

DES ORDER NO. 1

AN ORDER OF THE DIRECTOR OF EMERGENCY SERVICES (CITY MANAGER) OF THE CITY OF SIMI VALLEY STAYING EVICTIONS IN THE CITY OF SIMI VALLEY

WHEREAS, Pursuant to California Government Code a Special Meeting of the City Council of the City of Simi Valley was properly noticed and convened on March 16, 2020; and,

WHEREAS, California Government Code Section 8630 empowers the City Council to proclaim the existence or threatened existence of a Local Emergency when City is affected or likely to be affected by a public calamity; and,

WHEREAS, Government Code Section 8634 empowers the City Council to promulgate orders and regulations to provide for the protection of life and property; and,

WHEREAS, pursuant to Section 4-5.01 *et seq.* of the Simi Valley's Municipal Code, the Director of Emergency Services ("DES") has declared the existence of a Local Emergency, and the City ratified and proclaimed the same; and,

WHEREAS, the DES does hereby find that conditions of extreme peril and a crippling disaster which severely impairs the safety of persons or property have arisen within the City caused by the virus, COVID-19, and its rapid transmission as reported by various local, state and national health organizations; and,

WHEREAS, the aforesaid conditions of extreme peril warranted and necessitated the proclamation of the existence of a Local Emergency; and

WHEREAS, as a result of the Local Emergency and the precautions recommended by health authorities, many tenants and businesses in the City of Simi Valley have or may soon experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of California ("Governor") has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19, and such individuals and their families may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; 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 California Civil Code

Sections 1940 *et seq.* or 1954.25 *et seq.*, until May 31, 2020, unless extended, and included a definition of financial impacts due to COVID-19 as set forth below; 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 to protect life, property and civil order.

NOW, THEREFORE, THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF SIMI VALLEY DOES HEREBY ORDER AS FOLLOWS:

**SECTION 1.** A temporary moratorium on eviction for non-payment of rent by residential or commercial tenants impacted by the COVID-19 crisis is imposed as set forth herein.

**SECTION 2.** 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 3.** 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 California Code of Civil Procedure Section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict or otherwise eject a residential or commercial tenant or occupant of residential real property for nonpayment of rent under any law, rule, statutory cause of action or regulation.

**SECTION 4.** 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 or makes reasonable efforts to notify the landlord or the landlord's representative 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, or for whom a communication method, email address or phone number has been provided to tenant, whether or not they have previously corresponded, 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 5.** 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 6.** For purposes of this Order, "financial impacts related to COVID-19" ("Financial Impacts") 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 Impacts were caused by the

COVID-19 pandemic, or by any local, state or federal government response to COVID-19, and is documented.

SECTION 7. Nothing in this Order shall in any way restrict state, county or local authority, including City authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present or to avoid any particular residential real property.

SECTION 8. This Order shall be punishable as set forth in Section 4-5.10 of the Simi Valley Municipal Code. In addition, this Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Order. Further, 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 City of Simi Valley, or any of its officials, employees, contractors, agents or volunteers.

SECTION 9. 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 of Simi Valley 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 as set forth above.

SECTION 10. This order shall be given publicity and notice as required by California Government Code Section 8634.

SECTION 11. 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.

PASSED and ADOPTED this 18<sup>th</sup> day of March 2020.

**Attest:**



Lucy Blanco, City Clerk



Brian P. Gabler, Director of Emergency Services/City Manager

**Approved as to Form:**



Lonnie J. Eldridge, City Attorney