CITY OF MOORPARK EXECUTIVE ORDER NO. 20-01

AN EXECUTIVE ORDER OF THE DIRECTOR OF DISASTER SERVICES OF THE CITY OF MOORPARK IMPOSING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND COMMERCIAL TENANT EVICTIONS

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

WHEREAS, on March 4, 2020, the Governor of the State of California initially 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; and

WHEREAS, on March 12, 2020, Robert Levin, M.D., the Ventura County Health Officer, declared a local health emergency within the County of Ventura due to COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, also on March 13, 2020, the City Manager of the City of Moorpark, acting as its Director of Disaster Services, proclaimed a local emergency within the City of Moorpark on account of the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, the California Department of Public Health issued COVID-19 public health guidance related to self-isolation for older adults and those who have elevated risks, to further strengthen measures to address the state of emergency caused by the COVID-19 pandemic; and

WHEREAS, on March 17, 2020, the Dr. Levin issued an order to close many types of businesses, including bars and nightclubs that do not serve food, movie theatres, live performance venues, bowling alleys, arcades, gyms, fitness centers, aquatic centers, wineries, breweries, and tap rooms through April 1, 2020; and

WHEREAS, on March 18, 2020, the City Council of Moorpark adopted a resolution to ratify the Director of Disaster Services' Proclamation of a local emergency within the City of Moorpark; and

WHEREAS, based on the foregoing, the Centers for Disease Control and Prevention, the California Department of Public Health, and the Ventura County Health Officer have all issued recommendations and/or orders including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, tenants in Moorpark have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of California 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 individuals directly affected by COVID-19 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 16, 2020, the Governor issued an Executive Order (Order No. N-28-20), pursuant to his emergency powers under Government Code Sections 8567 and 8571, that suspended any provision of state law that would preempt or otherwise restrict the City's exercise of its police power to impose substantive limitations on residential or commercial evictions based on nonpayment of rent arising out of a substantial decrease in household or business income caused by the COVID-19 pandemic; and

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing and commercial tenant displacement, to protect the City's affordable housing stock, prevent housed individuals from falling into homelessness and to protect the City's vulnerable businesses; and

WHEREAS, pursuant to Government Code Section 8634 and Moorpark Municipal Code Section 2.48.060 (C)(1), the Moorpark Director of Disaster Services has the authority to make and issue rules and regulations related to the protection of life and property as affected by the COVID-19 pandemic; and

WHEREAS, in the interest of public peace, health, and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority to issue these regulations related to the protection of the public peace health, and safety.

NOW, THEREFORE, THE DIRECTOR OR DISASTER SERVICES OF THE CITY OF MOORPARK DOES HEREBY ORDER AS FOLLOWS:

SECTION 1. Temporary Moratorium on Evictions. A temporary moratorium on eviction for non-payment of rent by residential or commercial tenants impacted by the COVID-19 crisis is imposed as follows:

A. Until the period of local emergency declared in response to COVID-19 concludes, or until May 31, 2020, whichever date is sooner, no landlord shall endeavor to evict a residential or commercial tenant under the following circumstances:

1. 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

2. The decrease in household or business income or the out-of-pocket medical expenses described in subsection (1) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not do any of the following:

1. Initiate a cause of action for judicial foreclosure pursuant to Code of Civil Procedure Section 725a *et seq*.;

2. Initiate a cause of action for unlawful detainer pursuant to Code of Civil Procedure Section 1161 *et seq*.;

3. Initiate 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;

4. Serve a notice to terminate tenancy pursuant to Code of Civil Procedure Section 1161 *et seq*, to evict for nonpayment of rent; or

5. Otherwise seek to evict for nonpayment of rent.

C. A landlord knows of a tenant's inability to pay rent within the meaning of this Executive 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 the circumstances set forth in Section 1.A., and provides documentation to support the claim.

D. For purposes of this Executive 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. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

E. For purposes of this Executive Order, the term "commercial" tenant includes any tenant of property lawfully operating a commercial business in the City, including any commercial business lawfully operating in any Commercial or Industrial Zone specified in Sections 17.16.020 or 17.16.030 of the Moorpark Municipal Code.

F. Nothing in this Executive Order shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. Six months after the end of the emergency if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Executive Order; or a landlord may seek rent that is delayed for the reasons stated in this Executive Order through the eviction or other appropriate legal process.

G. This Executive Order applies to evictions and unlawful detainer actions served or filed on or after the date on which a local emergency was proclaimed to exist within the City of Moorpark, March 13, 2020.

SECTION 2. Violations.

A. This Executive Order shall be punishable as set forth in Government Code Section 8665 and Chapter 1.10 of the Moorpark Municipal Code. Nothing in this Executive Order shall be construed to diminish or supersede the provisions of Penal Code Section 396 and the penalties contained therein.

B. This Executive Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Executive Order.

SECTION 3. Term. This Executive Order shall remain in effect until the local emergency declared in response to COVID-19 within the City is concluded, or until May 31, 2020, whichever date is sooner. This Executive Order may also be extended or superseded during the period of local emergency by a duly enacted Ordinance of the City Council or by a further Order by the Director of Disaster Services.

SECTION 4. Effective Date. This Executive Order shall be effective immediately as of the date of this Executive Order.

SECTION 5. Severability. The Director of Disaster Services declares that, should any section, subsection, subdivision, sentence, clause, phrase, or portion of this Executive Order for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Executive Order. The Director Disaster Services hereby declares that it would have adopted this Executive Order and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Publication. The City Clerk shall certify to the approval of this Executive Order and shall cause notice of it to be disseminated to the public and be given widespread publicity and notice.

APPROVED and ISSUED this 19th day of March, 2020.

/s/_____
Troy Brown, City Manager/
Director of Disaster Services

ATTEST:

/s/_____
Ky Spangler, City Clerk