

RESOLUTION NO. 2020-40
RESOLUTION OF THE BOARD OF SUPERVISORS
AMENDING RESOLUTION 2020-27 BARRING EVICTIONS IN MARIN COUNTY
DUE TO THE PUBLIC HEALTH EMERGENCY ARISING FROM COVID-19

WHEREAS, on March 24, 2020, the Marin County Board of Supervisors adopted Resolution No. 2020-27 Barring Evictions in Marin County Due to the Public Health Emergency Arising from COVID-19 ("the Eviction Ban Resolution", attached hereto as Exhibit A), and this Resolution hereby adopts and incorporates by reference all findings included with Resolution 2020-027; and

WHEREAS, since the Eviction Ban Resolution was adopted, on March 27, 2020, California Governor Gavin Newsom issued a new executive order banning the enforcement of residential eviction orders for renters affected by COVID-19 through May 31, 2020; and

WHEREAS, On March 31, 2020 the Health Officer of the County of Marin issued a Revised Shelter in Place Order extending the restrictions in the March 16, 2020 Shelter Order; and

WHEREAS, on April 6, 2020, the Judicial Council of California adopted temporary emergency rules, effectively suspending action on or entry of default in eviction cases and suspending judicial foreclosures, except where necessary to protect public health and safety, through 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council; and

WHEREAS, California Government Code sections 8630 and 8634, and Marin County Code Section 2.99.035 empowers the Board of Supervisors and the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life, property and the environment as affected by a local emergency, as defined by Government Code section 8558, based on the Proclamation of Local Emergency; and

WHEREAS, the County of Marin, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserve quality of life for residents throughout the County; and

WHEREAS, as a result of the State of Emergency and the subsequent prohibitions on large gatherings and the issuance of a Shelter-in-Place Order, locally and now state-wide, many County residential and commercial tenants continue to experience sudden and substantial income loss due to business and school closures, layoffs or reductions in work hours and extraordinary medical expenses, making it challenging for them to pay rent on time and thus, more likely to face the prospect of eviction; and

WHEREAS, housing instability continues to threatens the public peace, health and safety as eviction can lead to homelessness; loss of community; stress and anxiety caused by the experience of displacement; interruption of the education of any children in the home; increased incidence of families moving into overcrowded conditions creating greater risk for the spread of COVID-19; as well as increased difficulty in complying with the Health Officer's Shelter-in-Place Order and a corresponding increased risk to public health and safety; and

WHEREAS, without local protection, eviction notices for failure to pay rent are likely to surge as residents and businesses are unable to earn income due to the pandemic, or are forced to pay substantial medical expenses associated with the pandemic; and

WHEREAS, it continues to be essential, to the maximum feasible extent, to prevent displacement and homelessness due to the COVID-19 emergency, not just by suspending evictions for non-payment of rent, but also by suspending certain types of no-fault evictions; and

WHEREAS, given the severe consequences to public health and safety throughout both unincorporated and incorporated areas of the County that would result from evictions of residential and commercial tenants during the State of Emergency, the County finds and determines that a temporary moratorium on evictions based on non-payment of rent due to COVID-19 or the government response to COVID-19, is necessary to curb the spread of COVID-19 across all areas of the County and contain the virus to the greatest extent possible and thereby serve the public peace, health and safety; and

WHEREAS, this emergency regulation is necessary for the protection of life throughout the entire jurisdictional boundaries of the County, given the County-wide nature of the proclaimed State of Emergency; and

WHEREAS, in adopting this Emergency Regulation, the County is taking action pursuant to Executive Order N-28-20 consistent with its authority under Government Code Sections 8630 and 8634 and Chapter 2.99 of the Marin County Code; and

WHEREAS, pursuant to Health & Safety Code Sections 101040 and 101080, the Public Health Officer has the authority to issue orders necessary to protect public health and safety in times of a locally declared health emergency; and

WHEREAS, the Public Health Officer has concluded that continued evictions in Marin County during this critical phase of the COVID-19 virus crisis would adversely impact public health and pose a grave danger to the health and safety of the residents of Marin County; and

WHEREAS, the Public Health Officer recommends that the Board of Supervisors of the County of Marin adopt this Resolution updating and extending the County's Eviction Moratorium and concurs in its issuance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Marin finds that the foregoing recitals and true and correct; and

BE IT FURTHER RESOLVED that the Board of Supervisors of the County of Marin finds that conditions of extreme peril to the safety of persons and property have arisen throughout Marin County and a local emergency now exists in Marin County so that urgent measures to promote stability for residential and commercial tenancies are necessary to protect public health and to mitigate the economic impacts of COVID-19; and

BE IT FURTHER RESOLVED that:

- (1) A temporary moratorium on eviction on residential and commercial real property for non-payment of rent by residential and commercial tenants directly impacted by the COVID-19 crisis is imposed as follows:
 - a. No landlord or owner of residential or commercial real property shall endeavor to evict a residential or commercial tenant or otherwise require a tenant to vacate if the residential or commercial tenant has provided notice to the landlord or landlord's representative within 30 days after the date that rent was due that the residential or commercial tenant is unable to pay rent due to financial impacts related to COVID-19 as defined herein.
 - b. For purposes of this Resolution, the following definitions shall apply:
 - i. "Commercial real property" means any real property that is used for business, income-producing purposes, or any purpose other than for residential use.
 - ii. "Financial impacts" means a substantial loss of income due to business closure, loss of compensable hours of work or wages, layoffs, missing work or child care expenditures due to school closure, medical expenses related to being ill with COVID-19 or caring for a member of the residential or commercial tenant's household who is ill with COVID-19, or other similarly- caused reason resulting in a loss of income due to COVID-19.
 - iii. "Landlord" or "Owner" means any natural person, partnership, corporate or fictitious entity, acting as a lessor or sublessor, whether as a principal or through an agent, who receives or is entitled to receive rent in exchange for the use or occupancy of any residential or commercial real property for rent, and includes a predecessor in interest;
 - iv. "Rent" means the financial obligation or monetary payment a tenant owes an owner for the occupancy or use of commercial or residential real property whether by written or oral agreement;
 - v. "Residential real property" means a structure or the part of a structure, including, but not limited to, houses, apartments, mobile homes and recreational vehicles, that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household
 - vi. "Tenancy" means the lawful occupancy of residential or commercial real property and includes a lease or sublease;
 - vii. "Tenant" means the lawful occupant of residential or commercial real property whether by lease or sublease.
 - c. A financial impact is "related to COVID-19" if it was directly or indirectly caused by the COVID-19 pandemic, the Proclamation of Local Emergency, the Health

Officer's Shelter in Place Order, or public health orders or recommended guidance related to COVID-19 from local, state, or federal authorities.

- d. Within one week of providing notice under subsection (a), the residential or commercial tenant shall provide the landlord documentation or other objectively verifiable information that due to financial impacts related to COVID-19, the residential or commercial tenant is unable to pay rent. Tenants without access to documentation reflecting adverse financial impacts due to COVID-19 can describe and verify the adverse financial impacts.
- e. A landlord who has been provided with notice under subsection (a), shall not serve a notice pursuant to California Code of Civil Procedure 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.
- f. A landlord may not take any actions to evict or attempt to evict a residential or commercial tenant unless the landlord demonstrates that the landlord provided a copy of this resolution and the following notice in at least 12-point font to tenants when serving tenants with a Notice of Termination:

“NOTICE: THE COUNTY OF MARIN HAS ADOPTED A TEMPORARY MORATORIUM ON EVICTIONS FOR RESIDENTIAL AND COMMERCIAL TENANTS FOR NONPAYMENT OF RENT DUE TO COVID-19. A COPY OF THE COUNTY RESOLUTION IS ATTACHED. UPDATED INFORMATION MAY BE AVAILABLE FROM THE COUNTY'S AFFORDABLE HOUSING DEPARTMENT BY CONTACTING LTHOMAS@MARINCOUNTY.ORG or (415) 473-6697, OR BY VISITING:WWW.MARINCOUNTY.ORG/DEPTS/CD/DIVISIONS/HOUSING/RENTER-AND-LANDLORD-RESOURCES

- g. For purposes of this Resolution, the notice required under subsection (a) may be provided in writing, including through paper copy, email, or text communications to a landlord or the landlord's representative with whom the residential or commercial tenant has previously corresponded by email or text.

Landlords and owners of commercial and residential real property, and those acting on their behalf, are prohibited from harassing or intimidating residential or commercial tenants for acts or omissions expressly permitted under this Resolution, as amended.

- h. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the residential or commercial tenant's claim. Nothing in this Resolution shall relieve the residential or commercial tenant of liability for the unpaid rent. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Resolution.
- i. A residential or commercial tenant who demonstrated financial impact due to COVID-19 as required and defined under this Resolution shall have up to 90 days after the expiration or termination date of this Resolution to tender the past-due rent, before the tenant shall be deemed to be in default of rent payment obligations.

- j. Landlords and tenants of commercial and residential real property are encouraged to agree on a payment plan that would allow landlords to accept partial rent payments during the term of the eviction moratorium if tenants are able to make such payments.
- k. The Director of the Community Development Agency, or the Director's designee, is authorized to develop and publish guidelines consistent with this Resolution, if needed, including developing forms and recommendations of the types of documentation that may show financial impacts related to COVID-19.
- l. This Resolution shall be enforceable as set forth in Section 2.99.060 of the Marin County Code. In addition, this Resolution grants an affirmative defense in the event that an unlawful detainer action is commenced in violation of this Resolution.
- m. The remedies available under this Resolution shall be in addition to any existing remedies which may be available to the residential or commercial tenant under local, state or federal law.
- n. This Resolution shall remain in effect until May 31, 2020. The provisions of paragraph "h" above shall survive this Resolution for the duration stated therein.
- o. This Resolution shall be superseded by a duly enacted Ordinance of the Board of Supervisors, a further Order by the Director or Assistant Director of Emergency Services, or upon order of the Public Health Officer or Director, adopted during the local emergency that expressly superseding this Resolution.
- p. This Resolution shall apply in equal force to all areas of the County of Marin, including within incorporated cities, and shall be effective upon adoption.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 28th day of April 2020, by the following vote.

AYES: SUPERVISORS Dennis Rodoni, Judy Arnold, Damon Connolly, Kathrin Sears
Katie Rice

NOES: NONE
ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK