

RESOLUTION NO. 2020-_____
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, slows 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 in addition to the measures outlined in the Proclamation of Local Emergency, by the Board of Supervisors of the County of Marin as follows:

(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, which the landlord may seek after expiration of the local emergency.
- 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 a 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 superseding 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

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

DEPUTY CLERK