

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

WHEREAS, California Government Code section 8630 and Marin County Code section 2.99 et seq. authorize the Board of Supervisors of the County of Marin, or the County's Director of Emergency Services or Assistant Director of Emergency Services, to proclaim a local emergency, as defined by Government Code section 8558, when Marin County is affected or likely to be affected by a public calamity; and

WHEREAS, California Government Code sections 8630 et seq. 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 such emergency based on the Proclamation of Local Emergency; and

WHEREAS, there is a widespread, ongoing global outbreak of respiratory illness (COVID-19) that can be spread from person to person, and on February 26, 2020, community transmission was confirmed by the Centers for Disease Control and Prevention (CDC) in the Bay Area; and

WHEREAS, on March 3, 2020, the Marin County Public Health Officer issued a Declaration of Local Health Emergency concerning the COVID-19 virus; and

WHEREAS, the Assistant County Administrator, as the Assistant Director of Emergency Services, did proclaim the existence of a local emergency within Marin County on March 3, 2020; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom 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. The proclamation comes as the number of positive California cases rises and following one official COVID-19 death; and

WHEREAS, the Board of Supervisors of the County of Marin did ratify the Assistant Director of Emergency Services' Proclamation of Local Emergency on March 10, 2020, finding that conditions of extreme peril to the safety of persons and property have arisen within Marin County caused by COVID-19, an infectious disease that causes respiratory illness, first detected in Wuhan City, Hubei Province, China in December 2019; and

WHEREAS, a copy of the Proclamation of Local Emergency was forwarded through the State Director of the Office of Emergency Services to the Governor of California with the request that he proclaim the County of Marin to be in a state of emergency; and further that the Governor request a Presidential Declaration; and

WHEREAS, on March 16, 2020, California Governor Gavin Newsom issued Executive Order N-28-20 authorizing local governments to halt evictions for renters and homeowners, slow foreclosures, and protect against utility shutoffs for Californians affected by COVID-19; and

WHEREAS, on March 16, 2020, the Health Officer of the County of Marin issued an Order entitled "Order of the Health Officer of the County of Marin Directing All Individuals Living in the County to Shelter at their Place of Residence Except that they May Leave to Provide or Receive Certain Essential Services or Engage in Certain Essential Activities and Work for Essential Businesses and Governmental Services; Exempting Individuals Experiencing Homelessness From the Shelter in Place Order but Urging Them to Find Shelter and Government Agencies to Provide it; Directing All Businesses and Governmental Agencies to Cease Non-Essential Operations at Physical Locations in the County; Prohibiting All Non-Essential Gatherings of Any Number of Individuals; and Ordering Cessation of All Non-Essential Travel Shelter in Place Order, directing all individuals living in the County to shelter in their place of residence except to provide or receive certain essential services or engage in certain essential activities, and excepting those experiencing homelessness, and directing all businesses and governmental agencies to cease non-essential operations" ("the Shelter Order"); and

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to control the spread of the COVID-19 to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS, COVID-19 is causing and is expected to continue to cause serious negative impacts on the local economy and financial impacts to residents, including the substantial loss of income due to loss of compensable work hours or wages, layoffs, and business closures, hindering their ability to keep up with their rents; and

WHEREAS, the economic impacts of COVID-19 have been significant, and could threaten to undermine housing security and the stability of businesses in the County; and

WHEREAS Californians who are most vulnerable to COVID-19, those 65 years and older, and those with underlying health issues, are advised to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19; and

WHEREAS because homelessness can exacerbate vulnerability to, and the spread of COVID-19, California must take measures to preserve and increase housing security for Californians to protect public health; and

WHEREAS, workers who experience a loss of income as a result of illness, layoffs, reduced hours, or the need to care for a sick or otherwise dependent family member are more likely to be unable to stay current on rent payments; and

WHEREAS, there is a shortage of affordable rental housing in the County, people who are evicted are at risk of homelessness, and homeless individuals are less equipped to mitigate risks related to COVID-19; and

WHEREAS, it is in the public interest to take steps to ensure that people remain housed during this public health emergency; and

WHEREAS, loss of income as a result of the global COVID-19 pandemic may inhibit Marin residents and businesses from fulfilling their financial obligations including timely payment of rent for both residential and commercial tenants; and

WHEREAS, displacing residential and commercial renters who are unable to pay rent due to these types of financial impacts will worsen the present crisis by making it difficult for them to follow the health guidance of social distancing and isolation, which will put tenants and many others at great risk; and

WHEREAS, the County has determined that additional measures to promote housing security and stability are necessary to protect public health or to mitigate the economic impacts of COVID-19; and

WHEREAS the County has determined that promoting stability amongst commercial tenancies is also conducive to public health, such as by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures, or to mitigate the economic impacts of COVID-19; and

WHEREAS, nearly all cities in Marin County are centrally located, contiguous, and the county's rental market operates in the manner of a single metropolitan area; as a result, any displacement of renters in one cities' jurisdiction in the County will necessarily affect the rental market in other cities; and

WHEREAS, as a result of this tightly connected rental market, a county-wide approach to restricting displacement is necessary to accomplish the public health goals of limiting the spread of the COVID-19 virus as set forth in the Shelter Order; 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 and concurs in its issuance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Marin 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 for non-payment of rent by residential and commercial tenants directly impacted by the COVID-19 crisis is imposed as follows:
 - a. No landlord shall evict a residential or commercial tenant or otherwise recover possession of a leasehold 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.
 - b. For purposes of this Resolution, "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.

- 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.
- 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. 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.
- g. 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.
- h. 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.
- i. 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.
- j. The requirement in this Resolution expire on May 31, 2020, pursuant to the Governor's Executive Order N-28-20, unless terminated earlier by the Board of Supervisors of the County of Marin.
- k. 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 supersedes this Resolution.
- l. 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 24th day of March 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

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-28-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS the economic impacts of COVID-19 have been significant, and could threaten to undermine Californians' housing security and the stability of California businesses; and

WHEREAS many Californians are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with their rents, mortgages, and utility bills; and

WHEREAS Californians who are most vulnerable to COVID-19, those 65 years and older, and those with underlying health issues, are advised to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19; and

WHEREAS because homelessness can exacerbate vulnerability to COVID-19, California must take measures to preserve and increase housing security for Californians to protect public health; and

WHEREAS local jurisdictions, based on their particular needs, may therefore determine that additional measures to promote housing security and stability are necessary to protect public health or to mitigate the economic impacts of COVID-19; and

WHEREAS local jurisdictions may also determine, based on their particular needs, that promoting stability amongst commercial tenancies is also conducive to public health, such as by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures, or to mitigate the economic impacts of COVID-19; and

WHEREAS in addition to these public health benefits, state and local policies to promote social distancing, self-quarantine, and self-isolation require that people be able to access basic utilities—including water, gas, electricity, and telecommunications—at their homes, so that Californians can work from home, receive public health information, and otherwise adhere to policies of social distancing, self-quarantine, and self-isolation, if needed; and

WHEREAS many utility providers, public and private, covering electricity, gas, water, and sewer, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19; and

WHEREAS many telecommunication companies, including internet and cell phone providers, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19;

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) The time limitation set forth in Penal Code section 396, subdivision (f), concerning protections against residential eviction, is hereby waived. Those protections shall be in effect through May 31, 2020.
- 2) Any provision 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 as described in subparagraphs (i) and (ii) below—including, but not limited to, any such provision of Civil Code sections 1940 et seq. or 1954.25 et seq.—is hereby suspended to the extent that it would preempt or otherwise restrict such exercise. This paragraph 2 shall only apply to the imposition of limitations on evictions when:
 - (i) The basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses; and
 - (ii) The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

The statutory cause of action for judicial foreclosure, Code of Civil Procedure section 725a et seq.; the statutory cause of action for unlawful detainer, Code of Civil Procedure section 1161 et seq., and any other statutory cause of action that could be used to evict or otherwise eject a residential or commercial tenant or occupant of residential real property after foreclosure is suspended only as applied to any tenancy, or residential real property and any

occupation thereof, to which a local government has imposed a limitation on eviction pursuant to this paragraph 2, and only to the extent of the limitation imposed by the local government.

Nothing in this Order shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.

The protections in this paragraph 2 shall be in effect through May 31, 2020, unless extended.

- 3) All public housing authorities are requested to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the housing authority.
- 4) The Department of Business Oversight, in consultation with the Business, Consumer Services, and Housing Agency, shall engage with financial institutions to identify tools to be used to afford Californians relief from the threat of residential foreclosure and displacement, and to otherwise promote housing security and stability during this state of emergency, in furtherance of the objectives of this Order.
- 5) Financial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.
- 6) The California Public Utilities Commission is requested to monitor measures undertaken by public and private utility providers to implement customer service protections for critical utilities, including but not limited to electric, gas, water, internet, landline telephone, and cell phone service, in response to COVID-19, and on a weekly basis publicly report these measures.

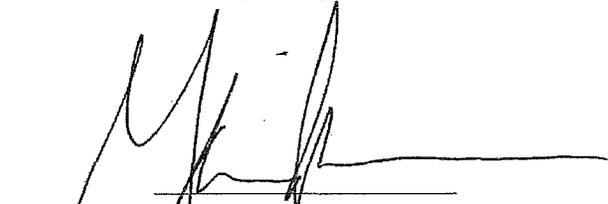
Nothing in this Order shall be construed to invalidate any limitation on eviction enacted by a local jurisdiction between March 4, 2020 and this date.

Nothing in this Order shall in any way restrict state or local authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential real property.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State