

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

RESOLUTION NO. 2020-022

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
RATIFYING THE DIRECTOR OF EMERGENCY SERVICES ORDER NO. 20-1 STAYING
EVICTIONS IN THE CITY OF CARMEL BY-THE-SEA**

WHEREAS, the California Emergency Services Act (California Government Code sections 8639, 8550, et. seq.) defines a local emergency as the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a city, caused by conditions such as an epidemic, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of a city, and require the combined forces of other political subdivisions to combat; and

WHEREAS, Chapter 2, section 2.64.020 of the City of Carmel-by-the-Sea ("City") Municipal Code defines emergency as the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City, including conditions such as an epidemic, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City, requiring the combined forces of other political subdivisions to combat; and

WHEREAS, Chapter 2, section 2.64.050 of the City of Carmel-by-the-Sea ("City") Municipal Code designates the City Administrator as the Director of Emergency Services for the City; and

WHEREAS, Chapter 2, section 2.64.060 empowers the City Administrator, as the Director of Emergency Services, to proclaim the existence or threatened existence of a local emergency when the City Council is not in session so long as such proclamation is ratified by the City Council within seven (7) days; and

WHEREAS, in December 2019 and January 2020, reports began spreading worldwide of a flu-like virus first found in China, that was more deadly than the flu generally, with the virus becoming known as the Coronavirus ("COVID-19"); and

WHEREAS, from January 2020 to March 2020, COVID-19 spread throughout the world, with over 114,000 confirmed cases of individuals contracting COVID-19, and over 4,000 confirmed cases of individuals dying from COVID-19; and

WHEREAS, on or about March 4, 2020, as part of the State of California's response to address the global COVID-19 outbreak, 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 broader spread of COVID-19 following one official COVID-19 death;

WHEREAS, on March 6, 2020, the County Administrative Officer of Monterey County ("County CAO") proclaimed a Local Emergency due to the threat of COVID-19 in the County; and

WHEREAS, on March 10, 2020, the Governor's Office of Emergency Services quarantined in Monterey County up to 24 cruise ship passengers who recently disembarked from the Grand Princess cruise ship in Oakland, California, which had over 20 confirmed cases of COVID-19 onboard; and

WHEREAS, as of March 11, 2020, the Centers for Disease Control and Prevention ("CDC") has confirmed 938 cases of COVID-19 in the United States, with 29 cases resulting in death, with thirty-nine (39) jurisdictions reporting cases, including California; and

WHEREAS, on March 11, 2020, the World Health Organization ("WHO") classified the spread of COVID-19 internationally as a global pandemic; and

WHEREAS, based on said events, the City Administrator of the City of Carmel-by-the-Sea declared the existence of a local emergency within the City at 10:26 am on Thursday, March 12, 2020; and

WHEREAS, on March 13, 2020 at 11:00 a.m., there was a Special Meeting of the City Council at which the Council adopted Resolution 2020-021 ratifying the City Administrator's Proclamation of the Existence of a Local Emergency Due to the Worldwide Spread of the Coronavirus ("COVID-19"), and

WHEREAS, On March 17, 2020, the Governor issued Executive Order N-28-20, which waived any provisions 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, including but not limited to Civil Code Sections 1940 et seq. or 1954.25 et seq., until May 31, 2020, unless extended; and

WHEREAS, on March 23, 2020, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the City Administrator, in his capacity as the Director of Emergency Services, issued Order No. 20-1 staying evictions in the City to protect life, property and civil order and a copy of Order 20-1 is attached hereto as Exhibit A; and

WHEREAS, Order 20-1 Staying Evictions in the City was issued pursuant to the authority granted to the Director of Emergency Services by all applicable laws including, but not limited to, Government Code Section 38791, CMC Chapter 2.64 and Executive Order N-28-20 issued by the Governor

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FO THE CITY OF CARMEL-BY-THE-SEA, that the foregoing Recitals and Exhibit A attached hereto are hereby incorporated by reference as though fully set forth here; and

BE IT FURTHER RESOLVED, that Order 20-1 Stay Evictions in the City issued by the City Administrator acting as the Director of Emergency Services is hereby confirmed and ratified by the City Council of the City of Carmel-by-the-Sea; and

BE IT FURTHER RESOLVED, that the City Administrator or his designee is authorized to take whatever other action is authorized under the Carmel-by-the-Sea Municipal Code and state and federal law, subject to any required authorization from the City Council, consistent with this Resolution and its basic purposes to implement Order 20-1 Staying Evictions in the City.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
this 30th day of March 2020, by the following vote:**

AYES: COUNCIL MEMBERS BARON, THEIS, MAYOR POTTER

NOES: NONE

ABSENT: NONE

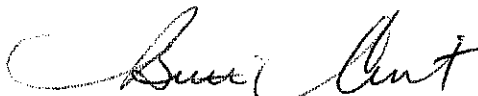
RECUSED: COUNCIL MEMBER REIMERS, MAYOR PRO TEM RICHARDS

APPROVED:

ATTEST:



Dave Potter
Mayor



Britt Avrit, MMC
City Clerk

DIRECTOR OF EMERGENCY SERVICES ORDER NO. 20-1 STAYING EVICTIONS IN THE CITY OF CARMEL BY-THE-SEA

WHEREAS, Pursuant to Carmel-by-the-Sea Municipal Code ("CMC") Section 2.64.050 , as City Administrator of the City of Carmel-by-the-Sea ("City"), I serve as the Director of Emergency Services for the City; and

WHEREAS, In December 2019, reports began spreading worldwide about a flu-like virus first found in China that was significantly more deadly than the flu generally, with the virus becoming known as the Coronavirus ("COVID-19"); and

WHEREAS, On March 4, 2020, a State of Emergency was proclaimed by Governor Gavin Newsom; and

WHEREAS, March 11, 2020, the World Health Organization ("WHO") classified the spread of COVID-19 internationally as a global pandemic; and

WHEREAS, On March 12, 2020 at 10:26 a.m., acting in my capacity as the Director of Emergency Services, I issued a Proclamation ("Proclamation") ordering there is a local state of emergency ("Local Emergency") which now exists in the City due to COVID-19 ("Coronavirus"); and

WHEREAS, On March 13, 2020 at 11:00 a.m., there was a Special Meeting of the City Council at which the Council adopted Resolution No. 2020-021 ratifying the City Administrator's Proclamation of the Existence of a Local Emergency due to the Worldwide Spread of the Coronavirus ("COVID-19"), and

WHEREAS, On March 17, 2020, the Governor issued Executive Order N-28-20, which waived any provisions 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, including but not limited to Civil Code Sections 1940 *et seq.* or 1954.25 *et seq.*, until May 31, 2020, unless extended. A copy of Executive Order N-28-20 is attached hereto as Exhibit 1 and is hereby incorporated by reference; 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 issue and implement this Order 20-1 to protect life, property and civil order and I am issuing this Order 20-1 pursuant to the authority granted to me by all applicable laws including, but not limited to, Government Code Section 38791, CMC Chapter 2.64 and Executive Order N-28-20 issued by the Governor.

NOW, THEREFORE, AS THE DIRECTOR OF EMERGENCY SERVICES FOR THE CITY OF CARMEL BY-THE-SEA, I HEREBY ISSUE THE FOLLOWING ORDER:

SECTION 1. This Order hereby incorporates by reference as though fully set forth here the above recitals and Exhibit 1 attached hereto.

SECTION 2. A temporary moratorium on eviction for non-payment of rent, by any residential tenant, any commercial tenant, and/or any non-residential tenant, impacted by the COVID-19 crisis is imposed as set forth herein.

SECTION 3. 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.

SECTION 4. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above in Section 2 shall not serve a notice pursuant to CCP 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.

SECTION 5. A landlord knows of a tenant's inability to pay rent within the meaning of this Order 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 Order, "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, as well as traditional written communication. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

SECTION 6. Tenants who were afforded eviction protection under this section shall have up to sixty (60) days after the termination of this Order to pay their landlord all unpaid rent.

SECTION 7. Nothing in this section waives a tenant's obligations to pay back rent owed once this Order is no longer effective; provided, however, that a landlord may not file an unlawful detainer action based on the failure to pay rent while this Order is in effect unless the tenant fails to pay rent when due under Section 6 of this Order.

SECTION 8. Nothing in this Order shall relieve the tenant of liability for the unpaid rent, nor restrict a landlord's ability to recover rent due.

SECTION 9. For purposes of this Order, "financial impacts related to COVID-19" ("Financial Impact") include 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; provided that, the Financial Impact was caused by the COVID-19 pandemic, or by any local, state or federal government response to COVID-19, and is documented.

SECTION 10. For purposes of this Order, "no-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to Code of Civil Procedure sections 1161(1), 1161(5), or 1161c. This order applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date on which a Local Emergency was proclaimed.

SECTION 11. This Order shall be punishable as set forth in the CMC Section 1.16.010. In addition, this Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Order.

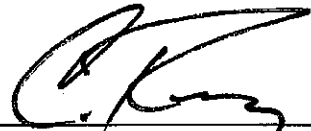
SECTION 12. This Local Emergency shall continue until it is terminated by proclamation of the City Council. Pursuant to Section 8630 of the Government Code, the City Council shall proclaim the termination of a local emergency at the earliest possible date that conditions warrant.

SECTION 13. This Order shall be in force and effect until May 31, 2020, until and unless superseded by a duly enacted Ordinance or Resolution of the City Council of the City or a further Order by the Director of Emergency Services adopted during the local emergency that expressly supersedes this Order. Should the Governor extend Executive Order N-28-20, this Order will continue automatically beyond May 31, 2020 to the date of the Governor's extension unless superseded.

SECTION 14. If any section, subsection, sentence, clause, or phrase of this Order is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Order. I hereby declare that I would have issued this Order and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Order would be subsequently declared invalid or unconstitutional.

SECTION 15. The City Clerk shall certify to the adoption of this Order and shall cause a certified Order to be filed in the Office of the City Clerk.

This Order is hereby issued on March 23, 2020 at 3:27 pm



Chip Rerig, Director of Emergency Services

Attest:



Britt Avrit, City 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.

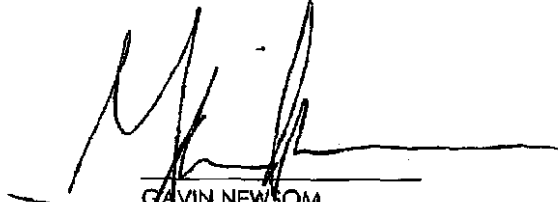
Nothing in this Order shall be construed to invalidate any limitation on eviction enacted by a local jurisdiction between March 4, 2020 and this date.

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