

CITY OF MOORPARK EXECUTIVE ORDER NO. 2020-06

AN EXECUTIVE ORDER OF THE DIRECTOR OF
DISASTER SERVICES OF THE CITY OF MOORPARK
EXTENDING 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; 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, Dr. Robert Levin, M.D., the Ventura County Public Health Officer, initially 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 16, 2020, the Governor issued Executive Order N-28-20, which suspended “[a]ny 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” of certain tenants affected by the COVID-19 pandemic. However, the protections and suspensions provided in Executive Order N-28-20 are scheduled to expire on May 31, 2020; and

WHEREAS, on March 17, 2020, Dr. Levin issued a public health 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; 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, on March 19, 2020, the Director of Disaster Services adopted Executive Order No. 20-01 to temporarily prohibit residential and commercial evictions due to nonpayment of rent caused by COVID-19 through May 31, 2020. Executive Order No. 20-01 was adopted pursuant to the City's police powers conferred under the California Emergency Services Act and the Governor's Executive Order N-28-20; and

WHEREAS, on March 20, 2020, the Dr. Levin issued a "Stay Well at Home" order requiring that all persons currently living within Ventura County to stay at their residences and to the extent persons are outside of their places of residency to, at all times as reasonably possible maintain a physical distance of at least six feet from one another. On April 20, 2020, Dr. Levin amended and extended the County's Stay Well at Home order until May 15, 2020; and

WHEREAS, on March 27, 2020, the Governor issued Executive Order N-37-20 to: (1) extend for a period of 60 days the deadline by when residential tenants affected by COVID-19 must file a response after being served with a summons in an unlawful detainer action; and (2) prohibit the enforcement of a writ to evict a qualifying tenant from a residence or dwelling unit. However, the protections provided in Executive Order N-37-20 are scheduled to expire on May 31, 2020; and

WHEREAS, on April 6, 2020, the Judicial Council amended the California Rules of Court in response to COVID-19. Subsection (b) of Emergency Rule 1 prohibits a court from issuing a summons on a complaint for unlawful detainer unless the court finds, in its discretion and on the record, that the action is necessary to protect public health and safety. Emergency Rule 1 remains in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council; and

WHEREAS, on May 4, 2020, the Governor issued Executive Order N-60-20 declaring that the State would soon be moving to allow lower-risk businesses and spaces to reopen under Stage Two of his plan to reopen the State in four phases, known as the Roadmap to Reopening; and

WHEREAS, Executive Order N-60-20 directs the State Public Health Officer to establish criteria for local health officers to establish and implement public health measures that are less restrictive than measures taken on a statewide basis and to certify such measures; and

WHEREAS, on May 7, 2020, Dr. Levin adopted a new local public health order entitled "Safely Reopening Ventura County" to address the unique needs of Ventura County in response to COVID-19. The Safely Reopening Ventura County order repealed and replaced the April 20 Stay Well At Home order and is currently scheduled to expire on May 31, 2020; and

WHEREAS, on May 19, 2020, Dr. Levin submitted an attestation form to the State Department of Public Health certifying that Ventura County is ready to prevent the spread of COVID-19 and is therefore capable of moving through Stage 2 of the Roadmap to Reopening; and

WHEREAS, on May 29, 2020, the Governor adopted Executive Order N-66-20 to extend by 60 days the tenant protections provided under Executive Order N-28-20, which had previously suspended provisions of state law that preempt the City's authority to impose substantive limitations on residential or commercial evictions through May 31, 2020; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20, which suspended "[a]ny 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" of certain tenants affected by the COVID-19 pandemic. However, the protections and suspensions provided in Executive Order N-28-20 are scheduled to expire on May 31, 2020; and

WHEREAS, despite the incremental progress toward reopening City businesses and facilities, the public health emergency caused by COVID-19, and the precautions recommended by health authorities to stop its spread, resulted in tenants in Moorpark experiencing 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, lingering 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 remains 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 Director of Disaster Services to exercise his authority to issue these regulations related to the protection of the public peace, health, and safety.

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

SECTION 1. Temporary Moratorium on Evictions. If the condition set forth in Section 2 of this Executive Order occurs, then 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 July 28, 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 90 days of the expiration of the local emergency. Ninety days 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. Nothing in this Executive Order is intended to abrogate or limit the tenant obligations and protections that were provided under Executive Order No. 20-01 through May 31, 2020, including the requirement that rent be paid within six months after the end of the City's local emergency.

SECTION 2. Condition Precedent. The provisions of Section 1 of this Executive Order shall take effect if prior to July 28, 2020, the Judicial Council repeals Emergency Rule 1 ("Unlawful Detainers") of its Emergency Rules Related to COVID-19. The provisions of Section 1 of this Executive Order shall take effect immediately upon the repeal of Emergency Rule 1.

SECTION 3. 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 4. 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 July 28, 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 5. Effective Date. This Executive Order shall be effective immediately as of the date of this Executive Order.

SECTION 6. 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 7. 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 2nd day of June, 2020.



Troy Brown, City Manager/
Director of Disaster Services

ATTEST:


Ky Spangler, City Clerk