

**CITY OF COSTA MESA REGULATION NO. 2 PURSUANT TO  
PROCLAMATION NO. 2020-09**

**COSTA MESA REGULATION NO. 2 ISSUED PURSUANT TO A PROCLAMATION BY  
THE CITY MANAGER OF THE CITY OF COSTA MESA, CALIFORNIA, ACTING AS  
THE DIRECTOR OF EMERGENCY SERVICES, REGARDING A TEMPORARY  
MORATORIUM ON EVICTING RESIDENTIAL AND COMMERCIAL TENANTS**

WHEREAS, Costa Mesa Municipal Code Section 6-6 empowers the City Manager, as the Director of Emergency Services, to declare the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity; and

WHEREAS, Government Code Section 8550 *et seq.*, including Section 8558(c), authorize the City Manager to proclaim a local emergency when the City is threatened by conditions of disaster or extreme peril to the safety of persons and property within the City that are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan City, Hubei Province, China in December 2019. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and, in some cases, death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a tremendous public health threat; and

WHEREAS, on January 30, 2020, the World Health Organization (WHO) declared the outbreak a “public health emergency of international concern” and on March 11, 2020, the WHO has elevated the public health emergency to the status of a pandemic. On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation’s healthcare community in responding to COVID-19. On February 26, 2020 the County of Orange declared a local emergency and a local health emergency. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency in California; and

WHEREAS, the Governor on March 12, 2020 issued Executive Order N-25-20, ordering, inter alia, that all residents are to heed the orders and guidance of state and local public health officials; and

WHEREAS, in March 12, pursuant to Proclamation No. 2020-01, the City Manager did proclaim the existence of a local emergency pursuant to Title 6 of the Costa Mesa Municipal Code; and

WHEREAS, on March 13, 2020 the City Council pursuant to Resolution No. 2020-9 did ratify Emergency Proclamation No. 2020-01; 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 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 Governor issued Executive Order N-28-20. The order suspends any state law that would preempt or otherwise restrict the city's exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19; and

WHEREAS, the city has been impacted by the health crisis of this global pandemic. Sporting events, concerts, plays, and conferences have been canceled. School closures have occurred and may continue. Employees have been advised to work at home. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home for extended periods; and

WHEREAS, as of 2 p.m. March 30, 2020 there were 6,932 positive cases of COVID-19 and 150 deaths in California; and

WHEREAS, providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population and stabilize the rental housing and rental commercial market by reducing displacement and allow essential businesses and those closed due to the COVID-19 pandemic to survive the emergency; and

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is

needed until the spread of the virus can be minimized and the emergency restrictions lifted; and

WHEREAS, many tenants have experienced sudden income loss, and further income impacts are anticipated. The loss of wages caused by the effects of COVID-19 may impact tenants' ability to pay rent when due, leaving tenants vulnerable to eviction. 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 close contact.

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to issue this Regulation No. 2 pursuant to the emergency proclamation related to protection of life and property; and

WHEREAS, on March 24, 2020, the City Council voted 5-2 in favor of the urgency ordinance to impose a temporary moratorium on evicting tenants. That ordinance stated "If the Governor issues an executive order which prohibits residential and commercial evictions throughout the state relating due to COVID-19 related impacts, then that order shall control, and this ordinance shall no longer be in effect. Otherwise, this ordinance shall remain in full effect, and landlords shall meet the requirements of both this Ordinance and the Governor's order"; and

WHEREAS, on March 27, 2020, Governor Newsom issued executive order N-37-20 to protect residential tenants from evictions if they are unable to pay rent due to financial impacts of the COVID-19 emergency. The Order gives covered tenants a 60-day extension to answer eviction lawsuits filed from March 27, until May 31, 2020, and the Order prevents residential landlords from enforcing any eviction writ during the effective date of the Order, which lasts from March 27, 2020, until May 31, 2020; and

WHEREAS, it could be unclear what regulations apply within the City of Costa Mesa; and

WHEREAS, nothing in this regulation waives a tenant's obligations to pay back rent owed as required herein once this regulation is no longer effective.

**NOW, THEREFORE, IT IS PROCLAIMED AND ORDERED** by the City Manager of the City of Costa Mesa acting as the Director of Emergency Services as follows:

- A. Additional Regulations. The regulations set forth in this Regulation take effect immediately and are in addition to the regulations established by Governor Newsom via executive order N-37-20 on March 27, relating to residential evictions.
- B. Term. This Regulation remains in effect until the expiration of the Governor's Executive Order N-28-20, including any extensions (the "Term").
- C. Scope. This Regulation applies to all residential and commercial tenants within the City of Costa Mesa.
- D. Evictions. No landlord shall seek to evict a residential or commercial tenant if both of the following are true:
  - 1. Decreased Income, or Increased Medical Expenses. 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, elimination of a non-essential job, or a substantial decrease in business income caused by a reduction in operating hours or consumer demand), or substantial out-of-pocket medical expenses (collectively, the "COVID-19-Related Financial Impacts"); and
  - 2. Cause is COVID-19. The decrease in household or business income or the out-of-pocket medical expenses described in subsection (1), above, was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and the income loss and the increased expenses are documented.
- E. Tenant to Notify Landlord. To qualify, the tenant must, within 30 days after the rent is due: (1) notify the landlord "in writing" of the substantial COVID-19-Related Financial Impacts, and (2) provide documentation "in writing" establishing such substantial COVID-19-Related Financial Impacts.
- F. When Landlord Shall Not Evict. The landlord shall not serve a notice pursuant to Code of Civil Procedure § 1161, subsection 2, file or prosecute an unlawful detainer action based on a notice to pay or quit, or otherwise seek to evict for

nonpayment of rent during the period during the Term if either: (1) rent is overdue for a period of 30 days or less and the tenant notified the landlord as required in subsection (1), of subsection (E), above; or (2) rent is overdue for a period of 31 days or more and the tenant complied with both requirements of subsection (E), above.

G. Definition of "In Writing." For purposes of this Regulation, "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.

H. Repayment of Rent Required. Nothing in this Regulation shall relieve the tenant of liability for any unpaid rent. The landlord may seek the unpaid rent after the expiration of the Term, and the tenant must pay it as soon as possible, but in no event later than 120 days from the expiration of the Term, unless the parties otherwise agree in writing. A landlord may not charge or collect penalties or a late fee for rent that is delayed for the reasons stated in this Regulation; nor may a landlord, during the period the local emergency is in effect, seek rent that is delayed for the reasons stated in this Regulation through the eviction process.

**PROCLAIMED this 1st day of April, 2020.**

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Lori Ann Farrell Harrison, City Manager

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Kimberly Hall Barlow, City Attorney

ATTEST:

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Brenda Green, City Clerk