

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO EXERCISING THE COUNTY'S POLICY POWER TO IMPOSE SUBSTANTIVE LIMITATIONS ON RESIDENTIAL AND COMMERCIAL EVICTIONS IN THE UNINCORPORATED AREA OF SAN DIEGO COUNTY

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

WHEREAS, on January 30, 2020, the World Health Organization ("WHO") declared a Public Health Emergency of International Concern as a result of the COVID-19 virus. On January 31, 2020, the United States Secretary of Health and Human Services also declared a Public Health Emergency of the COVID-19 virus; and

WHEREAS, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of the COVID-19 virus, which was subsequently ratified by the Board of Supervisors on February 19, 2020; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom 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 a broader spread of COVID-19. The declaration was issued as the number of positive California cases continued to rise and following one official COVID-19 death; 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, the Centers for Disease Control and Prevention, the California Department of Public Health, and the San Diego County Department of Public Health have all issued recommendations, 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, on March 12, 2020 and subsequently amended on March 16, 2020, March 17, 2020, and March 18, 2020 and, pursuant to California Health and Safety Code sections 101040, 120175, and 120175.5 (b) the Health Officer of the County of San Diego ("Health Officer") issued an Order of the Health Officer and Emergency Regulations (the "County Order") that is effective from Tuesday, March 17, 2020 through March 31, 2020 for San Diego County. The County Order prohibits all public or private "gatherings," an event or convening that brings together 10 or more people in a single room or single space at the same time, the closure of all bars, adult entertainment establishments, and other business establishments that serve alcohol and do not serve food, the closure of on-site dining of all restaurants and other business establishments that serve food, and cessation of classes or other school activities where students gather on the school campus for all public or private schools, colleges, and universities; and

WHEREAS, pursuant to Health and Safety Code section 120175.5(b) and the County Order, all governmental entities in San Diego County are required to take necessary measures within the governmental entity's control to ensure compliance with the County Order; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities to address the COVID-19 virus, many tenants in the unincorporated areas of the County of San Diego have experienced or are expected to soon 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, further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, displacing renters who are unable to pay rent due to these types of financial impacts will worsen the present crisis by making it difficult for them to follow the health guidance of social distancing and isolation, which will put tenants and many others at great risk; and

WHEREAS, it is in the public interest to take steps to ensure that people remain housed during this public health emergency; and

WHEREAS many Californians are experiencing substantial losses of income as a result of business closures; and

WHEREAS 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, the Governor of the State of California, in Executive Order N-28-20 dated March 16, 2020, which is hereby fully incorporated into this Resolution, delegated to local entities, including cities, the authority to enact moratoriums to prevent residential and commercial evictions based on impacts related to the COVID-19 virus; and

WHEREAS, a copy of the Governor's executive order is attached hereto; and

WHEREAS, there is an urgent need for the County of San Diego to enact such substantive limitations to protect the health, safety and welfare of its citizens in light of the emergency declared regarding the COVID-19 pandemic;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors for the County of San Diego as follows:

1. The provisions of the Governor’s Executive Order N-28-20, including its recitals, are incorporated herein as if fully set forth.
2. The above recitals, and the recitals in the Governor’s declaration, are true and correct.
3. Lease-Rent Eviction Moratorium. Pursuant to the general police power of the County to protect the health, safety and welfare of its citizens, a temporary moratorium on eviction for non-payment of rent by residential or commercial tenants (collectively “tenant”) impacted by the COVID-19 virus and located in the unincorporated areas of the County of San Diego is hereby enacted as follows:
 - a. It shall be unlawful and prohibited for a landlord to evict or otherwise recover possession of a residential or commercial tenant for nonpayment of rent due on or after March 4, 2020, if the tenant has provided notice to the landlord within 15 days after the date rent was due, or within 15 days after the effective date of this resolution, whichever is later, that the tenant is unable to pay rent due to financial impacts related to COVID -19.
 - b. For purposes of this resolution, “financial impacts related to COVID-19” is defined as follows:
 - i. 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 describe in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and
 - iii. The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) and causation by COVID-19 described in subparagraph (ii) must be documented in writing.
 - c. For purposes of this resolution, “notice” must be given in writing and delivered pursuant to the notice required under the terms of a lease. If no lease exists, the notice must be delivered personally, mail or email to landlord, landlord’s representative or agent, at the address where rent is customarily paid.
 - d. Upon receipt of notice from the tenant pursuant to this resolution, a landlord who already commenced eviction proceedings must immediately stop.

- e. Within two weeks of providing notice under subsections (a) and (c), the tenant shall provide the landlord documentation or other objectively verifiable information that due to financial impacts related to COVID-19, the tenant is unable to pay rent. Documentation may include, but is not limited to, letters from employers, financial statements, business records, physician's letter, bills, and/or a combination thereof.
 - f. If the tenant does not provide evidence of financial impacts related to COVID-19 within the time frame described in subsection (e), the landlord may pursue any enforcement action in accordance with state and local laws.
 - g. Nothing in this resolution shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.
 - h. On June 1, 2020, a tenant who provided the notice and documentation required under subsections (a) through (e) shall have up to three months to pay the rent owed to the landlord before the landlord may recover possession due to missed rent payments covered by this resolution. If the tenant remains unable to pay the rent due to the financial impacts related to COVID-19, the tenant may provide the landlord another notice and additional documentation pursuant to subsections (a) through (e) and thereby extend the payment date by an additional one month. The landlord and tenant can agree voluntarily to extend the payment date beyond the four-month period provided in this resolution, but it is not covered by this resolution.
 - i. A landlord may not charge or collect a late for rent covered by this resolution that is delayed for the reasons stated in this resolution.
4. This resolution shall be effective immediately and shall remain in effect through May 31, 2020.

Approved as to form and legality
THOMAS E. MONTOMGERY

By Laura E. Dolan, Senior Deputy

ACTION: ON MOTION of Supervisor Fletcher, seconded by Supervisor Gaspar, the Board of Supervisors took action as recommended, amending section 3(a) of the proposed resolution as follows: "It shall be unlawful and prohibited for a landlord to evict or otherwise recover possession of a residential or commercial tenant for nonpayment of rent due on or after March 4, 2020, if the tenant has provided notice to the landlord within 7 days after the date rent was due, or within 7 days after the effective date of this resolution, whichever is later, that the tenant is unable to pay rent due to financial impacts related to COVID -19;" adopting the amended Resolution No. 20-027 entitled: RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO EXERCISING THE COUNTY'S POLICE POWER TO IMPOSE SUBSTANTIVE LIMITATIONS ON RESIDENTIAL AND COMMERCIAL EVICTIONS IN THE UNINCORPORATED AREA OF SAN DIEGO COUNTY.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond