

**APPLE VALLEY  
DIRECTOR OF EMERGENCY SERVICES**

**EXECUTIVE ORDER NO. 2020-01**

**EMERGENCY EXECUTIVE ORDER OF THE TOWN  
MANAGER/DIRECTOR OF EMERGENCY SERVICES OF  
THE TOWN OF APPLE VALLEY, CALIFORNIA,  
ENACTING A TEMPORARY MORATORIUM AND  
EVICTIONS DUE TO NON-PAYMENT OF RENT BY  
RESIDENTIAL AND COMMERCIAL TENANTS IMPACTED  
BY THE NOVEL CORONAVIRUS (COVID-19) DURING A  
PERIOD OF LOCAL EMERGENCY AND TEMPORARILY  
PROHIBITING UTILITY SHUTOFFS/DISCONNECTIONS  
DUE TO NON-PAYMENT**

**WHEREAS**, on March 16, 2020, the Governor of the State of California issued Executive Order Executive Order N-28-20, authorizing local governments' through their police power to impose substantive limitations on residential or commercial evictions for nonpayment of rent for tenants financially impacted by COVID-19 through May 31, 2020; and

**WHEREAS**, on March 17, 2020, the Health Officer of the County of San Bernardino issued an order countywide that: (1) with limited exceptions, prohibits all gatherings, i.e., any event or convening that brings together people in a single room or single space at the same time, except for gatherings of members of a household or living unit; (2) orders the closure of all bars, adult entertainment establishments, and other business establishments that serve alcohol but not food (3) orders the closure of movie theatres, gyms, and health clubs; (4) requires food and beverage establishments to follow CDPH guidance, including requirements that restaurants close to in-restaurant seated dining and open only to drive-through or other pick-up/delivery options; and

**WHEREAS**, on March 19, 2020, the Governor of the State of California, issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors; and

**WHEREAS**, on March 20, 2020, in my capacity as Director of Emergency Services, I proclaimed the existence of a local emergency in the Town of Apple Valley in connection with the global pandemic caused by the spread of a novel coronavirus, COVID-19 ("Proclamation 2020-01"); and

**WHEREAS**, on March 24, 2020, the Town Council ratified Proclamation 2020-01 through the adoption of a resolution proclaiming the existence of a local emergency and expressly authorizing the Town Manager/Director of Emergency Services to establish a temporary moratorium on evictions and enact other protections in accordance with

Executive Order N-28-20 issued by the Governor on March 16, 2020 (“Resolution No. 2020-51”); and

**WHEREAS**, during the pendency of the local emergency and statewide state of emergency, the Director of Emergency Services is empowered “[t]o make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency . . .” under Section 2.40.060 A.(6)(a) of the Town’s Municipal Code; and

**WHEREAS**, as of the date of this Executive Order: many businesses have imposed work from home policies; meetings, events and social gatherings are cancelled and in some cases prohibited as people remain at home; customers are not patronizing restaurants, hotels, and retail establishments or hiring domestic help or travelling; and

**WHEREAS**, the above actions are severely impacting hourly workers, through employee terminations and the cutting back of hours; and

**WHEREAS**, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in the Town of Apple Valley have experienced or expect soon to experience sudden and unexpected income loss or an increase in out-of-pocket medical expenses; 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**, most, if not all, local schools are closed to prevent further spread of COVID-19, and these closures cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home; and

**WHEREAS**, the situation is unprecedented and evolving rapidly, and further economic impacts are anticipated, which leaves tenants vulnerable to eviction; and

**WHEREAS**, displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close; and

**WHEREAS**, during the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment may be at risk of

homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted; and

**WHEREAS**, people experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care; and

**WHEREAS**, the Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19; and

**WHEREAS**, widespread evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency, and increase the risk of spread of COVID-19 and would cause people to be in violation the Governor's Executive order to stay home; and

**WHEREAS**, promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close, and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction; and

**WHEREAS**, the Town desires to prohibit evictions due to nonpayment of rent for residential and commercial tenants where the failure to pay rent results from income loss resulting from the novel coronavirus (COVID-19); 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 adopt this order related to the protection of life and property, to ensure renters can remain in their homes and prevent proliferation of homelessness and further spread of COVID-19; and

**WHEREAS**, this Order is temporary in nature and only intended to promote stability and fairness within the residential and commercial rental market in the Town during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the Town whose income and ability to work is affected due to COVID-19 to remain in their homes; and

**WHEREAS**, the Town also desires to discontinue shut-offs and disconnections of vital utilities, such as sewer and trash, for non-payment for at least the next 60 days, to reduce the burden on residents during this time; and

**WHEREAS**, this Order is adopted pursuant to the Town's police powers and powers afforded to the Town in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law, and the Chapter 2.40 of the Apple Valley Municipal Code to protect the peace, health, and safety of the public; and

**WHEREAS**, this Order is necessary for the preservation of the public peace, health, and safety of residents living within the Town and, under Government Code Section 8634, this Order is necessary to provide for the protection of life and property.

**BE IT ORDERED BY THE TOWN MANAGER/DIRECTOR OF EMERGENCY SERVICES OF THE TOWN OF APPLE VALLEY AS FOLLOWS:**

**SECTION 1.** The above recitals are true and correct and are incorporated herein by this reference. The recitals and findings in Proclamation 2020-01 and Resolution 2020-10 are also incorporated herein by this reference.

**SECTION 2. Temporary Moratorium on Evictions for Non-Payment of Rent by Residential Tenants Impacted by the COVID-19 Crisis.**

A. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19.

B. 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 California 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 Order 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 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.

C. For purposes of this Order "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

D. This Order applies to nonpayment 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.

E. This Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Order. Violation of this Order shall be punishable as set forth in Section 2.40.100 of the Apple Valley Municipal Code.

F. Nothing in this Order shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Order; nor may a landlord seek rent that is delayed or the reasons stated in this Order through the eviction process.

G. No other legal remedies available to landlord are affected by this Order.

**SECTION 3. Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.**

A. Commercial landlords in the Town are hereby prohibited from evicting commercial tenants for nonpayment of rent with respect to tenants whose businesses are impacted by federal, state, or local public health orders or are otherwise limited or closed (voluntarily or by mandate) to prevent or reduce the spread of COVID-19 and who demonstrate lost income and inability to pay rent as a result of such limitation or closure or other demonstrated financial impact related to COVID-19.

B. A landlord knows of a tenant's lost income and inability to pay rent within the meaning of this Order if the tenant, within 30 days after the date rent is due, notifies the landlord in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant's business related to COVID-19, with appropriate supporting documentation. If a tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds to the income they generated during the period of loss. For purposes of this 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. All financial information provided to the landlord shall be kept in confidence and only used for evaluating the tenant's claim or enforcing this provision.

C. This Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Order. Violation of this Order shall be punishable as set forth in Section 2.40.100 of the Apple Valley Municipal Code.

D. Nothing in this Order shall relieve the commercial tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Order; nor may a landlord seek rent that is delayed, or the reasons stated in this Order through the eviction process.

E. No other legal remedies available to landlord are affected by this Order.

**SECTION 4. Utility Shut-Offs/Disconnections.**

As a result of the local emergency, for a period of 60 days from the date of this Order, the Town hereby suspends: (a) the discontinuation or shut off of trash or sewer service for residents and businesses in the Town for non-payment of trash and sewer bills; and (b) the imposition of late payment penalties or fees for delinquent trash and/or sewer bills. Nothing in this Order shall relieve any customer of liability for the unpaid utility bills, which the Town will seek after expiration of the temporary stay on shut-offs/disconnections and the customer must pay within six months of the expiration of the this stay.

**SECTION 5. Severability.** If any provision of this Proclamation or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Proclamation are declared to be severable.

**SECTION 6. Effective Date and Termination.** This Order shall become effective immediately and shall continue until the earlier to occur of: (1) the conclusion of the local emergency; (2) May 31, 2020 or such other date as the Governor declares through an amendment to Executive Order N-28-20; (3) its termination is ordered by the Town Manager/Director of Emergency Services; or (4) it is duly terminated by the Town Council. The Order may also be superseded by a duly enacted ordinance of the Town Council expressly superseding this Order.

**ORDERED** by the Town Manager/Director of Emergency Service this 24<sup>th</sup> day of March, 2020.



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Doug Robertson, Town Manager and  
Director of Emergency Services  
Town of Apple Valley



STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
TOWN OF APPLE VALLEY

I, LA VONDA M-PEARSON, Town Clerk for the Town of Apple Valley, Apple Valley, California, do hereby certify that Executive Order No. 2020-01, duly and regularly adopted by the Town Council at a meeting thereof held on the 24<sup>th</sup> day of March 2020 by the following vote:

AYES: Council members, Bishop, Cusack, Leon, Mayor Pro Tem Emick, Mayor Nassif.  
NOES: None.  
ABSTAIN: None.  
ABSENT: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 24<sup>th</sup> day of March, 2020.

LA VONDA M-PEARSON, CMC  
TOWN CLERK

By:   
Hannah Raleigh, Deputy Town Clerk