

**CITY OF SAND CITY
RESOLUTION SC 20-24, 2020**

**RESOLUTION OF THE CITY COUNCIL OF SAND CITY RATIFYING AN AMENDED
VERSION OF THE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF
THE CITY OF SAND CITY IMPOSING SUBSTANTIVE LIMITS ON EVICTIONS**

WHEREAS, the California Emergency Services Act (Cal. Gov. Code sections 8550, *et. seq.*) defines a local emergency as the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a city, caused by such conditions such as an epidemic, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of a city, and require the combined forces of other political subdivisions to combat; and

WHEREAS, Chapter 2, section 2.12.040 of the Sand City Municipal Code defines emergency as the actual or threatened existence of conditions of disaster or extreme peril to the safety of persons and property within this City, including an epidemic, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City; and

WHEREAS, on March 16, 2020 the City Manager of Sand City issued a Proclamation of Local Emergency due to the worldwide pandemic of the virus known as COVID-19, which proclamation was ratified by the City Council of Sand City at its regularly scheduled City Council meeting on March 17, 2020; and

WHEREAS, in response to the COVID-19 outbreak on March 16, 2020, the Governor of the State of California Gavin Newsom (“Governor”) issued an Executive Order (N-28-20) suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions until May 31, 2020; and

WHEREAS, the Sand City Municipal Code section 2.12.080(6)(a) authorizes the Director of Office of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property; and

WHEREAS, Sand City Municipal Code section 2.12.080(6)(a) provides that rules and regulations issued by the Director of Office of Emergency Services must be confirmed by the City Council of Sand City; and

WHEREAS, on March 23, 2020, the Sand City Director of Office of Emergency Services issued an order imposing substantive limits on residential and commercial evictions within Sand City, attached to this resolution as **Exhibit A**; and

WHEREAS, on March 27, 2020 the Governor issued Executive Order (N-37-20) extending certain deadlines for residential tenants and preventing the enforcement of writs against residential tenants facing eviction due to the nonpayment of rent because of certain COVID-19 related circumstances through May 31, 2010; and

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WHEREAS, the Governor in Executive Order N-38-20 issued on March 27, 2020, enhanced the authority of the Judicial Council of California to issue emergency orders, and on April 6, 2020, the Judicial Council issued Emergency Rules 1 through 11 of the California Rules of Court, which *inter alia* have the effect of limiting all unlawful detainers actions, except where necessary to protect public health and safety, and which remain in effect until ninety days after the Governor declares that the state of emergency related to the Covid-19 pandemic is lifted; and

WHEREAS, on April 2, 2020, the Governor unveiled a series of new resources to aid small businesses who have been impacted by the COVID-19 such as federal loans and deferment of the payment of sales and use taxes of up to \$50,000, for up to 12 months; and

WHEREAS, the statewide orders and policies referenced above provide some support to smaller businesses, thus lessening the need to impose a moratorium on evictions for tenants of commercial properties within Sand City; and

WHEREAS, this project is exempt from the California Environmental Quality Act (CEQA) Guidelines 15061(b)(3) because there is no possibility that the implementation of this resolution may have significant effects on the environment. This resolution will apply tenant protections to existing residential and commercial units for a limited period of time. This is solely an administrative process resulting in no physical changes to the environment. Furthermore, the project does not qualify for any of the exceptions to the categorical exemptions found at CEQA Guidelines Section 15300.2.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sand City that the foregoing recitals are hereby incorporated by reference as though fully set forth here; and

BE IT FURTHER RESOLVED, as follows:

1. That the Order of the Director of Emergency Services of the City of Sand City Imposing Substantive Limits on Residential and Commercial Evictions, attached hereto as **Exhibit A** ("Order"), as well as the findings contained therein, are hereby incorporated by reference as though fully set forth herein.
2. That the Order is hereby ratified and confirmed by the City Council with the following amendments: All references to "Commercial" are to be removed, and the Order shall only apply to tenants of residential properties. A copy of the order, as amended and ratified by this resolution, is attached as **Attachment 1**.
3. That the Director of Emergency Services/City Manager, or his designee, is authorized to take whatever other action is authorized under the Sand City municipal code and state and federal law, subject to any required authorization from the City Council, consistent with this Resolution.


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4. That the Order attached as Exhibit A, as amended herein, shall remain in effect through May 31, 2020 unless extended by resolution of this City Council.

PASSED AND ADOPTED by the City Council of Sand City on this 21st day of April 2020, by the following vote:

AYES: Council Members Carbone, Cruz, Hawthorne, Sofer
NOES: None
ABSENT: None
ABSTAIN: Council Member Blackwelder

APPROVED:



Mary Ann Carbone, Mayor

ATTEST:



Connie Horca, Acting City Clerk

ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF SAND CITY IMPOSING SUBSTANTIVE LIMITS ON RESIDENTIAL AND COMMERCIAL 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 "SARS-CoV-2," and the disease has been named "coronavirus disease 2019," abbreviated COVID-19 ("COVID-19"); and

WHEREAS, on March 4, 2020, the Governor of the State of California (Governor) 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; and

WHEREAS, on March 13, 2020, the President of the United States 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 March 16, 2020, the City Manager of Sand City issued a Proclamation of Local Emergency, pursuant to California Government Code §8630 and the Sand City Municipal Code Chapter 2.12, which enables him to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the emergency; and

WHEREAS, on March 6, 2020, the County of Monterey's County Administrative Officer issued a proclamation of local emergency as a precautionary measure to help the County mobilize and coordinate resources to be prepared to address the threat of COVID-19 and the County Board of Supervisors ratified the Proclamation of Local Emergency related to COVID-19; and

WHEREAS, in light of the COVID-19 pandemic and his state of emergency proclamation, on March 16, 2020, the Governor issued an executive order (Executive Order N-28-20) suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions; and

WHEREAS, a copy of the Governor's Executive Order is attached hereto; and

WHEREAS, on March 17, 2020, the City Council of Sand City ratified the Proclamation of Local Emergency and authorized the Director of Emergency Services to take action to mitigate the effects of the local emergency; and

WHEREAS, during this state of emergency, and in the interest of protecting the public health and preventing continued 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, loss of income as a result of impacts from COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent, thereby directly affecting their ability to stay housed during the spread of the COVID-19 pandemic; and

WHEREAS, consistent with the Monterey County Health Officer's March 17, 2020 Order for residents of Monterey County to shelter in place, with limited exceptions to provide or to receive essential services or to engage in certain essential activities, on March 17, 2020, the City of Sand City closed all City facilities to general public access, except to provide essential services; and

WHEREAS, on March 19, 2020, the Governor issued a statewide stay at home order (Executive Order N-33-20); and

WHEREAS, commercial activity and businesses are essential to a vibrant and healthy community and this Order provides stability and fairness as businesses have been and will continue to be substantially impacted by orders to shelter in place and limitations on operations and hours; and

WHEREAS, without the immediate effectiveness of this Order there is an increased risk of residential tenants becoming homeless and a substantial impact to local businesses; and

WHEREAS, there is an urgent need for the City of Sand City to impose substantive limitations to protect the health, safety, and welfare of its citizens in light of the emergency declaration regarding the COVID-19 pandemic.

NOW, THEREFORE, I, Aaron Blair, the Director of the Office of Emergency Services for the City of Sand City, do hereby issue the following order to become effective immediately, subject to confirmation at the earliest practicable time by the City Council of Sand City as required by Sand City Municipal Code Chapter 2.12:

IT IS HEREBY ORDERED THAT:

1. The provisions of 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. 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 or commercial property within the corporate boundaries of the City of Sand City for the following reasons is hereby suspended through May 31, 2020, unless otherwise terminated or extended:

- a. The basis of the eviction is non-payment 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
- b. The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (a) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

4. Nothing in this Order shall relieve a tenant (residential or commercial) of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.

5. This Order applies to non-payment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date on which the local emergency was proclaimed.

6. This Order shall be liberally construed to provide the broadest possible protection for the citizens of the City.

7. The City Manager (Director of Office of Emergency Services) is authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and the purposes of this Order.
8. If any provision of this Order or the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
9. This Order shall become effective immediately.

ADOPTED this 23RD day of March 2020.



Aaron Blair, City Manager/Director of Office of
Emergency Services

ATTEST:



Linda Scholink, City Clerk

APPROVED AS TO FORM:

Vibeke Norgaard, City Attorney

7. The City Manager (Director of Office of Emergency Services) is authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and the purposes of this Order.
8. If any provision of this Order or the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
9. This Order shall become effective immediately.

ADOPTED this 23rd day of March 2020.



Aaron Blair, City Manager/Director of Office of
Emergency Services

ATTEST:



Linda Scholink, City Clerk

APPROVED AS TO FORM:

 5/23/20

Vibeke Norgaard, 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

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA****EXECUTIVE ORDER N-37-20**

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 in a short period of time, COVID-19 has rapidly spread throughout California, necessitating stringent public health emergency orders as well as guidance from federal, state, and local public health officials; and

WHEREAS on March 16, 2020, I issued Executive Order N-28-20, suspending state law limitations on local jurisdictions that impose restrictions on evictions; and

WHEREAS on March 19, 2020, I issued Executive Order N-33-20, ordering all residents to immediately heed the Order of the State Public Health Officer for all residents, unless exempted, to stay home or at their place of residence; and

WHEREAS many Californians are experiencing or will experience 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 rent, and leaving them vulnerable to eviction; and

WHEREAS minimizing evictions during this period is critical to reducing the spread of COVID-19 in vulnerable populations by allowing all residents to stay home or at their place of residence in compliance with Executive Order N-33-20; and

WHEREAS Chief Justice Tani Cantil-Sakauye issued advisory guidance on March 20, 2020 for superior courts to suspend most civil trials and hearings for at least 60 days, and on March 23, 2020, suspended all jury trials for a period of 60 days, and extended by 60 days the time period for the holding of a civil trial; and

WHEREAS on March 25, 2020 the Department of Business Oversight secured support from national banks, state banks and credit unions for temporary delays in mortgage payments and foreclosure sales and evictions for homeowners who have economic impacts from COVID-19 with the objective of maximizing consistency and minimizing hurdles potentially faced by borrowers.

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 deadline specified in Code of Civil Procedure section 1167 shall be extended for a period of 60 days for any tenant who is served, while

this Order is in effect, with a complaint that seeks to evict the tenant from a residence or dwelling unit for nonpayment of rent and who satisfies all of the following requirements:

- a. Prior to the date of this Order, the tenant paid rent due to the landlord pursuant to an agreement.
 - b. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:
 - (i) The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;
 - (ii) The tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or
 - (iii) The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.
 - c. The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time upon payment of back-due rent.
- 2) No writ may be enforced while this Order is in effect to evict a tenant from a residence or dwelling unit for nonpayment of rent who satisfies the requirements of subparagraphs (a)-(c) of paragraph 1.
 - 3) The protections in paragraphs 1 and 2 shall be in effect through May 31, 2020.

Nothing in this Order shall prevent a tenant who is able to pay all or some of the rent due from paying that rent in a timely manner or relieve a tenant of liability for unpaid rent.

Nothing in this Order shall in any way restrict state or local governmental authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential property.

IT IS FURTHER ORDERED that this Order supersedes Executive Order N-28-20 to the extent that there is any conflict with that 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 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 27th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State