

RESOLUTION NO. 2020-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA CONFIRMING
ISSUANCE OF A FIRST SUPPLEMENT TO THE PROCLAMATION OF A LOCAL
EMERGENCY TEMPORARILY SUSPENDING UNTIL MAY 31, 2020, THE AUTHORITY
OF ANY LANDLORD TO COMMENCE EVICTIONS ON ANY RESIDENTIAL
(INCLUDING MOBILE HOMES AND MOBILE HOME LOTS) OR COMMERCIAL
PROPERTY WITHIN THE CITY DUE TO THE TENANT’S NONPAYMENT OF RENT OR
A FORECLOSURE ARISING OUT OF A DOCUMENTED SUBSTANTIAL DECREASE IN
HOUSEHOLD OR BUSINESS INCOME CAUSED BY THE COVID-19 PANDEMIC OR
THE GOVERNMENTAL RESPONSE THERETO.

WHEREAS, Section 2.20.060.a. of the Marina Municipal Code, in the event of a proclamation of a local emergency by the City Manager in his role as Director of Emergency Services or by the Governor, empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; however, such rules and regulations must be confirmed at the earliest practicable time by the City Council; and

WHEREAS, on March 13, 2020, the City Manager in his role as the Director of Emergency Services, issued a “Proclamation of a Local Emergency Related to Covid-19 (Coronavirus)” (Proclamation of Local Emergency). A copy is attached hereto as Exhibit A; and

WHEREAS, on March 20, 2020, the Director of Emergency Services issued a First Supplement to the Proclamation of Local Emergency (First Supplement) temporarily suspending until May 31, 2020, the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto. A copy is attached hereto as Exhibit B; and

WHEREAS, the First Supplement was issued pursuant to the general police powers of the City to protect the health, safety and welfare of the citizens of Marina; and

WHEREAS, Nothing in the First Supplement relieves a tenant of the obligation to pay rent or a landlord’s ability to recover rent due or to file an action against a tenant or non-tenant for damage done to a landlord’s property; and

WHEREAS, the First Supplement was effective as of March 20, 2020; and

WHEREAS, the City Council hereby finds that the conditions described in the Proclamation of Local Emergency related to the COVID-19 outbreak did warrant and necessitate the issuance of the First Supplement by the Director of Emergency Services.

NOW, THEREFORE, be it resolved by the City Council of the City of Marina that:

- A. The First Supplement to the Proclamation of Local Emergency, as issued by the Director of Emergency Services/City Manager and attached as **Exhibit B** to this Resolution is hereby confirmed.
- B. The First Supplement shall be deemed to continue in force until May 31, 2020.

- C. As required by law, the City Council shall continue to review the need for continuing the state of emergency every thirty (30) days until the state of emergency is terminated by the City Council and, as directed by the City Council on March 17, 2020, the City Manager shall continue to report to the City Council on actions taken under his authority as Director of Emergency Services at every regular meeting of the City Council until the termination of the local emergency shall be proclaimed by the City Council.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 7th day of April 2020, by the following vote:

AYES: COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk



**PROCLAMATION OF A LOCAL EMERGENCY BY
CITY OF MARINA CITY MANAGER RELATED TO COVID-19 (CORONAVIRUS)**

WHEREAS, Section 2.20.060 of Chapter 2.20 entitled "Disaster Council" of the Marina Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, section 2.20.050 of the Marina Municipal Code designates the City Manager to be the Director of Emergency Services; and

WHEREAS, the City Manager as the Director of Emergency Services of the City of Marina hereby finds that:

1. The novel coronavirus (COVID-19) is a respiratory disease that may result in serious illness or death and is easily transmissible from person to person; and
2. On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic; and
3. Conditions of extreme peril to the safety of persons have arisen within the City caused by the COVID-19 pandemic. On March 4, 2020, Governor Newsom proclaimed State of Emergency to exist in California as a result of the threat of COVID-19. There presently exists a public health emergency, as further addressed in Governor Newsom's Executive Order N-25-20 dated March 12, 2020, and by a National State of Emergency declared by President Trump on March 13, 2020; and
4. The efforts required to prepare for, respond to, mitigate and recover from the spread of COVID-19 have imposed, and will continue to impose, extraordinary requirements and expenses on the City, requiring diversion of resources from day-to-day operations; and
5. In addition to the above facts, conditions or threatened conditions caused by COVID-19 including but not limited to potential isolation and quarantine of residents, employees, businesses, and public safety workers, give rise to conditions of extreme peril to the safety of persons and property within the City; and
6. These conditions are, or are likely to be, beyond the control of the services, personnel, equipment and facilities of the City of Marina; and
7. The City Council of the City of Marina is not in session and cannot immediately be called into session.

BE IT FURTHER PROCLAIMED AND ORDERED that during the existence of said Local Emergency, the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, existing ordinances and resolutions, the City's Emergency Plan, as well as this resolution and any subsequent emergency orders of the City Council in order to mitigate the effects of the Local Emergency.

BE IT FURTHER PROCLAIMED AND ORDERED, pursuant to Government Code sections 8634 and 8568, during the period of this emergency, the following procedures and formalities otherwise required of the City by ordinance or other local regulation shall be waived, where strict compliance would hinder or delay the mitigation effects of the emergency:

1. Entering into contracts;
2. Incurring obligations;
3. Employment of permanent and temporary workers;
4. Utilization of volunteer workers;
5. Appropriation and expenditure of public funds; and
6. Waiver of public funds when in the public interest.

IT IS FURTHER PROCLAIMED AND ORDERED that said Local Emergency that said Local Emergency shall continue by ratification of the City Council, until its termination is proclaimed by the City Council of the City.

March 13, 2020
Date and Time 4:30 pm

Layne Long
Layne Long, City Manager and
Director of Emergency Services

**FIRST SUPPLEMENT TO THE PROCLAMATION OF A LOCAL EMERGENCY BY
THE CITY OF MARINA CITY MANAGER RELATED TO COVID-19
(CORONAVIRUS)**

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

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed 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 the broader spread of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic; 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, on Friday, March 13, 2020, the City Manager, in his role as the Director of Emergency Services, proclaimed the existence of a local emergency pursuant to Chapter 2.20 of the Marina Municipal Code to ensure an effective response by the City to the COVID-19 pandemic; and

WHEREAS, in accordance with subsection 6.a. of section 2.20.020 of Chapter 2.20 of the Marina Municipal Code, in the event of the proclamation of a local emergency or the proclamation of a state of emergency by the Governor, the Director of Emergency Services is empowered to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued an Executive Order, attached hereto as **Exhibit A** and by this reference incorporated herein, recognizing the economic impacts of COVID-19 have been significant and could threaten to undermine the housing security for California residents and the continued viability of California commercial enterprises and suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions through May 31, 2020; and

WHEREAS, at a regular meeting of the City Council of the City of Marina held on March 17, 2020, by Resolution 2020-29, the City Manager/Director of Emergency Services' Proclamation was ratified by the City Council of the City of Marina, the local emergency was deemed by the City Council to continue to exist until its termination is proclaimed by the City Council, and direction was given to take action as soon as practicable on measures to protect renters and prevent eviction or rent increase of persons adversely affected by loss of work or income due to COVID-19; and

WHEREAS, on March 17, 2020, the Health Officer of the County of Monterey issued an Order directing all individuals living in the County to shelter in 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 nonessential operations at physical locations in the County; prohibiting all nonessential gatherings of any number of individuals; and ordering cessation of all nonessential travel; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants and commercial enterprises in Marina have experienced or expect soon to experience sudden and unexpected income loss, layoffs, and business closure, thereby placing increased demands on already strained regional and local health and safety resources; 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 displacement, to protect the City's affordable housing stock and to prevent housed individuals from falling into homelessness; and

WHEREAS, school closures require parents to adjust work schedules leading to time off work, whether paid or unpaid, and an inability to work will economically strain families; and

WHEREAS, due to the Order for County residents to shelter in their places of residence and the Governor's call for certain businesses to close, businesses that rely on customer patronage will experience a significant loss of business opportunity, loss of indirect spending, an impact on their operations and a loss of revenue for those that cannot continue to operate; and

WHEREAS, in the interest of health and safety, as affected by the emergency caused by the COVID-19 pandemic, it is necessary to exercise my authority to issue this regulation related to the protection of life and property; and

WHEREAS, as required by subsection 6.a. of section 2.20.020 of the Marina Municipal Code this regulation must be confirmed by the City Council at the earliest practicable time.

IT IS HEREBY ORDERED THAT:

1. A temporary moratorium on eviction for nonpayment of rent by residential and commercial tenants impacted by the COVID-19 pandemic is imposed as follows:

a. Pursuant to the general police power of the City to protect the health, safety and welfare of its citizens the authority of any landlord to commence evictions on any residential (including mobile homes and mobile home lots) or commercial property within the City of Marina for the following reasons is hereby suspended through May 31, 2020, unless otherwise terminated or extended: (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 income or business income or the out-of-pocket medical expenses described in subparagraph (1) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented. Nothing in this Order shall relieve the tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due. Nothing herein shall be deemed to interfere with the right of a landlord to file an action against a tenant or non-tenant for damage done to a landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

b. This Order applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date written below. This Order shall be liberally construed so as to provide the broadest possible protection.

c. This Order shall be punishable as set forth in Section 2.20.100 of the Marina Municipal Code. In addition, this Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Order.

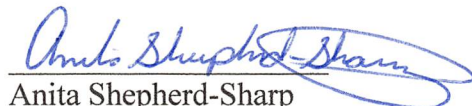
d. This Order shall be superseded by a duly enacted Ordinance or Resolution of the City Council or a further Order by the Director of Emergency Services adopted during the local emergency that expressly supersedes this Order.

2. This Order shall become effective immediately.

ADOPTED this 20th day of March 2020.


Layne Long
Director of Emergency Services

ATTEST:


Anita Shepherd-Sharp
Deputy City Clerk

APPROVED AS TO FORM:


Robert W. Rathie
for the City Attorney

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

April 1, 2020

Item No. **11a**

Honorable Mayor and Members
Of the Marina City Council

City Council Meeting of
April 7, 2020

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2020-,
CONFIRMING THE CITY MANAGER/DIRECTOR OF EMERGENCY
SERVICES' ISSUANCE OF A FIRST SUPPLEMENT TO THE
PROCLAMATION OF A LOCAL EMERGENCY TEMPORARILY
SUSPENDING UNTIL MAY 31, 2020, THE AUTHORITY OF ANY
LANDLORD TO COMMENCE EVICTIONS ON ANY RESIDENTIAL
(INCLUDING MOBILE HOMES AND MOBILE HOME LOTS) OR
COMMERCIAL PROPERTY WITHIN THE CITY DUE TO THE
TENANT'S NONPAYMENT OF RENT OR A FORECLOSURE ARISING
OUT OF A DOCUMENTED SUBSTANTIAL DECREASE IN
HOUSEHOLD OR BUSINESS INCOME CAUSED BY THE COVID-19
PANDEMIC OR THE GOVERNMENTAL RESPONSE THERETO.**

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2020-, confirming the City Manager/Director of Emergency Services' issuance of a First Supplement to the Proclamation of a Local Emergency temporarily suspending until May 31, 2020, the authority of any landlord to commence evictions on any residential (including mobile homes and mobile home lots) or commercial property within the City due to the tenant's nonpayment of rent or a foreclosure arising out of a documented substantial decrease in household or business income caused by the COVID-19 pandemic or the governmental response thereto.

BACKGROUND:

Section 2.20.060.a. of the Marina Municipal Code empowers the Director of Emergency Services, in the event of a proclamation of a local emergency by the City Manager in his role as Director of Emergency Services or by the Governor, to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; however, such rules and regulations must be confirmed at the earliest practicable time by the City Council. On March 13, 2020, the City Manager in his role as the Director of Emergency Services, issued a "Proclamation of a Local Emergency Related to Covid-19 (Coronavirus)" (Proclamation of Local Emergency) and a copy is attached hereto as **EXHIBIT A**.

On March 20, 2020, the Director of Emergency Services issued a First Supplement to the Proclamation of Local Emergency (First Supplement) temporarily suspending until May 31, 2020, the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto. A copy is attached hereto as **EXHIBIT B**. The First Supplement was issued pursuant to the general police powers of the City to protect the health, safety and welfare of the citizens of Marina.

Nothing in the First Supplement relieves a tenant of the obligation to pay rent or a landlord's ability to recover rent due or to file an action against a tenant or non-tenant for damage done to a landlord's property.

The First Supplement was effective as of March 20, 2020.

In addition to the issuance of the First Supplement to the Proclamation of a Local Emergency, the Director of Emergency Services also issued temporary modifications to sign regulations that allow additional signs for businesses in non-residential zones that will be rescinded as the pandemic subsides and businesses are allowed to reopen.

Respectfully submitted,

Layne P. Long
City Manager
City of Marina