DATE: April 7, 2020

SUBJECT: Adoption of Resolution No. CC 2020-049, a Resolution of the City Council of the City of Palmdale Regarding Evictions During the Local Emergency Resulting From Coronavirus Disease 2019 (COVID-19)

ISSUING DEPARTMENT: Office of the City Attorney

SUMMARY

Issues:

Shall the City Council adopt Resolution No. CC 2020-049, a Resolution of the City Council of the City of Palmdale Regarding Evictions During the Local Emergency Resulting From Coronavirus Disease 2019 (COVID-19)

Recommendation:

Staff recommends the City Council adopt Resolution No. CC 2020-049, a Resolution of the City Council of the City of Palmdale Regarding Evictions During the Local Emergency Resulting From Coronavirus Disease 2019 (COVID-19)

Fiscal Impact:

No fiscal impact.

DISCUSSION

In December 2019, a new communicable disease, Coronavirus Disease 2019 (COVID-19), was first detected in Wuhan City, Hubei Province, China. Since that time, it has
spread globally to over 195 countries, infecting more than 362,000 individuals and tragically resulting in more than 16,000 deaths. Symptoms of the virus include fever, cough, and shortness of breath, and infected individuals have experienced a range of outcomes, from mild sickness to severe illness and death. This incident is being called the “COVID-19 outbreak.”

On January 31, 2020, the United States Secretary of Health and Human Services, Alex M. Azar II, declared a Public Health Emergency to aid the United States in responding to COVID-19.

On March 4, 2020, the State of California declared a State of Emergency in an effort to aid in the prevention and mitigation of the effects of the COVID-19 outbreak. That same day, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.

On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, which means a global epidemic. That same day, the City’s Director of Emergency Services proclaimed the existence of a local emergency within the City of Palmdale, pursuant to California Government Code Section 8630 and Palmdale Municipal Code Section 2.28.060.

On March 13, 2020, President Donald Trump 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.

On March 16, 2020, Governor Newsom issued Executive Order N-28-20 suspending state law limitations on local jurisdictions that impose restrictions on evictions.

On March 17, 2020, the City Council for the City of Palmdale ratified the City’s Director of Emergency’s Services proclamation of the existence of a local emergency within the City of Palmdale, pursuant to California Government Code Section 8630 and Palmdale Municipal Code Section 2.28.060.

On March 30, 2020, Governor Newsom issued Executive Order N-37-20 to prohibit residential evictions for nonpayment of rent from tenants who have been sick with a suspected or confirmed case of COVID-19; been caring for a household or family member who was sick with a suspected or confirmed case of COVID-19; experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency or other government response; or have missed work to care for a child whose school was closed in response to COVID-19.

Resolution No. CC 2020-049 follows Executive Orders N-28-20 and N-37-20 and strongly encourages that during the period of local emergency declared in response to
COVID-19, landlords and residential and commercial tenants who may have lost household or business income as a result of any of the following: (1) being sick with a suspected or confirmed case of COVID-19, or caring for a household or family member who is sick with a suspected or confirmed case of COVID-19; (2) experiencing a lay-off, loss of hours, or other household income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) complying with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during this emergency; (4) experiencing extraordinary out-of-pocket medical expenses related to being sick with a suspected or confirmed case of COVID-19; or (5) missing work to care for a child whose school was closed in response to COVID-19 to work together in compliance with the Executive Orders in an effort to minimize the spread of COVID-19 and prevent lasting economic damage to the City of Palmdale and the surrounding community.

CONCLUSION

Staff recommends approval of Resolution No. CC 2020-049, a Resolution of the City Council of the City of Palmdale Regarding Evictions During the Local Emergency Resulting from Coronavirus Disease 2019 (COVID-19).

Attachments:
(1) Resolution No. CC 2020-049
(2) Executive Order N-28-20
(3) Executive Order N-37-20
WHEREAS Coronavirus Disease 2019 (COVID-19), a new communicable disease, was first detected in Wuhan City, Hubei Province, China in December 2019. COVID-19 has since spread globally to over 195 countries, infecting more than 362,000 individuals and tragically resulting in more than 16,000 deaths. Symptoms of the virus include fever, cough, and shortness of breath, and infected individuals have experienced a range of outcomes, from mild sickness to severe illness and death.

WHEREAS, the incident is being called the “COVID-19 outbreak.”

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services, Alex M. Azar II, declared a Public Health Emergency to aid the United States in responding to COVID-19.

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency in an effort to aid in the prevention and mitigation of the effects of the COVID-19 outbreak.

WHEREAS, on March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, which means a global epidemic.

WHEREAS, on March 11, 2020, the City’s Director of Emergency Services did proclaim the existence of a local emergency within the City of Palmdale, pursuant to California Government Code Section 8630 and Palmdale Municipal Code Section 2.28.060.

WHEREAS, on March 13, 2020, President Donald Trump 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.
WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20 suspending state law limitations on local jurisdictions that impose restrictions on evictions.

WHEREAS, on March 17, 2020, the City Council for the City of Palmdale ratified the City’s Director of Emergency’s Services proclamation of the existence of a local emergency within the City of Palmdale, pursuant to California Government Code Section 8630 and Palmdale Municipal Code Section 2.28.060.

WHEREAS, on March 30, 2020, Governor Newsom issued Executive Order N-37-20 to prohibit residential evictions for nonpayment of rent from tenants who have been sick with a suspected or confirmed case of COVID-19; been caring for a household or family member who was sick with a suspected or confirmed case of COVID-19; experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency or other government response; or been caring for a child whose school was closed in response to COVID-19.

WHEREAS, as of March 30, 2020 there were a total of two-thousand four-hundred seventy-four (2,474) cases of COVID-19 in the County of Los Angeles and forty-four (44) reported deaths.

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large groups events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus.

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Palmdale have experienced or expect to experience sudden and unexpected income loss.

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.

WHEREAS, the Governor of the State of California has stated that minimizing evictions during this local emergency is critical to reducing the spread of COVID-19 in
WHEREAS, during this local emergency, loss of income as a result of COVID-19 may inhibit City of Palmdale residents and businesses from fulfilling their financial obligations, including rent and related expenses, resulting in lasting damage to the local economy of Palmdale.

NOW THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF PALMDALE DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to California Government Code Section 8630(c), the City Council has reviewed the need for continuing the proclamation and ratification of the Director of Emergency Services of a state of local emergency and hereby proclaims that a state of local emergency continues to exist within the City of Palmdale.

SECTION 2. In accordance with Executive Orders N-28-20 and N-37-20, signed by the Governor of California, the City Council hereby strongly encourages that during the period of local emergency declared in response to COVID-19, landlords and any residential or commercial tenants who may have lost household or business income as a result of any of the following: (1) being sick with a suspected or confirmed case of COVID-19, or caring for a household or family member who is sick with a suspected or confirmed case of COVID-19; (2) experiencing a lay-off, loss of hours, or other household income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) complying with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during this emergency; (4) experiencing extraordinary out-of-pocket medical expenses related to being sick with a suspected or confirmed case of COVID-19; or (5) missing work to care for a child whose school was closed in response to COVID-19 to work together to comply with these Executive Orders in an effort to minimize the spread of COVID-19 and prevent lasting economic damage to the City of Palmdale and surrounding community.

SECTION 3. The City Council finds that the economic impacts of COVID-19 leave residential and commercial tenants vulnerable to eviction.
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SECTION 4. The City Council further finds that nothing in this Resolution shall relieve a tenant of the obligation to pay rent, nor restrict a landlord’s ability to recover rent due.

SECTION 5. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED and ADOPTED this 7th day of April, 2020.

Approved as to form:

Wm. Matthew Ditzhazy
City Attorney

Steven D. Hofbauer, Mayor

ATTEST:

Rebecca J. Smith, City Clerk

I, Rebecca J. Smith, City Clerk of Palmdale, California, do hereby certify that the foregoing resolution was duly passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the 17th day of March 2020 by the following roll call vote:

AYES: ________________________________

NOES: ________________________________

ABSTAIN: ____________________________ ABSENT: ____________________________

Date: ____________________________________ Rebecca J. Smith, City Clerk
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.

[Signature]

GAVIN NEWSOM
Governor of California

ATTEST:

[Signature]

ALEX PADILLA
Secretary of State
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