



City Attorney's Office

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EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES **No. 2020-02**

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of a 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; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) announced on February 25, 2020 that community spread of COVID-19 is likely to occur in the United States; and on March 11, 2020, World Health Organization (WHO) declared COVID-19 as a pandemic; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available and formalize emergency actions; and

WHEREAS, on March 12, 2020, the County of Ventura declared a local health emergency and further declared that there is an imminent and proximate threat of COVID-19 spreading in the County of Ventura and a threat to the public health of County residents; and

WHEREAS, the Director of Emergency Services of the City of Thousand Oaks made a Proclamation of Local Emergency on March 12, 2020; and

WHEREAS, on March 13, 2020, President Trump declared a national emergency in response to the COVID-19 outbreak under both the National Emergencies Act and under the Stafford Disaster Relief and Emergency Assistance Act; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20 reconfirming the State of Emergency in California as a result of the threat of COVID-19, the additional economic impact the virus is causing to businesses and housing matters, and the need for local jurisdictions to determine, based on their particular needs, additional measures to promote housing security and stability as well as assist commercial tenancies; and

WHEREAS, the Governor's Executive Order N-28-20 suspends until May 31, 2020, unless extended, any 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, including, but not limited to, California Civil Code Sections 1940 et seq. or 1954.25 et seq., in circumstances where the basis for the

eviction is nonpayment of rent or a foreclosure arising out of a substantial decrease in household or business income caused by the COVID-19 pandemic or by any federal, state, or local government response to COVID-19; and

WHEREAS, as a result of the Local Emergency and the precautions recommended by health authorities, many tenants in the City of Thousand Oaks have or may soon experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of California (“Governor”) 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 such individuals and their families 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, the Governor of the State of California is expected to continue to issue Executive Orders to combat COVID-19 that will mandate or authorize local agencies such as CITY to enact additional regulations consistent with federal and State law to protect the health, safety, and welfare of residents; and

WHEREAS, on March 17, 2020, the City Council of the City of Thousand Oaks adopted Resolution No. 2020-10 ratifying the Proclamation of the Existence of Local Emergency and Rendering Certain Emergency Orders; and

WHEREAS, one of the Emergency Orders contained in Resolution No. 2020-10 was a temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis and a direction to the City Manager and City Attorney to promulgate regulations and processes to implement the moratorium; and

WHEREAS, pursuant to Resolution No. 2020-10, the Director of Emergency Services may promulgate orders and regulations necessary to provide for the protection of life and property; and

WHEREAS, the Director of Emergency Services has determined that the temporary eviction moratorium should be extended to commercial tenants as well, in accordance with the Governor’s Executive Order.

NOW, THEREFORE, I, Andrew P. Powers, the Director of Emergency Services for the City of Thousand Oaks, do hereby issue the following Order:



IT IS HEREBY ORDERED THAT:

1. Effective Wednesday, March 25 at 12:01 a.m., a temporary moratorium on eviction for non-payment of rent by commercial tenants impacted by the COVID-19 crisis is imposed.
2. The temporary moratorium on eviction for non-payment of rent by residential and commercial tenants shall be in effect until the period of local emergency declared in response to COVID-19 concludes, 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 Emergency Services.
3. While the temporary moratorium is in effect, no landlord shall evict or attempt to evict a residential or commercial tenant if the basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial financial impact related to COVID-19.
4. For purposes of this Executive Order, a “substantial financial impact related to COVID-19” includes a documented substantial decrease in a tenant’s household or business income as a result of any of the following:
 - i. Being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 - ii. Lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19;
 - iii. Compliance with a recommendation or order from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency;
 - iv. Extraordinary out-of-pocket medical expenses; or
 - v. Child care needs arising from school closures related to COVID-19.
5. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent.
6. 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 the rent is due, notifies or makes reasonable effort to notify the landlord in writing of lost income and inability to pay full rent due to substantial financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this



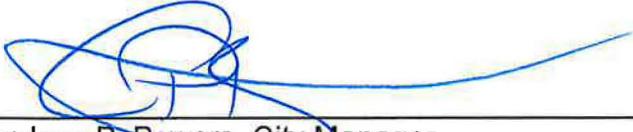
Executive Order, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

7. Nothing in this Executive Order shall relieve the tenant of liability for the unpaid rent, nor restrict a landlord's ability to recover rent due, which the landlord may seek after termination of the COVID-19 local emergency.
8. Unpaid rent shall be paid within six months of the termination of the COVID-19 local emergency or as directed by a court of competent jurisdiction. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Executive Order, nor may a landlord seek through the eviction process rent that has been delayed for the reasons stated in this Executive Order during the repayment grace period.
9. 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 with the City of Thousand Oaks, March 12, 2020.
10. Nothing in this Order shall in any way restrict state, county or local authority, including City authority, to order any quarantine, isolation or other public health measure that may compel an individual to remain physically present or to avoid any particular residential real property.
11. This Executive Order grants an affirmative defense in the event that an unlawful detainer action is commenced in violation of this Executive Order. 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 City of Thousand Oaks, or any of its officials, employees, agents or volunteers.
12. This Order shall be enforceable as set forth in Government Code Section 8665 and Section 4-4.09 of the Thousand Oaks 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.
13. This Order may be modified or rescinded by further Executive Order by the Director of Emergency Services or by the City Council of the City of Thousand Oaks.
14. The Director of Emergency 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



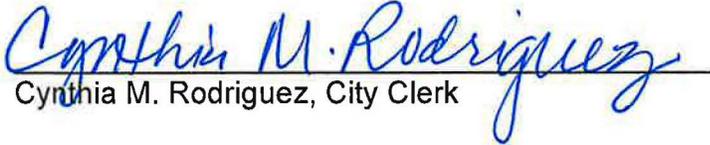
remaining portions of this Executive Order. The Director of Emergency Services hereby declares that he would have adopted this Executive Order and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

ADOPTED this 24th day of March, 2020.



Andrew P. Powers, City Manager
Director of Emergency Services

ATTEST:



Cynthia M. Rodriguez, City Clerk

APPROVED AS TO FORM
Office of the City Attorney

DocuSigned by:



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Tracy M. Noonan, City Attorney

