provided eviction protections for businesses renting commercial property (including a 180 day payback period), and provided eviction protections for individuals currently part of a long-term stay at a hotel, motel or similar; and

WHEREAS, Urgency Ordinance 1244U did not limit a landlord's ability to utilize the eviction procedures approved by the Judicial Council on April 6, 2020, as provided in Emergency Rule 1; and

WHEREAS, on August 31, 2020, Governor Newsom signed the “Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020” (“AB 3088”); and

WHEREAS, in summary, AB 3088 states that no tenant can be evicted before February 1, 2021 as a result of rent owed due to a COVID-19 related hardship accrued between March 4 – August 31, 2020, if the tenant provides a declaration of hardship according to the legislation’s timelines. For a COVID-19 related hardship that accrues between September 1, 2020 – January 31, 2021, tenants must also pay at least 25 percent of the rent due to avoid eviction; and

WHEREAS, the eviction procedures approved by the Judicial Council on April 6, 2020, as provided in Emergency Rule 1, are no longer in place; and

WHEREAS, based on the foregoing, the City Council seeks and intends to protect health, safety, and welfare of the residents and businesses of the City of South El Monte by making technical revisions to Urgency Ordinance 1244-U in light of the above.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference as findings of fact.

SECTION 2. Urgency and Emergency Findings. The City Council finds that there is a current and immediate threat to public health, safety, and welfare posed by
COVID-19, and there is an immediate need for the preservation of public peace, health or safety of the residents and community, including the businesses, of the City.

Businesses in the City have experienced a sudden reduction in business income due to decreased operational hours and customer demand relating to the impacts of COVID-19 and governmental responses to COVID-19. This sudden decrease in business income jeopardizes the City’s businesses’ ability to pay rent to their landlords and, consequently, will negatively impact such businesses’ ability to provide critical services and income to the City’s community such that it jeopardizes public health, safety, and welfare. This is of particular concern during the COVID-19 pandemic as the City’s businesses provide critical services and supplies to the City’s residents.

This Urgency Ordinance would further the intent and purpose of Urgency Ordinance 1244U to address the above-mentioned threats to public peace, health, and safety by making technical changes to Urgency Ordinance 1244U.

**SECTION 3. Amendments to Section 3(C)(1) of Urgency Ordinance 1244U.**
Section 3(C)(1) of Urgency Ordinance 1244U is hereby amended in its entirety as follows:

“A commercial tenant afforded eviction protection under Sections 3(A) and 3(B) (prior to the expiration thereof pursuant to Section 9), or any executive order of the Governor, shall have up to one hundred eighty (180) days after the expiration of Sections 3(A) and 3(B) (as provided in Section 9), or, if the Governor issues an executive order providing commercial tenants eviction protection, the expiration of such executive order, to pay its landlord unpaid rent. The terms of the repayment plan are to be agreed upon between the landlord and commercial tenant, provided that, if no agreement is reached between the landlord and commercial tenant, the back/past rent due shall be repaid in six (6) equal installments to be paid in monthly intervals beginning thirty (30) days after the date the rent becomes due pursuant to the terms of this Ordinance. No late fees, interests, costs or other penalties shall be assessed or due from the commercial tenant based on the delay in paying rent as provided for in this Ordinance or any applicable executive order of the Governor. During this 180-day period, the protections against eviction set forth in this Ordinance or any applicable executive order of the Governor shall apply to such commercial tenants.”

**SECTION 4. Amendments to Section 6 of Urgency Ordinance 1244U.**
Section 6 (Judicial Council’s April 6, 2020, Order) of Urgency Ordinance 1244U is hereby amended in its entirety as follows:

“Section 6. Judicial Council Rules and Assembly Bill No. 3088. Nothing herein shall modify a landlord’s ability to use the eviction procedures pursuant to Judicial Council Rules or as provided by Assembly Bill No. 3088 (2020).”
SECTION 5. Exhibit “A” Deleted. Exhibit “A” is hereby deleted and removed from Urgency Ordinance 1244U.

SECTION 6. Expiration Date Modification. Section 9 (Expiration Date) of Urgency Ordinance 1244U is hereby amended in its entirety as follows:

“Section 9. Expiration Date.

A. Sections 3(A) and 3(B) of this Ordinance shall automatically expire when the commercial eviction protections under Governor’s Executive Order N-28-20 expires on March 31, 2021, pursuant to Paragraph 2 of Governor’s Executive Order N-80-20, or, if the Governor further extends the expiration date of such order, then upon that date.

B. Except as provided in Section 9(A) above, this Ordinance shall automatically expire upon the termination of the City’s local emergency proclaimed by the Mayor on March 12, 2020, and ratified by the City Council on March 17, 2020, pursuant to Chapter 2.60 of the South El Monte Municipal Code.”

SECTION 7. Adoption and Effective Date. Pursuant Government Code Section 36937, this ordinance shall take effective immediately upon approval of the same by a four-fifths (4/5) affirmative vote of the City Council. The City Council finds and determines that the same is necessary to the preservation of the public peace, health or safety, in that adoption of the same will help prevent commercial evictions and control residential rent issues that may arise during declared states of emergency.

SECTION 8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the application of any other section, subsection, sentence, clause, phrase, or portion of this Ordinance, and to this end the invalid or unconstitutional section, subsection, sentence, clause, phrase of this ordinance are declared to be severable. The South El Monte City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 9. Certification. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted and codified in the manner required by law.
PASSED, APPROVED and ADOPTED by a four-fifths (4/5) vote at a regular meeting of the South El Monte City Council on this 13th day of October 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:

Anthony R. Taylor, City Attorney

STATE OF CALIFORNIA )
COUNTY OF LOS ANGELES ) SS:
CITY OF SOUTH EL MONTE )

I, Donna G. Schwartz, City Clerk for the City of South El Monte, do hereby certify that the foregoing Ordinance, being Ordinance No. 1249-U, was duly passed and adopted by the City Council of the City of South El Monte at a regular meeting of said Council held on the 13th day of October 2020, and that said Ordinance was adopted by the following vote:

AYES: Acosta, Angel, Delgado, Retamoza, and Mayor Olmos
NOES: None
ABSENT: None
ABSTAIN: None

Donna G. Schwartz, City Clerk