RESOLUTION NO. 2020-15

A RESOLUTION OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, PROHIBITING SPECIFIED RESIDENTIAL EVICTIONS DURING LOCAL EMERGENCY RELATED TO COVID-19

WHEREAS, the novel coronavirus (COVID-19) is a respiratory disease that may result in serious illness or death and is easily transmissible from person to person; and

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services Secretary Alex Azar declared a public emergency for COVID-19 beginning on January 27, 2020; and

WHEREAS, on February 14, 2020, the San Diego County Public Health Officer determined that there is a potential threat of introduction of COVID-19 in San Diego County and declared a Local Health Emergency; and

WHEREAS, on February 19, 2020, the County Board of Supervisors ratified the Declaration of Local Health Emergency; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency in the State of California due to the number of confirmed cases of COVID-19 in the State; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic; and

WHEREAS, on March 11, 2020, the California Department of Public Health issued a policy to cancel or postpone large gatherings through the month of March in the State of California; and

WHEREAS, on March 12, 2020, the San Diego County Public Health Officer issued an Order to ban large gatherings in the County of San Diego from March 13, 2020 through March 31, 2020 and announced that there were at least 6 positive cases of COVID-19 in the County along with at least one from community transmission; and

WHEREAS, section 2.52.060 of the Imperial Beach Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, on March 12, 2020, the City’s Director of Emergency Services proclaimed the existence of a local emergency within the City; and

WHEREAS, on March 16, 2020, the City Council for the City of Imperial Beach adopted Resolution 2020-13, ratifying the declaration of the Director of Emergency Services and declaring the existence of an ongoing local emergency pursuant to COVID-19; and

WHEREAS, COVID-19 therefore has and will continue to cause conditions of peril to the health, safety, and welfare of persons and property in the City; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Health Officer of the County of San Diego have all issued orders and 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, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Imperial Beach have experienced or expect 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, 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 housing displacement, to protect the City’s affordable housing stock, and to prevent housed individuals from falling into homelessness; and

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 exercise authority to issue this regulation related to the protection of life and property; and

WHEREAS, Governor Newsom issued Executive Order N-28-20 on March 16, 2020 to suspend preemption to allow for local jurisdictions to enact regulations related to specified residential evictions during this emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH THAT:

1. The above recitals are true and correct and hereby incorporated into this Resolution.

2. Resolution 2020-13 ratifying the local emergency declaration of the Emergency Services Director and declaring the existence of an ongoing local emergency related to COVID-19 is hereby incorporated into this Resolution as if fully set forth herein.

3. Pursuant to the authority prescribed by state law, including but not limited to State Executive Order N-28-20, the Imperial Beach Municipal Code and the ongoing federal, state and local emergency, the City Council hereby orders as follows:

   a. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a residential tenant who demonstrates both of the following:

      (1) the basis for the eviction is nonpayment of rent 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

      (2) the decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (a)(1) was caused by the COVID-19 pandemic.
b. A landlord who knows that a residential 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. A landlord knows of a tenant’s inability to pay rent within the meaning of this Resolution if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19 and provides documentation to support the claim. For purposes of this Resolution, “in writing” includes email or text communications to a landlord or the landlord’s representative with whom the tenant has previously correspondence 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.

c. This Resolution applies to nonpayment eviction notices and unlawful detainer actions for residential tenants based on such notices, served or filed on or after the date on which a local emergency was proclaimed (March 12, 2020).

d. Nothing in this Resolution shall relieve a tenant of the obligation to pay rent, nor restrict a landlord’s ability to recover rent due.

e. This Resolution shall be punishable as set forth in the Imperial Beach Municipal Code section 2.52.130(B) and any other applicable section. In addition, this Resolution grants a defense in the event that an unlawful detainer action is commenced in violation of this Resolution.

4. This Resolution shall become effective immediately and will remain in effect until either the declared local emergency has ended; until such time as any State law specifically addressing evictions during the COVID-19 pandemic becomes effective that preempts this Resolution; or May 31, 2020, whichever is earlier.

5. This Resolution does not apply: (a) if preempted by State or Federal law; (b) if in violation of State or Federal law; or (c) if it contradicts with a lawful court order which was obtained prior to March 12, 2020.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its special meeting held on the 17th day of March 2020, by the following vote:

AYES: COUNCILMEMBERS: PATTON, SPRIGGS, AGUIRRE, DEDINA
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: WEST

SERGE DEDINA, MAYOR

ATTEST:

JACQUELINE M. KELLY, MMC
CITY CLERK