

City of Irvine
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MAR 17 2020

CITY OF IRVINE
CITY MANAGER'S OFFICE

To: John A. Russo, City Manager
From: Christina L. Shea, Mayor *CLS*
Farrah N. Khan, Councilmember *FK*
Date: March 17, 2020
Re: **Agenda Request for March 24, 2020: Urgency Ordinance on Eviction Limitations Due to Coronavirus.**

On March 16, 2020, the Governor of the State of California issued an Executive Order that authorized local governments, including the City of Irvine, to create limitations on residential and commercial evictions (Attachment 1). The purpose of the Executive Order is to minimize the impact on tenants during this time of crisis. It only authorizes local limitations on evictions where the basis for the eviction is a substantial decrease in income (or a substantial increase in medical expenses) caused by the COVID-19.

Rather than mandating a statewide rule, the Governor left it to individual cities to determine for themselves whether a limitation on evictions is necessary in their communities. The City of Irvine is fortunate to have strong partnerships with the primary landowners and landlords in the City. We have been in communication with representatives of both The Irvine Company and FivePoint Holdings, and they are both committed to honoring the spirit and intent of the Governor's executive order.

To memorialize that commitment, we request that a resolution be agendized for the March 24, 2020 City Council meeting, which will acknowledge the needs of the community, the intent of the Executive Order, and the commitment of our community partners to work with their tenants in this time of need. The resolution shall also indicate that the City's top priority has been, and will always be, the protection of the residents and businesses in Irvine. If, despite our best intentions, we see a need to enact a local ordinance to limit evictions, we will immediately do so.

cc: Irvine City Council
Molly M. Perry, 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

CITY COUNCIL RESOLUTION NO. 20-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
IRVINE, CALIFORNIA, RECOMMENDING ALL
LANDLORDS AND RESIDENTS TO ABIDE BY THE
GOVERNOR'S MARCH 16, 2020 EXECUTIVE ORDER
N-28-20

WHEREAS, as of March 19, 2020, a novel coronavirus (COVID-19) had spread globally to over 150 countries, infecting more than 222,000 persons and killing more than 9,100 individuals worldwide. Due to the expanding list of countries with widespread transmission of COVID-19, and increasing travel alerts and warnings for countries with sustained or uncontrolled community transmission issued by the Centers of Disease Control and Prevention (CDC), COVID-19 has created conditions that are likely to be beyond the control of local resources and require the combined forces of other political subdivisions to combat; and

WHEREAS, the World Health Organization, the President of the United States, the Governor of the State of California, the County of Orange, and the City of Irvine have all declared states of emergency as a result 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, COVID-19 and efforts to minimize the spread of COVID-19 have, among other things, created for many Irvine residents the loss or threatened loss 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, because homelessness can exacerbate vulnerability to COVID-19, the City must take measures to preserve and increase housing security for Irvine residents to protect public health; and

WHEREAS, the City, based on its particular needs, has determined that at this time it will leverage its partnerships with the business and landowner community to preserve the housing security of Irvine citizens residents; however, the City Council stands ready to take additional prescriptive measures to promote housing security and stability if and as necessary; and

WHEREAS, the City, has also determined, based on its 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 impacts of COVID-19; and

ATTACHMENT

WHEREAS, in addition to these public health benefits, state and local policies to promote social distancing, self-quarantine, and self-isolation require that Irvine residents be able to access basic utilities – including water, gas, electricity, and telecommunications – at their homes, so that Irvine residents 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 Irvine’s largest landowners and landlords have voluntarily indicated that they will refrain from evicting or foreclosing on Irvine residents and businesses where non-payment is a result of loss of income or increase in expenses caused by COVID-19 and the mitigation of the effects of COVID-19; 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; and

WHEREAS, on March 16, 2020, for many of the reasons listed above, the Governor issued Executive Order N-28-20 (“Executive Order”) that authorized local governments, including the City of Irvine, to create limitations on residential and commercial evictions; and

WHEREAS, the stated purpose of the Executive Order is to minimize the impact on California tenants during this time of crisis, and thereby makes the following “Orders,” such as:

- “(1) The time limitation set forth in Penal Code section 396(f) concerning protections against residential eviction, is mandates that the time limitation set forth in Penal Code section 396(f) and suspending certain provisions limitations on evictions where the basis for the eviction is a substantial decrease in income (or a substantial increase in medical expenses) caused by COVID-19;*
- (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.*
- (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.*

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";

WHEREAS, the Executive Order explicitly states, "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";

WHEREAS, the City seeks to uphold the provisions of the Executive Order, and to honor its intent and spirit as applied to all residents and landlords in the City of Irvine, for the protection of its residents and businesses during this time of crisis, which has been, and will always be, the City's utmost priority;

WHEREAS, on March 18, 2020, the President announced his administration, including specifically the Department of Housing and Urban Development (HUD), is providing immediate relief to renters and homeowners by suspending all foreclosures and evictions until the end of April 2020, to provide relief during the COVID-19 outbreak;

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY RESOLVE as follows:

SECTION 1. To strongly encourage, and expect, all residential and commercial landlords, and all utility providers, in the City of Irvine to abide by the provisions of the Governor's Executive Order, and to specifically refrain from evictions, foreclosures, rent increases, or service and utility disconnections during the period of the COVID-19 emergency.

SECTION 2. The City has, at this time, refrained from exercising the full regulatory authority created by Executive Order N-28-20 based its long history working together with its business community, and based upon the statements and representations of key members of that community indicating an intent to abide by the spirit and intent of Executive Order N-28-20; however, the City stands ready and willing to exercise its full regulatory authority if and to the extent this resolution does not have its desired and intended effect.

SECTION 3. This Resolution shall go into effect immediately upon its adoption. The City Clerk shall certify to the adoption of this Resolution and shall deliver a copy of this Resolution to the Director of the California Governor's Office of Emergency Services and the Orange County Health Office, and any other federal, state, or regional agency as may be directed by the City Manager.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 24th day of March, 2020.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, MOLLY M. PERRY, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 24th day of March, 2020.

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

CITY CLERK OF THE CITY OF IRVINE