



CITY COUNCIL Agenda

Sept. 15, 2020, 3 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Welcome to Your City Council Meeting

We welcome your interest and involvement in the city's legislative process. This agenda includes information about topics coming before the City Council and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website and in the Office of the City Clerk. The City Clerk is also available to answer any questions you have about City Council meeting procedures.

How to watch



City cable channel

Charter Spectrum channel 24
AT&T U-verse channel 99.



City website

carlsbadca.gov/news/cityty.asp

Virtual meeting format

- Per California Executive Order N-29-20, and in the interest of public health and safety, we are temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding City Council and other public meetings online only.
- All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the City Council.

How to participate

- **By phone:** Sign up at <https://www.carlsbadca.gov/cityhall/clerk/meetings/default.asp> by 2 p.m. the day of the meeting to provide comments live by phone. You will receive a confirmation email with instructions about how to call in.
- **In writing:** Email comments to clerk@carlsbadca.gov. Comments received by 2 p.m. the day of the meeting will be shared with the City Council prior to the meeting. When e-mailing comments, please identify in the subject line the agenda item to which your comments relate. All comments received will be included as part of the official record. **Written comments will not be read out loud.**
- These procedures shall remain in place during the period in which state or local health officials have imposed or recommended social distancing measures.

Reasonable accommodations

Persons with a disability may request an agenda packet in appropriate alternative formats as required by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the City Manager's Office at 760-434-2821 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or manager@carlsbadca.gov by noon on the Monday before the meeting to make arrangements.

IN THE EVENT A QUORUM OF THE CITY COUNCIL LOSES ELECTRICAL POWER OR SUFFERS AN INTERNET CONNECTION OUTAGE THAT IS NOT CORRECTED WITHIN 15 MINUTES, THE MEETING WILL AUTOMATICALLY BE ADJOURNED. ANY ITEMS NOTICED AS PUBLIC HEARINGS WILL BE CONTINUED TO THE NEXT REGULARLY SCHEDULED MEETING OF THE CITY COUNCIL. ANY OTHER AGENDA ITEMS THE COUNCIL HAS NOT TAKEN ACTION ON WILL BE PLACED ON A FUTURE AGENDA.

More information about City Council meeting procedures can be found at the end of this agenda and in the Carlsbad Municipal Code chapter 1.20. PLEASE NOTE: AS A RESULT OF THE WAIVERS IN EXECUTIVE ORDER N-29-20, THE BROWN ACT PERMITS FULL PARTICIPATION BY OFFICIALS IN MEETINGS THROUGH VIDEO OR AUDIO TELECONFERENCE.

The City Council also sits as the Carlsbad Municipal Water District Board, Public Financing Authority Board, Community Development Commission and Successor Agency to the Redevelopment Agency. When considering items presented to the Carlsbad Municipal Water District Board, each member receives an additional \$100 per meeting (max \$300/month). When considering items presented to the Community Development Commission each member receives an additional \$75 per meeting (max \$150/month).

CALL TO ORDER:

ROLL CALL:

ANNOUNCEMENT OF CONCURRENT MEETINGS: None.

INVOCATION:

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

Minutes of the Special Meeting held August 25, 2020
Minutes of the Special Meeting held September 1, 2020
Minutes of the Special Meeting held September 3, 2020
Minutes of the Special Meeting held September 10, 2020

PRESENTATIONS:

National Preparedness Month Proclamation

PUBLIC REPORT OF ANY ACTION TAKEN IN CLOSED SESSION:

PUBLIC COMMENT: *In conformance with the Brown Act and California Executive Order No. N-29-20, a total of 15 minutes is provided so members of the public participate in the meeting by submitting comments as provided on the front page of this agenda. The City Council will receive comments as requested up to a total of 15 minutes. All other comments will trail until the end of the meeting. In conformance with the Brown Act, no Council action can occur on these items.*

CONSENT CALENDAR: *The items listed under Consent Calendar are considered routine and will be enacted by one motion as listed below. There will be no separate discussion on these items prior to the time the Council votes on the motion unless members of the Council, the City Manager, or the public request specific items be discussed and/or removed from the Consent Calendar for separate action.*

WAIVER OF ORDINANCE TEXT READING:

This is a motion to waive the reading of the text of all ordinances and resolutions at this meeting.

1. **AGREEMENT WITH URBAN CORPS OF SAN DIEGO FOR CITYWIDE PARKS SANITATION SERVICES DURING THE COVID-19 PANDEMIC** – Adoption of a resolution authorizing a professional services agreement with Urban Corps of San Diego for citywide parks sanitation services due to COVID-19 impacts. (Staff contact: Tim Selke, Parks & Recreation)
2. **AWARD OF CONTRACT TO HWK CONSTRUCTION SERVICES FOR THE POINSETTIA LIFT STATION FORCE MAIN HYDRAULIC SURGE PROTECTION** – Adoption of a resolution accepting bids and awarding a contract to HWK Construction Services for construction of the Poinsettia Lift Station force main hydraulic surge protection, CIP Project No. 5503-14, in an amount not to exceed \$377,304. (Staff contact: Vicki Quiram and David Hull, Public Works)
3. **ADVERTISE FOR BIDS FOR THE FY 2020-21 PAVEMENT OVERLAY CIP PROJECT NO. 6001-200L** – Adoption of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids for the Fiscal Year 2020-21 Pavement Overlay, CIP Project No. 6001-200L. (Staff contact: Emad Elias, Public Works)

4. 2020 GENERAL ELECTION POLL LOCATIONS – Adoption of a resolution authorizing the use of Calavera Community Park Gym, Pine Avenue Community Center and Stagecoach Community Center as training centers and poll locations for the 2020 General Election and waive any associated facility use fees. (Staff contact: Faviola Medina, City Clerk Department)
5. RELEASE OF A REQUEST FOR PROPOSALS TO SELL A PROPERTY LOCATED ON PAJAMA DRIVE IN OCEANSIDE – Adoption of a resolution authorizing the release of a Request for Proposals for the sale of property located in the City of Oceanside on Pajama Drive, APN: 149-070-47-00. (Staff contact: Curtis Jackson, Real Estate)

ORDINANCES FOR INTRODUCTION: None.

ORDINANCES FOR ADOPTION:

6. ORDINANCE NO. CS-382 - UPDATE TO THE CITY'S DENSITY BONUS REGULATIONS TO REFLECT CHANGES IN STATE LAW – Adoption of Ordinance No. CS-382 adopting a Zone Code amendment and a Local Coastal Program amendment to update the city's density bonus regulations to reflect changes in state law (Case Name: Density Bonus Amendments 2020; Case No.: ZCA 2020-0001/LCPA 2020-0005). (Staff contact: Faviola Medina, City Clerk Department)

City Manager's Recommendation: Adopt Ordinance No. CS-382.

7. ORDINANCE NOS. CS-383 AND CS-384 - UPDATE TO THE CITY'S DEVELOPMENT REGULATIONS TO ENSURE CONSISTENCY WITH STATE LAW ON ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS – 1) Adoption of Ordinance No. CS-383 adopting amendments to the Carlsbad Municipal Code Chapter 5.60 (Short-Term Vacation Rentals) to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units (Case Name: Accessory Dwelling Unit Amendments 2020; Case No.: MCA 2020-0001);
2) Adoption of Ordinance No. CS-384 adopting amendments to Title 21 of the Carlsbad Municipal Code (Zone Code), Village and Barrio Master Plan and Local Coastal Program to ensure consistency with state law related to accessory dwelling units and junior accessory dwelling units (Case Name: Accessory Dwelling Unit Amendments 2020; Case No.: ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006). (Staff contact: Faviola Medina, City Clerk Department)

City Manager's Recommendation: Adopt Ordinance Nos. CS-383 and CS-384.

PUBLIC HEARINGS: None.

DEPARTMENTAL AND CITY MANAGER REPORTS:

8. COMMERCIAL EVICTION MORATORIUM AND RECENT RESIDENTIAL EVICTION RELIEF DEVELOPMENT UPDATE – Receive an update on the city's commercial eviction moratorium and recent residential eviction relief developments. (Staff contact: David Graham, Administrative Services and Cindie McMahon, City Attorney Department)

City Manager's Recommendation: Receive the update.

9. TEMPORARILY SUSPEND OR MODIFY CERTAIN LAND DEVELOPMENT STANDARDS IN THE WESTFIELD CARLSBAD SPECIFIC PLAN TO MITIGATE THE ECONOMIC EFFECTS OF THE COVID-19 PANDEMIC STATE OF EMERGENCY ON LOCAL BUSINESSES – Adoption of a resolution empowering the director of emergency services to temporarily suspend or modify certain land development standards in the Westfield Carlsbad Specific Plan to mitigate the economic effects of the COVID-19 pandemic State of Emergency on local businesses. (Staff contact: Jeff Murphy, Community Development)

City Manager’s Recommendation: Adopt the resolution.

10. TRAFFIC AND MOBILITY COMMISSION WORK PLAN FOR FY 2020-21 – 1) Adoption of a resolution approving the Traffic and Mobility Commission Work Plan for Fiscal Year 2020-21; and 2) Provide direction to the Traffic and Mobility Commission on priorities of items within the work plan and level of detail of Traffic and Mobility Commission meeting minutes. (Staff contact: Nathan Schmidt, Public Works)

City Manager’s Recommendation: Adopt the resolution and provide staff direction.

COUNCIL COMMENTARY AND REQUESTS FOR CONSIDERATION OF MATTERS:

City Council Regional Assignments (Revised 4/7/20)

Matt Hall Mayor	North County Mayors and Managers City/School Committee Chamber of Commerce Liaison (primary) Clean Energy Alliance JPA (alternate) San Diego County Water Authority San Diego Regional Economic Development Corporation Board of Directors City Council Legislative Subcommittee Economic Revitalization Subcommittee Ad-Hoc City Council North County Homeless Action Plan Subcommittee
Keith Blackburn Mayor Pro Tem	Buena Vista Lagoon JPC Encina Wastewater Authority/JAC Board of Directors North County Dispatch Joint Powers Authority Chamber of Commerce Liaison (alternate) SANDAG (1 st alternate) North County Transit District (alternate) Carlsbad Municipal Code and City Council Policy Update Subcommittee
Priya Bhat-Patel Council Member – District 3	SANDAG (2 nd alternate) North County Transit District (primary) City/School Committee League of California Cities – SD Division Encina Wastewater Authority/JAC Board of Directors (alternate) City Council Legislative Subcommittee Economic Revitalization Subcommittee Ad-Hoc City Council North County Homeless Action Plan Subcommittee
Cori Schumacher Council Member – District 1	SANDAG (primary) Buena Vista Lagoon JPC Clean Energy Alliance JPA (primary) Encina Wastewater Authority/JAC Board of Directors North County Dispatch Joint Powers Authority (alternate) Carlsbad Municipal Code and City Council Policy Update Subcommittee

Vacant – At-Large Council Member

PUBLIC COMMENT: Continuation of the Public Comments

This portion of the agenda is set aside for continuation of public comments, if necessary, due to exceeding the total time allotted in the first public comments section. In conformance with the Brown Act, no Council action can occur on these items.

ANNOUNCEMENTS:

This section of the Agenda is designated for announcements to advise the community regarding events that Members of the City Council have been invited to, and may participate in.

CITY MANAGER COMMENTS:

CITY ATTORNEY COMMENTS:

ADJOURNMENT:

City Council Meeting Procedures (continued from page 1)

Written Materials

Written materials related to the agenda that are submitted to the City Council after the agenda packet has been published will be available for review prior to the meeting during normal business hours at the City Clerk's office, 1200 Carlsbad Village Drive and on the city website. To review these materials during the meeting, please see the City Clerk

Visual Materials

Visual materials, such as pictures, charts, maps or slides, are allowed for comments on agenda items, not general public comment. Please contact the City Manager's Office at 760-434-2820 or manager@carlsbadca.gov to make arrangements in advance. All materials must be received by the City Manager's Office no later than noon the day before the meeting. The time spent presenting visual materials is included in the maximum time limit provided to speakers. All materials exhibited to the City Council during the meeting are part of the public record. **Please note that video presentations are not allowed.**

Decorum

All participants are expected to conduct themselves with mutual respect. Loud, boisterous and unruly behavior can interfere with the ability of the City Council to conduct the people's business. That's why it is illegal to disrupt a City Council meeting. Following a warning from the presiding officer, those engaging in disruptive behavior are subject to law enforcement action.

City Council Agenda

The City Council follows a regular order of business that is specified in the Carlsbad Municipal Code. The City Council may only make decisions about topics listed on the agenda.

Presentations

The City Council often recognizes individuals and groups for achievements and contributions to the community. Well-wishers often fill the chamber during presentations to show their support and perhaps get a photo. If you don't see an open seat when you arrive, there will likely be one once the presentations are over.

Consent Items

Consent items are considered routine and may be enacted together by one motion and vote. Any City Council member may remove or "pull" an item from the "consent calendar" for a separate vote. Members of the public may pull an item from the consent calendar by requesting to speak about that item. A speaker request form must be submitted to the clerk prior to the start of the consent portion of the agenda.

Public Comment

Members of the public may speak on any city related item that does not appear on the agenda. State law prohibits the City Council from taking action on items not listed on the agenda. Comments requiring follow up will be referred to staff and, if appropriate, considered at a future City Council meeting. Members of the public are also welcome to provide comments on agenda items during the portions of the meeting when those items are being discussed. In both cases, a request to speak form must be submitted to the clerk in advance of that portion of the meeting beginning.

Public Hearing

Certain actions by the City Council require a “public hearing,” which is a time within the regular meeting that has been set aside and noticed according to different rules.

Departmental Reports

This part of the agenda is for items that are not considered routine and do not require a public hearing. These items are usually presented to the City Council by city staff and can be informational in nature or require action. The staff report about each item indicates the purpose of the item and whether or not action is requested.

Other Reports

At the end of each meeting, City Council members and the city manager, city attorney and city clerk are given an opportunity to share information. This usually includes reports about recent meetings, regional issues, and recent or upcoming meetings and events.

City Council Actions

Resolution

A resolution is an official statement of City Council policy that directs administrative or legal action or embodies a public City Council statement. A resolution may be introduced and adopted at the same meeting. Once adopted, it remains City Council policy until changed by subsequent City Council resolution.

Ordinance

Ordinances are city laws contained in the Carlsbad Municipal Code. Enacting a new city law or changing an existing one is a two-step process. First, the ordinance is “introduced” by city staff to the City Council. If the City Council votes in favor of the introduction, the ordinance will be placed on a subsequent City Council meeting agenda for “adoption.” If the City Council votes to adopt the ordinance, it will usually go into effect 30 days later.

Motion

A motion is used to propose City Council direction related to an item on the agenda. Any City Council member may make a motion. A motion must receive a “second” from another City Council member to be eligible for a City Council vote.



CITY COUNCIL
Special Meeting
Minutes

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Aug. 25, 2020, 2 p.m.

CALL TO ORDER: 2 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

City Attorney Celia Brewer read the City Council into Closed Session.

Council adjourned into Closed Session at 2 p.m. pursuant to the following:

1. **CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6**

City Negotiators: Geoff Patnoe, Assistant City Manager, Laura Rocha, Deputy City Manager, Judy Von Kalinowski, Human Resources Director, Debbie Porter, Senior Management Analyst, Darrin Schwabe, Senior Management Analyst, Erika Benitez, Senior Management Analyst, Drew Cook, Management Analyst, Silvano Rodriguez, Management Analyst and Timothy Davis, Burke, Williams & Sorenson.

Employee Organization: CCEA

If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.

Council Action: No reportable action.

ADJOURNMENT:

By proper motion, the Special Meeting of Aug. 25, 2020 was adjourned at 2:17 p.m.

Mia De Marzo
Deputy City Clerk



CITY COUNCIL
Special Meeting

Minutes

Sept. 1, 2020, 2:15 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

CALL TO ORDER: 2:15 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

City Attorney Celia Brewer read the City Council into Closed Session.

Council adjourned into Closed Session at 2:15 p.m. pursuant to the following:

1. **CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION**

That the City Council, by motion, authorize a closed session regarding existing litigation in the matter of:

Pulice Construction v. City of Carlsbad, Case No. 37-2020-00004500-CU-BC-NC, pursuant to Government Code Section 54956.9(d)(1).

Council Action: No reportable action.

ADJOURNMENT:

By proper motion, the Special Meeting of Sept. 1, 2020 was adjourned at 2:21 p.m.

Mia De Marzo
Deputy City Clerk



CITY COUNCIL
Special Meeting

Minutes

Sept. 3, 2020, 1:30 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

CALL TO ORDER: 1:30 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

City Attorney Celia Brewer read the City Council into Closed Session.

Council adjourned into Closed Session at 1:31 p.m. pursuant to the following:

1. **CONFERENCE REGARDING EVALUATION OF APPOINTED PUBLIC EMPLOYEES**

That the City Council, by motion, authorize a closed session regarding personnel matters as follows:

To discuss and consider the performance of the City Manager and City Attorney, pursuant to Government Code sections 54947 and 54957.6.

Council Action: No reportable action. The City Council concurred to continue the discussion of the evaluation of the City Manager and City Attorney to a future date.

ADJOURNMENT:

By proper motion, the Special Meeting of Sept. 3, 2020 was adjourned at 4:30 p.m.

Sheila R. Cobian, MMC
Assistant to the City Manager



CITY COUNCIL
Special Meeting

Minutes

Sept. 10, 2020, 3 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

CALL TO ORDER: 3 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

City Attorney Celia Brewer read the City Council into Closed Session.

Council adjourned into Closed Session at 3 p.m. pursuant to the following:

This item is a continuation of the discussion held at the Special Meeting on Sept. 3, 2020.

1. **CONFERENCE REGARDING EVALUATION OF APPOINTED PUBLIC EMPLOYEES**

That the City Council, by motion, authorize a closed session regarding personnel matters as follows:

To discuss and consider the performance of the City Manager and City Attorney, pursuant to Government Code sections 54947 and 54957.6.

Council Action: No reportable action.

RECESS:

Mayor Hall declared a recess at 4:27 p.m.

Mayor Hall reconvened the meeting at 4:32 p.m.

ADJOURNMENT:

By proper motion, the Special Meeting of Sept. 10, 2020 was adjourned at 5:01 p.m.

Mia M. De Marzo
Deputy City Clerk



CITY COUNCIL
Staff Report

Meeting Date: Sept. 15, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Faviola Medina, City Clerk Services Manager
 faviola.medina@carlsbadca.gov, 760-434-5989

Subject: Adoption of Ordinance No. CS-382 – A Zoning Code Amendment and a Local Coastal Program Amendment to Update the City’s Density Bonus Regulations to Reflect Changes in State Law

Case Name: Density Bonus Amendments 2020

Case No.: ZCA 2020-0001/ LCPA 2020-0005

Recommended Action

Adopt Ordinance No. CS-382 adopting a zoning code amendment and a Local Coastal Program amendment to update the city’s density bonus regulations to reflect changes in state law.

Executive Summary /Discussion

Ordinance No. CS-382 was introduced and first read at the City Council meeting held Sept. 1, 2020. On a motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, the City Council unanimously voted to introduce the ordinance. The second reading allows the City Council to adopt the ordinance, which will become effective thirty days after the adoption. Within the Coastal Zone, this Ordinance will become effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0005, whichever occurs later.

Fiscal Analysis

There is no anticipated fiscal impact from this item.

Next Steps

The city clerk will have the ordinance, or summary of the ordinance, published in a newspaper of general circulation within fifteen days following adoption of the ordinance.

Environmental Evaluation (CEQA)

The city finds that the proposed amendments to the zoning code are exempt from environmental review pursuant to the common-sense exemption, Section 15061(b)(3) of the California Environmental Quality Act Guidelines, because there would be no possibility of them having a significant effect on the environment. The ordinance being considered specifies how the city will comply with and implement state density bonus law, and adoption is required pursuant to California Government Code Section 65915(a). The density bonuses, incentives and waivers permitted by the ordinance are required by state law, and this ordinance does not permit any density bonuses, incentives, or waivers other than those required by state law.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to scheduled meeting date.

Exhibits

1. Ordinance No. CS-382

ORDINANCE NO. CS-382

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING A ZONE CODE AMENDMENT AND A LOCAL COASTAL PROGRAM AMENDMENT TO UPDATE THE CITY'S DENSITY BONUS REGULATIONS TO REFLECT CHANGES IN STATE LAW.

CASE NAME: DENSITY BONUS AMENDMENTS 2020
 CASE NO: ZCA 2020-0001/LCPA 2020-0005

WHEREAS, Sections 65915 – 65918 of the California Government Code, known as State Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the jurisdictional boundaries of that city or county with a density bonus and other incentives or concessions for the production of lower income housing units, or for the donation of land within the development, if the developer agrees to construct a specified percentage of units for very low income, low-income, or moderate-income households or qualifying residents and meets other requirements.

WHEREAS, on Oct. 9, 2019, California Governor Gavin Newsom signed Assembly Bill 1763 (“AB 1763”) into law, which amended Section 65915 to further encourage and incentivize the application of State Density Bonus Law; and

WHEREAS, SB 1763 took effect Jan. 1, 2020, and existing provisions of the City of Carlsbad Municipal Code are inconsistent with the new law provisions; and

WHEREAS, California Government Code Section 65915(a) requires that all cities adopt an ordinance that specifies how compliance with State Density Bonus Law will be implemented; and

WHEREAS, staff has prepared a Zone Code Amendment ZCA 2020-0001 and Local Coastal Program Amendment LCPA2020-0005 pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and,

WHEREAS, the Carlsbad Zone Code is the implementing ordinance of the Carlsbad Local Coastal Program, and therefore, an amendment to the Zone Code also constitutes an amendment to the Local Coastal Program; and

WHEREAS, pursuant to California Coastal Commission Regulations, a six-week public review period for the Local Coastal Program Amendment began on May 15, 2020 and ended on June 26, 2020; and

WHEREAS, on May 20, 2020, the Airport Land Use Commission reviewed and found the proposed Zone Code Amendment consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on June 17, 2020, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0001/LCPA 2020-0005; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7373 recommending to the City Council that ZCA 2020-0001/LCPA 2020-0005 be approved; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0001/LCPA 2020-0005; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to ZCA 2020-0001/LCPA 2020-0005; and

NOW THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows that:

1. The above recitations are true and correct.
2. The findings of the Planning Commission in Planning Commission Resolution No. 7373 shall also constitute the findings of the City Council.
3. Chapter 21.86 of the Carlsbad Municipal Code is hereby repealed and replaced to read as follows:

Chapter 21.86 DENSITY BONUS

21.86.010 Purpose.

The public good is served when there exists in a city, housing which is appropriate for the needs of and affordable to the public who reside within that city. There is in the City of Carlsbad a need for housing affordable to various groups, such as lower income, moderate income and senior citizen households. Therefore, it is in the public interest for the city to promote the construction of such additional housing through the exercise of its powers and utilization of its resources to facilitate the development of quality housing affordable for these types of households.

- A. It is the purpose of this section to specify how compliance with Government Code Section 65915 et seq. ("State Density Bonus Law") will be implemented, as required by Government Code Section 65915, subdivision (a).
- B. It is the purpose of this section to implement the goals, objectives and policies of the Housing Element of the city's General Plan.

- C. It is the purpose of this section to provide the implementing framework, as it relates to affordable housing density bonuses, and offer concessions and incentives for eligible housing developments which are consistent with the city's long-standing commitment to provide for affordable housing.

21.86.020 Definitions.

The definitions found in State Density Bonus Law shall apply to the terms contained in this section.

21.86.030 Applicability.

A housing development as defined in State Density Bonus Law shall be eligible for a density bonus and other regulatory incentives that are provided by State Density Bonus Law when the applicant seeks and agrees to provide very-low, low or moderate income housing units, or units intended to serve seniors, transitional foster youth, disabled veterans, homeless persons, and lower income students in the threshold amounts specified in State Density Bonus Law. A housing development includes only the residential component of a mixed-use project. A commercial development as defined in Section 21.86.110 shall be eligible for a commercial development bonus as provided in Section 21.86.110.

The granting of a density bonus, incentive or concession, pursuant to this section, shall not be interpreted, in and of itself, to require a general plan amendment, development code amendment, zone change, other discretionary approval, or the waiver of a city ordinance or provisions of a city ordinance unrelated to development standards.

21.86.040 Application Requirements.

- A. Any applicant requesting a density bonus and any incentive(s), waiver(s), parking reductions, or commercial development bonus provided by State Density Bonus Law shall submit a density bonus report as described below concurrently with the filing of the planning application for the first discretionary permit required for the housing development, commercial development, or mixed-use development. The requests contained in the density bonus report shall be processed concurrently with the planning application. The applicant shall be informed whether the application is complete consistent with California Government Code Section 65943.
- B. The density bonus report shall include the following minimum information:
 - 1. Requested Density Bonus.
 - a. Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.

- b. A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.
- c. The zoning and general plan designations and assessor's parcel number(s) of the housing development site.
- d. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units, if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.
- e. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very-low or lower income households in the five-year period preceding the date of submittal of the application.
- f. If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in California Government Code Section 65915, subdivision (g) can be met.

2. Requested Concession(s) or Incentive(s).

In the event an application proposes concessions or incentives for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each incentive requested, shown on a site plan if appropriate:

- a. The City's usual development standard and the requested development standard or regulatory incentive.
- b. Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.
- c. If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the cost of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed-use zoning will provide for affordable housing costs or rents.

3. Requested Waiver(s).

In the event an application proposes waivers of development standards for a housing development pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:

- a. The City's usual development standard and the requested development standard.
- b. Reasonable documentation that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.

4. Requested Parking Reduction.

In the event an application proposes a parking reduction for a housing development pursuant to California Government Code Section 65915, subdivision (p), a table showing parking required by the zoning regulations, parking proposed under Section 65915, subdivision (p), and reasonable documentation that the project is eligible for the requested parking reduction.

5. Child Care Facility.

If a density bonus or incentive is requested for a child care facility in a housing development, reasonable documentation that all of the requirements included in California Government Code Section 65915, subdivision (h) can be met.

6. Condominium Conversion.

If a density bonus or incentive is requested for a condominium conversion, reasonable documentation that all of the requirements included in California Government Code Section 65915.5 can be met.

7. Commercial Development Bonus.

If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement and the proposed commercial development bonus, as defined in Section 21.86.110, and reasonable documentation that each of the standards included in Subsection 21.86.110(C) has been met.

8. Fee.

Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the Density Bonus Plan with State Density Bonus Law.

21.86.050 Density Bonus.

All calculations are rounded up for any fractional numeric value in determining the total number of units to be granted, including base density and bonus density as well as the resulting number of affordable units needed for a given density bonus project.

- A. If a housing development qualifies for a density bonus under more than one income category, or additionally as a senior citizen housing development as defined in Chapter 21.84 and State Density Bonus Law, or as housing intended to serve transitional foster youth, disabled veterans, homeless persons, or lower income students, the applicant shall identify the categories under which the density bonus would be associated and granted. Density bonuses from more than one category can be combined up to the maximum allowed under State Density Bonus law.
- B. The density bonus units shall not be included in determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law.
- C. The applicant may elect to accept a lesser percentage of density bonus than *the housing development* is entitled to, or no density bonus, but no reduction will be permitted in the percentages of required affordable units contained in California Government Code Section 65915, subdivisions (b), (c), and (f). Regardless of the number of affordable units, no housing development shall be entitled to a density bonus of more than what is authorized under State Density Bonus Law.

21.86.060 Incentives.

- A. Incentives include incentives and concessions as defined in State Density Bonus Law. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to State Density Bonus Law.
- B. Nothing in this section requires the provision of direct financial incentives for the housing development, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The city, at its sole discretion, may choose to provide such direct financial incentives.

21.86.070 Local Coastal Program Consistency.

- A. State Density Bonus Law provides that it shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Cal. Public Resources Code § 30000 et seq.), and further provides that the granting of a density bonus or an incentive shall not be interpreted, in and of itself, to require a local coastal plan amendment.
- B. For development within the coastal zone, any requested density bonus, incentive(s), waiver(s), parking reduction(s), or commercial development bonus shall be consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.

21.86.080 Review Procedures.

All requests for density bonuses, incentives, parking reductions, waivers, or commercial development bonuses shall be considered and acted upon by the approval body with authority to approve the development within the timelines prescribed by California Government Code Section 65950 et seq., with right of appeal to the City Council.

- A. Eligibility for Density Bonus, Incentive(s), Parking Reduction, and/or Waiver(s) for a Housing Development. To ensure that an application for a housing development conforms with the provisions of State Density Bonus Law and the Coastal Act, the staff report presented to the decision-making body shall state whether the application conforms to the following requirements of state law as applicable:
 - 1. The housing development provides the affordable units or senior housing required by State Density Bonus Law to be eligible for the density bonus and any incentives, parking reduction, or waivers requested, including the replacement of units rented or formerly rented to very-low and low income households as required by California Government Code Section 65915, subdivision (c)(3).
 - 2. Any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of California Government Code Section 65915, subdivision (k)(2).
 - 3. The development standards for which a waiver is requested would have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.
 - 4. The housing development is eligible for any requested parking reductions under California Government Code Section 65915, subdivision (p).
 - 5. If the density bonus is based all or in part on donation of land, all of the requirements included in California Government Code Section 65915, subdivision (g) have been met.

6. If the density bonus or incentive is based all or in part on the inclusion of a child care facility, all of the requirements included in California Government Code Section 65915, subdivision (h) have been met.
 7. If the density bonus or incentive is based all or in part on the inclusion of affordable units as part of a condominium conversion, all of the requirements included in California Government Code Section 65915.5 have been met.
 8. If the housing development is in the coastal zone, the requested density bonus and any requested incentive(s), waiver(s), or parking reduction(s) are consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.
- B. If a commercial development bonus is requested for a commercial development, the decision-making body shall make a finding that the development complies with all of the requirements of Subsection 21.86.110(C), that the city has approved the partnered housing agreement, and that the commercial development bonus has been mutually agreed upon by the city and the commercial developer. If the project is in the coastal zone, the decision-making body shall also find that the commercial development bonus is consistent with all applicable requirements of the certified Carlsbad Local Coastal Program, with the exception of density.
- C. The decision-making body shall grant an incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:
1. The proposed incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in California Health and Safety Code Section 50052.5, or for affordable rents, as defined in California Health and Safety Code Section 50053; or
 2. The proposed incentive would be contrary to state or federal law; or
 3. The proposed incentive would have a specific, adverse impact upon public health or safety or the physical environment or on any real property that is listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
- D. The decision-making body shall grant the waiver of development standards requested by the applicant unless it makes a written finding, based upon substantial evidence, of any of the following:

1. The proposed waiver would be contrary to state or federal law; or
 2. The proposed waiver would have an adverse impact on any real property listed in the California Register of Historic Resources; or
 3. The proposed waiver would have a specific, adverse impact upon public health or safety or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low and moderate income households. For the purpose of this subsection, specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete.
- E. If any density bonus, incentive, parking reduction, waiver, or commercial development bonus is approved pursuant to this chapter, the applicant shall enter into an affordable housing agreement or senior housing agreement with the city pursuant to Section 21.86.090.

21.86.090 Affordable Housing Agreement and Senior Housing Agreement.

- A. Affordable Housing Agreement. Except where a density bonus, incentive, waiver, parking reduction, or commercial development bonus is provided for a market-rate senior housing development, the applicant shall enter into an affordable housing agreement with the city, in a form approved by the city attorney, to be executed by the city manager, to ensure that the requirements of this section are satisfied. The affordable housing agreement shall guarantee the affordability of the affordable units for a minimum of 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program; shall identify the type, size and location of each affordable unit; and shall specify phasing of the affordable units in relation to the market-rate units.
- B. Senior Housing Agreement. Where a density bonus, waiver, or parking reduction is provided for a market-rate senior housing development, the applicant shall enter into a restrictive covenant with the city, running with the land, in a form approved by the city attorney, to be executed by the city manager, to require that the housing development be operated as “housing for older persons” consistent with state and federal fair housing laws.
- C. The executed affordable housing agreement or senior housing agreement shall be recorded against the housing development prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the housing development. The affordable housing agreement or senior housing agreement shall be binding on all future owners and successors in interest.
- D. The affordable housing agreement shall include, but not be limited to, the following:
 1. The number of density bonus dwelling units granted;

2. The number and type of affordable dwelling units
3. The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;
4. The proposed location of the affordable dwelling units;
5. Schedule for production of affordable dwelling units;
6. Incentives or concessions or waivers provided by the city;
7. Where applicable, tenure and conditions governing the initial sale of the affordable units;
8. Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for affordable rental dwelling units
9. Marketing plan; publication and notification of availability of affordable units;
10. Compliance with federal and state laws;
11. Prohibition against discrimination;
12. Indemnification;
13. City's right to inspect units and documents;
14. Remedies.

21.86.100 Design and Quality.

- A. The city may not issue building permits for more than 50 percent of the market rate units until it has issued building permits for all of the affordable units, and the city may not approve any final inspections or certificates of occupancy for more than 50 percent of the market rate units until it has issued final inspections or certificates of occupancy for all of the affordable units.
- B. Affordable units shall be comparable in exterior appearance and overall quality of construction to market rate units in the same housing development. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality as determined by the city.
- C. The number of bedrooms of the affordable units shall at least equal the minimum number of bedrooms of the market rate units.

21.86.110 Commercial Density Bonus.

- A. The following definitions shall apply to Commercial Density Bonus:

1. "Commercial development" means a development project for nonresidential uses.
 2. "Commercial development bonus" means a modification of development standards mutually agreed upon by the city and a commercial developer and provided to a commercial development eligible for such a bonus under Subsection 21.86.110(C). Examples of a commercial development bonus include an increase in floor area ratio, increased building height, or reduced parking.
 3. "Partnered housing agreement" means an agreement approved by the city between a commercial developer and a housing developer identifying how the commercial development will provide housing available at affordable ownership cost or affordable rent consistent with Subsection 21.86.110(C). A partnered housing agreement may consist of the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial developer and the housing developer are each partners, members, shareholders, or other participants, or a contract between the commercial developer and the housing developer for the development of both the commercial development and the housing development.
- B. When an applicant proposes to construct a commercial development and has entered into a partnered housing agreement approved by the city, the city shall grant a commercial development bonus mutually agreed upon by the developer and the city. The commercial development bonus shall not include a reduction or waiver of fees imposed on the commercial development to provide for affordable housing.
- C. The requirements for commercial development bonus are as follows, which also be described in the partnered housing agreement:
1. The housing development shall be located either: (A) on the site of the commercial development; or (B) on a site within the city that is within one-half mile of a major transit stop and is located in close proximity to public amenities, including schools and employment centers.
 2. At least 30 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for low-income households, or at least 15 percent of the total units in the housing development shall be made available at affordable ownership cost or affordable rent for very low-income households.
 3. The commercial developer must agree either to directly build the affordable units; donate a site consistent with subparagraph 1 above for the affordable units; or make a cash payment to the housing developer for the affordable units.
- D. Any approved partnered housing agreement shall be described in the city's Housing Element annual report as required by California Government Code Section 65915.7, subdivision (k).

21.86.120 Interpretation.

If any portion of this chapter conflicts with State Density Bonus Law or other applicable state law, state law shall supersede this chapter. Any ambiguities in this chapter shall be interpreted to be consistent with State Density Bonus Law.

21.86.130 Inclusionary housing.

All housing development projects are required to provide affordable housing units in accordance with Chapter 21.85, Inclusionary Housing, of this title. If an applicant seeks to construct affordable housing to qualify for a density bonus in accordance with the provisions of this chapter, those affordable dwelling units provided to meet the inclusionary requirement established pursuant to Chapter 21.85 of this title shall be counted toward satisfying the density bonus requirements of this chapter.

21.86.140 Severability.

If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected. (Ord. CS-102 § CXVI, 2010; Ord. NS-794 § 11, 2006)

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUSTIDE THE COASTAL ZONE:

This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE:

This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0005, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 1st day of September, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk
(SEAL)



CITY COUNCIL
Staff Report

Meeting Date: Sept. 15, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Faviola Medina, City Clerk Services Manager
 faviola.medina@carlsbadca.gov, 760-434-5989

Subject: Adoption of Ordinance Nos. CS-383 and CS-384 – Updating the City’s Development Regulations to ensure Consistency with State Law on Accessory Dwelling Units and Junior Accessory Dwelling Units

Case Name: Accessory Dwelling Unit Amendments 2020

Case No.: MCA 2020-0001/ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006

Recommended Action

Adopt Ordinance No. CS-383 amending Carlsbad Municipal Code Chapter 5.60 - Short-Term Vacation Rentals (MCA 2020-0001) to ensure consistency with state law on accessory dwelling units and junior accessory dwelling units.

Adopt Ordinance No. CS-384 amending Title 21 of the Carlsbad Municipal Code (ZCA 2020-0002), Village and Barrio Master Plan (AMEND 2020-0005) and Local Coastal Program (LCPA 2020-0006) to ensure consistency with state law on accessory dwelling units and junior accessory dwelling units.

Executive Summary /Discussion

Ordinance Nos. CS-383 and CS-384 were introduced and first read at the City Council meeting held Sept. 1, 2020. On a motion by Mayor Pro Tem Blackburn, seconded by Council Member Bhat-Patel, the City Council unanimously voted to introduce the ordinances. The second reading allows the City Council to adopt the ordinances, which will become effective thirty days after the adoption. Within the Coastal Zone, Ordinance No. CS-384 shall become effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0006, whichever occurs later.

Fiscal Analysis

There is no anticipated fiscal impact from this item.

Next Steps

The city clerk will have the ordinances, or summary of the ordinances, published in a newspaper of general circulation within fifteen days following adoption of the ordinance.

Environmental Evaluation (CEQA)

The city planner has determined that the amendments are exempt from the California Environmental Quality Act under the common-sense exemption, Section 15061(b)(3) of the CEQA Guidelines, because there would be no possibility of a significant effect on the environment; and under Section 15282(h) of the CEQA Guidelines, which exempts from CEQA the adoption of an ordinance regarding accessory dwelling units in a single-family or multifamily residential zone to implement Section 65852.2 of the California Government Code.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to scheduled meeting date.

Exhibits

1. Ordinance No. CS-383
2. Ordinance No. CS-384

ORDINANCE NO. CS-383

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING AMENDMENTS TO THE CARLSBAD MUNICIPAL CODE CHAPTER 5.60 (SHORT-TERM VACATION RENTALS) TO ENSURE CONSISTENCY WITH STATE LAW RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.

CASE NAME: ACCESSORY DWELLING UNIT AMENDMENTS 2020

CASE NO: MCA 2020-0001

WHEREAS, Sections 65852.2 and 65852.22 of the California Government Code requires cities and counties to permit construction of accessory dwelling units and junior accessory dwelling units, and allows cities and counties to adopt ordinances that govern the permitting of accessory dwelling units and junior accessory dwelling units consistent with state law; and

WHEREAS, California Governor Gavin Newsom signed Senate Bill 13 and Assembly Bills 68, 587, 670, 671 and 881 into law, which amended state law to further encourage and incentivize the construction of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the above legislative bills took effect January 1, 2020, and existing provisions of the City of Carlsbad Municipal Code are inconsistent with the new law provisions; and

WHEREAS, the City Planner has prepared a Municipal Code Amendment MCA 2020-0001, to amend Section 5.60.020 of the Carlsbad Municipal Code as necessary to comply with amended state law as described above; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider MCA 2020-0001; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to MCA 2020-0001; and

NOW, THEREFORE, the City Council of the City of Carlsbad, California, does ordain that:

1. The above recitations are true and correct.
2. The definition of "short-term vacation rental" in Carlsbad Municipal Code Section 5.60.20 is amended to read as follows:

“Short-term vacation rental” is defined as the rental of any legally permitted dwelling unit as that term is defined in Chapter 21.04, Section 21.04.120 of this code, or any portion of any legally permitted dwelling unit for occupancy for dwelling, lodging or sleeping purposes for a period of less than 30 consecutive calendar days. Time-shares as defined in Chapter 21.04 and 21.04.357 are not considered short-term vacation rentals. Accessory dwelling units and junior accessory dwelling units as defined in Chapter 21.04, Sections 21.04.121 and 21.04.122, for which a building permit was issued on or after January 1, 2020, are not considered short-term vacation rentals. A trailer coach as defined in Chapter 5.24, Section 5.24.005 of this code, which is parked on the property of a legally permitted dwelling unit, is not considered a short-term vacation rental, and it may not be rented out for occupancy pursuant to Chapter 5.24, Section 5.24.145 of this code. Short-term vacation rental includes any contract or agreement that initially defined the rental term to be greater than 30 consecutive days and which was subsequently amended, either orally or in writing to permit the occupant(s) of the owner’s short-term vacation rental to surrender the subject dwelling unit before the expiration of the initial rental term that results in an actual rental term of less than 30 consecutive days.

EFFECTIVE DATE OF THIS: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 1st day of September, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

ORDINANCE NO. CS-384

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING AMENDMENTS TO TITLE 21 OF THE CARLSBAD MUNICIPAL CODE (ZONE CODE), VILLAGE AND BARRIO MASTER PLAN AND LOCAL COASTAL PROGRAM TO ENSURE CONSISTENCY WITH STATE LAW RELATED TO ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS.

CASE NAME: ACCESSORY DWELLING UNIT AMENDMENTS 2020

CASE NO: ZCA 2020-0002/AMEND 2020-0005/LCPA 2020-0006

WHEREAS, Sections 65852.2 and 65852.22 of the California Government Code requires cities and counties to permit construction of accessory dwelling units and junior accessory dwelling units, and allows cities and counties to adopt ordinances that govern the permitting of accessory dwelling units and junior accessory dwelling units consistent with state law; and

WHEREAS, California Governor Gavin Newsom signed Senate Bill 13 and Assembly Bills 68, 587, 670, 671 and 881 into law, which amended state law to further encourage and incentivize the construction of accessory dwelling units and junior accessory dwelling units; and

WHEREAS, the above legislative bills took effect January 1, 2020, and existing provisions of the City of Carlsbad Municipal Code are inconsistent with the new law provisions; and

WHEREAS, the City Planner has prepared amendments to the Zone Code (ZCA 2020-0002)/ Village and Barrio Master Plan (AMEND 2020-0005) and the Local Coastal Program (LCPA 2020-0006) pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and

WHEREAS, the Carlsbad Zone Code and Village and Barrio Master Plan are the implementing ordinances of the Carlsbad Local Coastal Program, and therefore, amendments to the Zone Code and Village and Barrio Master Plan also constitute amendments to the Local Coastal Program; and

WHEREAS, pursuant to California Coastal Commission Regulations, a six-week public review period for the Local Coastal Program Amendment began May 15, 2020 and ending on June 26, 2020; and

WHEREAS, on May 20, 2020 the Airport Land Use Commission reviewed and found that the proposed Zone Code Amendment and Village and Barrio Master Plan Amendment are consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on June 17, 2020, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7374 recommending to the City Council that ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004 be approved; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to ZCA 2020-0002/AMEND 2020-0005/LCPA 2019-0004; and

NOW, THEREFORE, the City Council of the City of Carlsbad, California, does ordain that:

1. The above recitations are true and correct.
2. The findings of the Planning Commission in Planning Commission Resolution No. 7374 shall also constitute the findings of the City Council
3. In Section 2.3.3, Table 2-1 Permitted Uses of the Village and Barrio Master Plan, the use listing for Accessory Dwelling Unit is amended to read as follows:

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Accessory Dwelling Unit (accessory to one-family, two-family, multifamily, and mixed-use dwellings; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.121)	A	A	A	A	A	A	A

4. In Section 2.3.3, Table 2-1 Permitted Uses of the Village and Barrio Master Plan, a new use listing Junior Accessory Dwelling Unit is added as follows:

RESIDENTIAL	VC	VG	HOSP	FC	PT	BP	BC
Junior Accessory Dwelling Unit (accessory to a one-family dwelling; subject to CMC Section 21.10.030; defined: CMC Sections 21.04.122)		A			A	A	A

5. In Section 2.6, Table 2-3 of the Village and Barrio Master Plan, the parking requirements for Accessory Dwelling Unit are amended to read as follows:

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Accessory Dwelling Unit (no additional parking is required for a Junior Accessory Dwelling Unit)	<ul style="list-style-type: none"> • One space, in addition to the parking requirement for the primary dwelling. • Tandem parking is permitted. Parking may be located in the side and rear yard setbacks. • Parking exceptions exist for accessory dwelling units. Refer to CMC Section 21.10.030 E

6. In Section 2.6, Table 2-3 of the Village and Barrio Master Plan, a new parking requirement for Junior Accessory Dwelling Unit is added as follows:

RESIDENTIAL	
GENERAL USE	PARKING REQUIREMENT
Junior Accessory Dwelling Unit	No parking requirement

7. Carlsbad Municipal Code Section 21.04.020 is amended to read as follows:

21.04.020 Accessory.

“Accessory” means a building, part of a building or structure, or use that is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot. If an accessory building is attached to the main building by a common wall, with a width dimension of at least three feet and a height dimension of at least one story, such building area is considered a part of the main building and not an accessory building or structure, except for “accessory dwelling units” or “junior accessory dwelling units” as defined in Sections 21.04.121 and 21.04.122. Accessory dwelling units and junior accessory dwelling units that comply with the requirements of Section 21.10.030 and California Government Code Sections 65852.2 and 65852.22, respectively, are considered accessory.

8. Carlsbad Municipal Code Section 21.04.121 is amended to read as follows:

21.04.121 Dwelling unit, accessory (ADU).

Refer to California Government Code Section 65852.2.

9. Section 21.04.122 is added to the Carlsbad Municipal Code as follows:

21.04.122 Dwelling unit, junior accessory (JADU).

Refer to California Government Code Section 65852.22.

10. A new use listing for “Junior accessory dwelling unit” is added to the permitted uses tables in the following eight sections of the Carlsbad Municipal Code as shown below:

- 21.08.020 Permitted uses, Table A.
- 21.09.020 Permitted uses, Table A.
- 21.10.020 Permitted uses, Table A.
- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Junior accessory dwelling unit (accessory to a one-family dwelling; subject to Section 21.10.030; defined: Section 21.04.122)			X

11. The following four sections are amended as shown below:

- 21.08.060 Placement of buildings
- 21.10.080 Placement of buildings
- 21.12.060 Placement of buildings
- 21.16.060 Placement of buildings

A. Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

- 1. Interior Lots.
 - a. No building shall occupy any portion of a required yard;
 - b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required

side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;

- c. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
- d. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
 - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - iv. Buildings shall not exceed one story,
 - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
- e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
- f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
 - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
 - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
 - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
 - iv. The additional development standards listed above (subsections (A)(1)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

2. Corner Lots and Reversed Corner Lots.

- a. No building shall occupy any portion of a required yard;
- b. The distance between buildings used for human habitation and between buildings used for human habitation and accessory buildings shall not be less than ten feet;
- c. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
- d. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet,
 - iii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - iv. Buildings shall not exceed one story,
 - v. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
- e. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
- f. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
 - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
 - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
 - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
 - iv. The additional development standards listed above (subsections (A)(2)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and

- g. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

12. In Section 21.09.020 Table A, the use listing for “Accessory dwelling units” is amended to read as follows:

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

13. Section 21.09.100 of the Carlsbad Municipal Code is amended to read as follows:

21.09.100 Placement of buildings

Placement of buildings on any lot shall conform to the following, except as otherwise stated for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

- (1) Except as permitted by Sections 21.09.080 and 21.09.090, no building shall occupy any portion of a required yard.
- (2) Any building, any portion of which is used for human habitation, shall observe a distance from any rear property line the equivalent of twice the required interior side yard.
- (3) The distance between buildings used for human habitation and detached accessory buildings shall not be less than ten feet.
- (4) The keeping of all domestic animals provided for in this chapter shall conform to all other provisions of law governing the same, and no pen, coop, stable or barn shall be erected within forty feet of any building used for human habitation or within twenty-five feet of any property line.
- (5) A building permit for a dwelling unit to be located further than five hundred feet from a fire hydrant shall not be issued without the approval of the fire chief. The fire chief may require the installation of additional safety equipment, including fire hydrants or stand pipes, as a condition of such approval.

14. Section 21.10.030 of the Carlsbad Municipal Code is repealed and replaced to read as follows:

21.10.030 Accessory dwelling units and junior accessory dwelling units.

- A. Purpose. This section provides standards for the establishment of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Pursuant to California Government Code Sections 65852.2 and 65852.22, local governments have the authority to adopt regulations designed to promote ADUs and JADUs.
- B. Standards of Review. Review of ADUs and JADUs shall be consistent with the following:
1. ADU or JADU applications shall be considered a ministerial action without discretionary review or a public hearing if all requirements of this section (21.10.030) are met, notwithstanding any other requirements of state law or this development code.
 2. ADUs or JADUs developed within the coastal zone are subject to the permit requirements of Chapter 21.201 and require a building permit. Development of ADUs or JADUs outside of the coastal zone requires a building permit.
 3. The city shall act on an application to create an ADU or a JADU within the time period specified under California Government Code Sections 65852.2 and 65852.22.
 4. If the permit application to create an ADU or a JADU is submitted with a permit application to create a new one-family dwelling on the lot, the city may delay acting on the permit application for the ADU or the JADU until the city acts on the permit application to create the new one-family dwelling, but the application to create the ADU or JADU shall be considered without discretionary review or public hearing. If the applicant requests a delay, the time period specified under California Government Code Sections 65852.2 and 65852.22 shall be tolled for the period of the delay.
- C. Residential Use and Density. ADUs and JADUs, which comply with the requirements of this section (21.10.030) and California Government Code Sections 65852.2 and 65852.22:
1. Shall be considered accessory residential uses or accessory residential buildings that are consistent with the general plan or zoning designations for the lot; and
 2. Shall not be considered to exceed the allowable density for the lot upon which it is located; and
 3. Shall not be considered a dwelling unit when implementing the dwelling unit limitations established by Proposition E enacted by Carlsbad voters on November 4, 1986 and shall not be considered a dwelling unit under the definition of "short-term vacation rental" in Chapter 5.60, Short-Term Vacation Rentals.
- D. Number and Location.

1. ADUs shall be permitted in zones that allow one-family dwellings, two-family dwellings, multiple-family dwellings, and mixed-use (residential uses in combination with non-residential uses), provided there is an existing or proposed dwelling on the lot where the ADU is proposed, as specified in California Government Code Sections 65852.2 and 65852.22 . Refer to a specific zone's Permitted Uses table within this Title.
 2. For zones that allow one-family dwellings, one JADU shall be permitted with an associated existing or proposed one-family dwelling. Refer to a specific zone's Permitted Uses table within this Title.
 3. The number and location of ADUs or JADUs on a lot shall be subject to California Government Code Sections 65852.2 and 65852.22.
- E. Other Requirements and Standards. ADUs and JADUs shall comply with all the following requirements and standards:
1. ADUs and JADUs shall comply with the development requirements and standards of California Government Code Sections 65852.2 and 65852.22.
 2. When not in conflict with California Government Code Sections 65852.2 and 65852.22, ADUs and JADUs shall also comply with applicable development requirements and standards of this code.
 3. The maximum size of an ADU or JADU shall be limited as follows, consistent with California Government Code Sections 65852.2 and 65852.22:
 - a. Attached ADUs – 50% of the total floor area of the main dwelling or 1,200 square feet, whichever is less, but not less than 800 square feet;
 - b. Detached ADUs – 1,200 square feet
 - c. JADUs – 500 square feet
 4. A detached ADU shall be limited to one story and 16 feet maximum height, except that an ADU constructed above or below a detached garage shall be permitted and shall conform to the height limits applicable to the zone. Structures that contain an ADU located above or below a detached garage shall be limited to a maximum of two stories including the garage.
 5. Roof decks shall not be permitted on detached ADUs.
 6. The construction of an ADU or JADU that is all new construction, or is a conversion of a portion or all of an existing structure, or expands the square footage of an existing structure shall be consistent with all habitat preserve buffers and geologic stability setbacks in the certified local coastal program, habitat management plan, general plan or geotechnical report as applicable.

7. On lots with one-family dwelling(s), the exterior roofing, trim, walls, windows and the color palette of the ADU or JADU shall incorporate the same features as the primary dwelling unit.
 8. On lots with two-family or multiple-family dwellings, the exterior roofing, trim, walls, windows and the color palette of the ADU addition shall incorporate the same features as the existing building that the ADU would be provided within. For detached ADUs, it shall be reflective of the nearest building as measured from the wall of the existing building to the nearest wall of the proposed unit.
 9. An ADU shall provide off-street parking in compliance with Chapter 21.44 (Parking), unless it qualifies for an exemption as specified in California Government Code Section 65852.2. No off-street parking is required for a JADU if it meets the requirements specified in California Government Code Section 65852.22.
 10. ADUs intended to satisfy an inclusionary requirement shall comply with the requirements of Chapter 21.85, including, but not limited to, the applicable rental rates and income limit standards.
 11. A Notice of Restriction shall be recorded on the property declaring that:
 - a. The ADU(s) and/or JADU shall not be used for short-term rentals less than 30 days. This requirement does not apply to any unit that was issued a building permit prior to January 1, 2020.
 - b. The obligations and restrictions imposed on the approval of the ADU(s) per California Government Code Section 65852.2 and/or JADU per California Government Code Section 65852.22 are binding on all present and future property owners.
 - c. For a JADU, the property owner must reside in either the primary residence or the JADU. Sale of the JADU separate from the single-family residence is prohibited; said prohibition is binding on all present owners and future purchasers.
 12. For ADUs permitted prior to January 1, 2020, the city may continue to enforce a requirement for owner-occupancy of the ADU or primary residence.
 13. An ADU may be sold separately from the primary dwelling only in limited situations pursuant to California Government Code Section 65852.26.
- G. Conflicting Standards. If there is a conflict between the requirements of this section and the requirements of the California Government Code provisions relating to ADUs and JADUs, including but not limited to Sections 65852.2 or 65852.22, the California Government Code provisions shall apply.

15. The use listing for “Accessory dwelling unit” in the permitted use tables of the following five sections of the Carlsbad Municipal Code is amended as shown below:

- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

16. Subsections A.7 through A.15 of Section 21.18.030 of the Carlsbad Municipal Code are amended to read as follows:

7. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
- a. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
 - b. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
 - c. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
 - d. Buildings shall not exceed one story; and
 - e. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
8. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit of a lot including setbacks.
9. Detached accessory structures, which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot’s required setback areas:
- a. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;

- b. The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
 - c. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
 - d. The additional development standards listed above (subsections A.10.a. through c. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- 10. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
 - 11. Other than as provided in subsection 9 above, no building shall be located in any of the required yards.
 - 12. Height Limits. In the R-P zone the maximum building height shall be thirty-five feet.
 - 13. Lot Coverage. In the R-P zone all buildings shall not cover more than sixty percent of the total lot area.
 - 14. Parking Off-Street. Parking shall not be provided in the required front or side yards.
 - 17. The use listing for "Accessory dwelling unit" in Section 21.20.010 Table A of the Carlsbad Municipal Code is amended to read as follows:

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Section 21.04.121)			X

- 18. Section 21.20.080 of the Carlsbad Municipal Code is amended to read as follows:

21.20.080 Accessory structures.

- (1) All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
 - (A) The lot coverage shall include accessory structures in the lot coverage calculations for the lot.
 - (B) The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet.

- (C) When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department.
 - (D) Buildings shall not exceed one story.
 - (E) Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
- (2) Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.
- (3) Detached accessory structures, which are not dwelling units and contain no habitable space, including but not limited to garages, workshops, tool sheds, decks over thirty inches above grade, and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
- (A) The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet.
 - (B) The following setbacks shall apply: A front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet.
 - (C) The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures.
 - (D) The additional development standards listed above (subsections (3)(A) through (C) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- (4) The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

19. Section 21.22.070 of the Carlsbad Municipal Code is amended to read as follows:

21.22.070 Accessory structures.

- A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
 - 1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
 - 2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;

3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;
 4. Buildings shall not exceed one story;
 5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided; and
- B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks.
- C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
 2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
 3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
 4. The additional development standards listed above (subsections C.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
20. Section 21.24.090 of the Carlsbad Municipal Code is amended to read as follows:

21.24.090 Accessory structures.

- A. All accessory structures shall comply with the following development standards, except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030:
1. The lot coverage shall include accessory structures in the lot coverage calculations for the lot;
 2. The distance between buildings used for human habitation and accessory buildings shall be not less than ten feet;
 3. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department;

4. Buildings shall not exceed one story; and
 5. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided.
- B. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks
- C. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
1. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet;
 2. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, and an alley setback of five feet;
 3. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures; and
 4. The additional development standards listed above (subsections D.1. through 3. of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area.
- D. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
21. A new use listing for "Accessory dwelling unit" is added to Table A in the following three sections of the Carlsbad Municipal Code as shown below:

21.26.010 Permitted uses.

21.28.010 Permitted uses.

21.31.030 Permitted uses.

Use	P	CUP	Acc
Accessory dwelling unit (subject to Section 21.10.030; defined: Sections 21.04.121)			X

22. Section 21.38.025 of the Carlsbad Municipal Code is amended to read follows:

21.38.025 Accessory dwelling units.

Accessory dwelling units or junior accessory dwelling units are permitted according to the provisions of Section 21.10.030.

23. In Table A of Section 21.44.020 the Carlsbad Municipal Code, the requirements for accessory dwelling units are amended to read follows:

Accessory dwelling units	1 space (covered or uncovered), in addition to the parking required for the primary use; unless otherwise specified in Section 21.10.030 of this code.
	The additional parking space may be provided through tandem parking on a driveway and may be within the front or side yard setback.

24. In Table C of Section 21.44.060 the Carlsbad Municipal Code, the requirements for accessory dwelling units are amended to read follows:

Accessory dwelling units	<p>Same as parking required for primary residential use, with the following exceptions:</p> <ul style="list-style-type: none"> • May be located in the front or side yard setback; and • May be located as a tandem space on a driveway. • Other parking requirements and exemptions may be applicable pursuant to Section 21.10.030.
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25. Section 21.45.090 of the Carlsbad Municipal Code is amended to read follows:

21.45.090 Residential additions and accessory uses.

A. General.

1. Additions and accessory uses shall be subject to all applicable development standards of this chapter, unless otherwise specified in this section and except as otherwise permitted for accessory dwelling units or junior accessory dwelling units pursuant to Section 21.10.030.
2. Additions to buildings that are legally nonconforming shall comply with the requirements of Chapter 21.48 of this code.

B. One-Family Dwellings and Twin-Homes on Small Lots.

1. Table F lists the provisions for residential additions and accessory uses to one-family dwellings and twin-homes on small lots.
2. The additions and accessory uses listed in Table F shall be subject to the approval/issuance of a building permit.

Table F

Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers ⁽²⁾	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Pool, spa	20 feet	5 feet - pool 2 feet - spa
Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height) ^{(1),(2),(3)}	20 feet	5 feet
Accessory dwelling units or junior accessory dwelling units ^{(2), (3)}	20 feet	See 21.10.030
Habitable detached accessory buildings (i.e. guest houses; not including accessory dwelling units) ^{(1), (2), (3),}	Same setbacks as required for the primary dwelling	
Additions to dwelling (attached)	Same setbacks as required for the dwelling	

Notes:

- (1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.
- (2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.
- (3) Must be architecturally compatible with the existing structure.

C. Condominium projects. Additions and accessory uses to condominium projects shall be subject to Section 21.45.100 (Amendments to permits). (Ord. CS 324 §§ 2, 23, 2017; Ord. CS-050 § IV, 2009; Ord. NS-834 § II, 2007)

26. Section 21.48.020 of the Carlsbad Municipal Code is amended to read as follows:

21.48.020 Applicability.

- A. The provisions of this chapter apply to:
 - 1. Legally created lots which do not conform to the current requirements and development standards of the zone in which they are located.

2. Legally constructed structures and site development features that do not comply with the current requirements and development standards of the zone in which they are located.
 3. Legally established uses which do not conform to the current permitted use regulations of the zone in which they are located.
- B. The provisions of this chapter do not apply:
1. To nonconforming signs, which are addressed in Section 21.41.130.
 2. When an accessory dwelling unit or junior accessory dwelling unit is proposed with an existing nonconforming residential structure. Pursuant to California Government Code Section 65852.2, the city shall not require, as a condition for approval of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
27. Subsections A and B.1 of Section 21.201.060 of the Carlsbad Municipal Code are amended to read follows:
- A. For the purposes of subsection B.1 of this section, an existing single-family residential building shall include:
1. All appurtenances and other accessory structures, including decks, directly attached to the residence;
 2. Accessory structures or improvements on the property normally associated with residences, such as garages, swimming pools, fences and storage sheds, and junior accessory dwelling units and accessory dwelling units that are attached to or converted from the existing space of a primary residence or attached accessory structure, but not including guest houses or self-contained residential units that are detached from an existing single-family residential building;
 3. Landscaping on the lot.
- B. Exemptions. The following projects are exempt from the requirements of a minor coastal development permit and coastal development permit:
1. Improvements to an existing single-family residential building, except:
 - a. On a beach, wetland or seaward of the mean high tide line;
 - b. Where the residence or proposed improvement would encroach in an environmentally sensitive habitat area or within fifty feet of the edge of a coastal bluff;
 - c. Improvements that would result in an increase of ten percent or more of internal floor area of an existing structure or an additional improvement of ten percent or less where an improvement to the structure had previously been undertaken pursuant to California Public Resources Code Section 30610(a), or an increase in height by more than ten percent of an existing structure and/or any significant nonattached

structure such as garages, fences, shoreline protective works or docks, and such improvements are on property located:

- i. Between the sea and the first public road paralleling the sea,
 - ii. Within three hundred feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or
 - iii. In significant scenic resources areas as designated by the Commission;
- d. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff except as provided in subsections B.8, B.9, B.10 and B.11 of this section;
 - e. Expansion or construction of water wells or septic systems;
 - f. Improvements to establish an accessory dwelling unit that is attached to the primary residence, or converted from the existing space of a primary residence or attached accessory structure or a junior accessory dwelling unit within a one-family dwelling where such primary residence or attached accessory structure is nonconforming with respect to habitat preserve buffers or geologic stability setbacks in the certified local coastal program.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUTSIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0006, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

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INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 1st day of September, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)



CITY COUNCIL
Staff Report

Meeting Date: Sept. 15, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager
 Celia Brewer, City Attorney

Staff Contact: David Graham, Chief Innovation Officer
 david.graham@carlsbadca.gov, 760-434-5992
 Cindie McMahan, Assistant City Attorney
 cindie.mcmahan@carlsbadca.gov, 760-434-2891

Subject: Update on the City’s Commercial Eviction Moratorium and Recent Residential Eviction Relief Developments

Recommended Action

Receive an update on the city’s commercial eviction moratorium and recent residential eviction relief developments.

Executive Summary

On April 7, 2020, the city adopted a resolution temporarily suspending evictions of commercial tenants located in Carlsbad for nonpayment of rent due to COVID-19 related decreases in business income. The moratorium remains in effect “until the local emergency is terminated, or the withdrawal of Governor Newsom’s Executive Order N-28-20, whichever occurs sooner.”

Meanwhile, the City Council formed the Ad Hoc City Council Economic Revitalization Subcommittee and approved the Economic Recovery and Revitalization Initiative. The City Council allocated \$5 million to fund the initiative’s programs, which include \$4.4 million for a small business loan program and \$50,000 for landlord tenant mediation and renegotiation services.

During its most recent legislative session, the state legislature considered, but did not pass, statewide commercial eviction relief. However, on Sept. 1, 2020, the state enacted urgency legislation providing statewide residential eviction relief. On Sept. 4, 2020, the federal Centers for Disease Control and Prevention issued an order providing nationwide residential eviction relief.

Discussion

City’s temporary suspension of commercial evictions

On March 16, 2020, Governor Newsom issued an executive order (N-28-20) that authorized local governments to impose limits on residential or commercial evictions if:

- The basis of the eviction is either nonpayment of rent or a foreclosure
- The nonpayment of rent or foreclosure resulted from a substantial decrease in household or business income, or substantial out-of-pocket medical expenses
- The decrease in income or the out-of-pocket medical expenses are documented and were caused either by the COVID-19 pandemic or a government response to the pandemic

Relying on the executive order’s authorization, on April 7, 2020, the City Council adopted a resolution temporarily suspending evictions of commercial tenants in Carlsbad for nonpayment of rent due to COVID-19 related decreases in business income (Exhibit 1). For the temporary suspension to apply, the commercial tenant must:

- Have been current on rent prior to the governor’s proclamation of emergency on March 4, 2020
- Notify the landlord before or within 10 days after the rent due date of the commercial tenant’s need to delay all or some of the rent payment because of an inability to pay for COVID-19 pandemic-related reasons
- Provide the landlord with documentation verifying the reasons for the commercial tenant’s inability to pay

The temporary suspension does not relieve a commercial tenant of the obligation to pay whatever rent amount the commercial tenant is able to pay. The temporary suspension also does not relieve the commercial tenant of liability for unpaid rent or applicable late fees, which the landlord may demand and the commercial tenant must pay within three months of the expiration of the local emergency, unless the landlord and the commercial tenant agree to an alternative payment arrangement. If a commercial tenant vacates the leased premises during the temporary suspension, all rent due is owed at that time.

Other San Diego County cities also relied on the executive order’s authorization to impose residential and commercial eviction moratoriums. A description and current status of these moratoriums is contained in Exhibit 2.

The day before the City Council adopted the city’s commercial eviction moratorium, the Judicial Council of California adopted an emergency rule that effectively halted all evictions statewide. The rule expired on Sept. 1, 2020.

The city’s commercial eviction moratorium remains in effect “until the local emergency is terminated, or the withdrawal of Governor Newsom’s Executive Order N-28-20, whichever occurs sooner.” The executive order’s authorization was originally set to expire on May 31, 2020, but the governor twice extended it and the authorization is currently set to expire September 30, 2020.

During the recent legislative session, the state legislature considered Senate Bill No. 939, urgency legislation that would have provided statewide commercial eviction relief. The bill was held in committee on June 18, 2020, and never progressed further.

If the governor's authorization expires, the City Council may be able to use its own emergency police power to impose a similar commercial eviction moratorium. If the City Council opted to do this, the moratorium must not conflict with any federal or state law applicable to charter cities. Additionally, the record of the City Council's decision must demonstrate the moratorium: (1) is substantially related to a public health or public safety purpose; (2) is not arbitrary and does not go beyond what is necessary to accomplish the public health or public safety purpose; and (3) does not plainly invade any constitutional rights. The Centers for Disease Control and Prevention order in Exhibit 4, which pertains to residential evictions and is discussed in more detail below, provides an example of the types findings and evidence necessary to support a moratorium.

Business-related landlord and tenant communication

Since the city's commercial eviction moratorium went into effect, the city staff member designated as the point of contact for questions about the moratorium has received twelve email inquiries and five to seven calls. Both landlords and tenants have contacted the city about lease and rental agreement issues. City staff have been providing them with education about the moratorium and, when appropriate, referring them to a community mediation program run by the National Conflict Resolution Center.

Through community engagement including meetings, webinars, and surveys, businesses have told city staff that the top issues they are confronting because of the pandemic are non-payment of rent, rent relief and those associated with lease and rental agreements.

City's other business relief efforts

The commercial eviction moratorium is one part of the city's efforts to help local businesses weather the pandemic. On the same day the City Council adopted the commercial eviction moratorium, the City Council formed the Ad Hoc City Council Economic Revitalization Subcommittee. With the subcommittee's recommendation, the City Council adopted an Economic Recovery and Revitalization Initiative with \$5 million in funding to support Carlsbad businesses, including:

- \$4,400,000 for a small business loan program
- \$250,000 for a joint marketing strategy with the Chamber of Commerce and the Carlsbad Village Association
- \$50,000 for landlord-tenant mediation and renegotiation services
- \$50,000 for relief for the leaseholders of city properties
- \$25,000 for business community outreach
- An estimated \$15,000 - \$25,000 for outdoor activation permit fee reimbursement and waivers revenue offset

The City Council has also:

- Empowered the director of emergency services (the city manager) to temporarily suspend or modify certain land development standards and fees to allow businesses to move their operations outdoors
- Funded resources and materials delivered to Carlsbad hotels and visitor-serving accommodations, encouraging guests to observe safety protocols while in the city

- Authorized up \$50,000 in matching funds for the Gift Carlsbad Shop Local program

The Ad Hoc City Council Economic Revitalization Subcommittee has met on nearly a weekly basis since its first meeting in April. Updates on the work of the subcommittee and the economic response, recovery, and revitalization efforts by city staff are provided during the regular COVID-19 Actions and Expenditures Report at City Council meetings.

Recent developments in residential eviction relief

Coinciding with the expiration of the Judicial Council emergency rule halting all evictions, the state legislature passed and the governor signed Assembly Bill 3088 (AB 3088), The Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 (Exhibit 3). This urgency legislation took effect Sept. 1, 2020 and provides statewide residential eviction relief for tenants unable to pay rent because of COVID-19 related financial distress.

A few days later, the federal Centers for Disease Control and Prevention issued an order providing nationwide residential eviction relief (Exhibit 4). The CDC order took effect Sept. 4, 2020.

AB 3088

AB 3088 is dense and complex. To help tenants and landlords understand and comply with its provisions, the state has created a new website, landlordtenant.dre.ca.gov, with information about the bill.

Briefly, if a residential tenant is unable to pay all or some of the rent owed between March 1, 2020 and Aug. 31, 2020, AB 3088 prevents the landlord from evicting the tenant if the tenant provides the landlord with a declaration of COVID-19 related financial distress within 15 business days of receiving a notice to vacate. If the tenant's household income is more than 130% of the county median household income and over \$100,000, the landlord may require the tenant to provide proof of the tenant's COVID-19-related hardship.

If a residential tenant is unable to pay all or some of the rent owed between Sept. 1, 2020, and Jan. 31, 2021, AB 3088 prevents the landlord from evicting the tenant if the tenant pays at least 25% of the rent due during that period by Jan. 31, 2021. Again, the tenant must supply a declaration of COVID-19-related financial distress and a landlord may require a higher income tenant to provide proof of hardship.

Notwithstanding the eviction protection, the residential tenant still owes any unpaid rent due between March 4, 2020 and Jan. 31, 2020. Beginning March 1, 2021, the landlord may recover unpaid rent in a small claims court action.

Existing local residential rent relief ordinances may remain in effect until they expire. Any future local residential rent relief ordinances may not undermine AB 3088's framework.

Evictions for reasons other than COVID-19-related financial distress may resume October 5, 2020.

CDC order

The CDC order enacts a temporary moratorium on residential evictions through December 31, 2020, if the reason for the eviction is nonpayment of rent. To invoke the order, a tenant must provide a signed declaration to the landlord indicating:

- The tenant has used best efforts to obtain all available government assistance for rent
- The tenant either:
 - Expects to earn no more than \$99,000 in annual income in 2020 (or no more than \$198,000 if filing a joint tax return);
 - Was not required to report any income in 2019 to the U.S. Internal Revenue Service; or
 - Received an economic impact payment stimulus check in keeping with Section 2201 of the CARES Act¹
- The tenant is unable to pay the full rent due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off or extraordinary out-of-pocket medical expenses
- The tenant is using best efforts to make timely partial payments that are as close to the full payment as the tenant's circumstances may permit, taking into account other nondiscretionary expenses
- Eviction would likely render the tenant homeless — or force the tenant to move into and live in close quarters in a new congregate or shared living setting — because the tenant has no other available housing options.

The CDC's order does not relieve a tenant of any obligation to pay rent or preclude a residential eviction for reasons other than nonpayment of rent. The order also does not apply in any state or local jurisdiction with a more protective residential eviction moratorium.

Fiscal Analysis

There is no fiscal impact associated with the City Council's receipt of this update.

Next Steps

Without further City Council direction and action, the City's temporary commercial eviction moratorium will continue in effect "until the local emergency is terminated, or the withdrawal of Governor Newsom's Executive Order N-28-20, whichever occurs sooner."

Environmental Evaluation (CEQA)

This action is statutorily exempt from the California Environmental Quality Act under California Public Resources Code Section 21080, subdivision (b)(4), applicable to specific actions necessary to prevent or mitigate an emergency.

Public Notification and Outreach

This item was noticed in accordance with the Ralph M. Brown Act and was available for

¹ The Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, is a \$2.2 trillion economic stimulus bill approved in response to the economic fallout of the COVID-19 pandemic. Section 2201 of the CARES Act provides for recovery rebates for certain qualifying individuals and directs the IRS to treat the stimulus payments as tax credits.

viewing at least 72 hours prior to the posting of the agenda.

Exhibits

1. City Council Resolution 2020-059
2. Summary of Eviction Moratoria in San Diego County
3. Text of AB 3088
4. Text of CDC order

RESOLUTION NO. 2020-059

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, TEMPORARILY SUSPENDING EVICTIONS OF COMMERCIAL TENANTS LOCATED IN THE CITY OF CARLSBAD FOR NONPAYMENT OF RENT DUE TO COVID-19 RELATED DECREASES IN BUSINESS INCOME

WHEREAS, COVID-19 is an emerging respiratory disease and older adults and persons with severe underlying health conditions are at increased risk of more serious illness after contracting COVID-19;

WHEREAS, in a short period of time, COVID-19 has rapidly spread throughout California, including the County of San Diego and the City of Carlsbad; and

WHEREAS, on January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a Public Health Emergency for the United States, effective January 27, 2020, to aid the nation's health care community in responding to COVID-19; and

WHEREAS, on February 14, 2020, the San Diego County Public Health Officer determined there was an imminent and proximate threat to the public health from the introduction of COVID-19 in San Diego County and declared a Local Health Emergency, which the San Diego County Board of Supervisors ratified on February 19, 2020; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency to exist in California because of the threat of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization began characterizing COVID-19 as a pandemic; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-20, which ordered all residents to heed any orders or guidance of state and public health officials, including the imposition of social distancing measures, to control the spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of United States declared a national emergency because of COVID-19; and

WHEREAS, on March 16, 2020, the City of Carlsbad's City Manager, in his role as Director of Emergency Services, proclaimed a State of Emergency to exist in the City of Carlsbad, which the City Council ratified on March 17, 2020; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20, authorizing local governments to impose limits on residential or commercial evictions if: (1) the basis for the

eviction is either nonpayment of rent or a foreclosure; (2) the nonpayment of rent or foreclosure resulted from a substantial decrease in household or business income, or substantial out-of-pocket medical expenses; and (3) the decrease in income or out-of-pocket medical expenses are documented and were caused either by the COVID-19 pandemic or government response to COVID-19; and

WHEREAS, on March 17, 2020, the County of San Diego Public Health Officer issued an amended order limiting gatherings of a certain number, closing certain business establishments, limiting the operations of other business establishments, and requiring social distancing, increased sanitation standards, and the use of telecommuting; and

WHEREAS, on March 19, 2020, the State Public Health Officer ordered all individuals living in California to stay home or at their place of residence, except as needed to maintain the continuity of operations of federal critical infrastructure sectors or additional critical sectors designated by the State Public Health Officer; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, ordering all residents to immediately heed the March 19, 2020, order of the State Public Health Officer; and

WHEREAS, on March 27, 2020, Governor Newsom issued Executive Order N-37-20, extending by 60 days the time by which a residential tenant must respond to an unlawful detainer complaint and prohibiting the enforcement of a writ of a possession if the tenant satisfies specified criteria; and

WHEREAS, on March 27, 2020, the County Public Health Officer issued a new order, effective March 29, 2020 and continuing until further notice, limiting gatherings of a certain number, closing certain business establishments, limiting the operations of other business establishments, and requiring social distancing, increased sanitation standards, and the use of telecommuting; and

WHEREAS, paragraph 9 of the County Public Health Officer's March 27, 2020 Order directs, pursuant to Health and Safety Code Section 120175.5, subdivision (b), that all governmental entities in the county take necessary measures within their control to ensure compliance with the order; and

WHEREAS, the effects of the COVID-19 pandemic on the global economy and supply chains are impacting many local companies due to overseas factories operating at lesser capacity and a drastic reduction in tourism; and

WHEREAS, as a result of the various Executive Orders and public health orders, businesses located in the City of Carlsbad have been unable to operate or unable to fully operate, resulting in a substantial decrease in their income; and

WHEREAS, loss of income from COVID-19 may inhibit businesses from fulfilling their financial obligations; and

WHEREAS, further adverse economic impacts from COVID-19 are anticipated, leaving commercial tenants vulnerable to eviction; and

WHEREAS, displacement of commercial tenants by eviction would worsen COVID-19's economic impacts by causing financial instability for business owners and employees and by reducing the available jobs for City of Carlsbad residents once the state of emergency has ended; and

WHEREAS, this resolution enacts a temporary suspension of commercial evictions intended to promote economic stability and fairness, and to promote a stable business and job market for employers and employees to return to once the state of emergency has ended; and

WHEREAS, it is in the public interest, and necessary to the protection of life and property, to take steps to ensure local commercial tenants are not evicted during this state of emergency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That under the authorization in Governor Newsom's Executive Order N-28-20 and the City Council's power under California Government Code Section 8634 to issue orders necessary to protect life and property during a local emergency, and to the extent permitted by federal law, the City Council orders evictions of commercial tenants located in the City of Carlsbad to be suspended until the local emergency is terminated, or the withdrawal of Governor Newsom's Executive Order N-28-20, whichever occurs sooner, if the commercial tenant satisfies all of the following requirements:
 - a. Prior to Governor Newsom's proclamation of a State of Emergency on March 4, 2020, the commercial tenant was current on rent due to the landlord under the terms of the commercial tenant's rental agreement with the landlord.
 - b. The commercial tenant notifies the landlord in writing, which includes email, before the rent is due, or within a reasonable time afterwards not to exceed 10 business days, that the commercial 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, without limitation, the following:

i. The commercial tenant was unable to operate or fully operate the commercial tenant's business because:

1. the business was not in one of the federal critical infrastructure sectors or one of the additional critical sectors designated by the California State Health Officer, or
2. the business was in a federal or state critical sector, but could not be operated in compliance with the social distancing and related requirements imposed by state or local public health officers, or
3. the business was in a federal or state critical sector, but was owner-operated and the owner was sick with, showing symptoms of, or had been directly exposed to COVID-19; was caring for another who was sick with, showing symptoms of, or had been directly exposed to COVID-19; or was caring for a minor child who did not have school or child care supervision.

ii. The commercial tenant experienced a substantial decrease in the tenant's business income resulting from COVID-19, the state of emergency, or related government response.

c. Within 10 business days of providing notice under paragraph 2(b), the commercial tenant provides the landlord with documentation or objectively verifiable information showing the commercial tenant's inability to pay rent was due to reasons related to COVID-19. Documentation may include, without limitation, financial statements, business records, physician's letter, and/or bills. If the commercial tenant does not provide the landlord with the documentation or objectively verifiable information within this time period, the landlord may pursue any enforcement action permitted under applicable law and the parties' rental agreement.

3. That nothing in this resolution shall allow a commercial tenant who is able to pay all or some of the rent due to delay paying that rent amount.
4. That nothing in this resolution shall relieve a commercial tenant of liability for unpaid rent or applicable late fees, which the landlord may seek after the expiration of the local

emergency declaration and which the commercial tenant must pay within three months of the expiration of the local emergency, unless the landlord and the commercial tenant agree upon an alternative payment arrangement. If a commercial tenant elects to vacate the premises while this resolution is effective, all rent due is owed at the time of the vacancy.

5. That this resolution may be used as an affirmative defense in an unlawful detainer proceeding commenced in violation of it.
6. That this resolution does not affect any non-eviction legal remedies available to the landlord or the landlord's ability to enter into alternative payment arrangements with commercial tenants.
7. That nothing in this order is intended to create, or creates, any rights or benefits, substantive or procedural, enforceable at law or in equity, against the City of Carlsbad, its subsidiaries, departments, officers, employees, agents, or any other person.
8. That if state or federal authorities enact laws or issue orders or regulations providing commercial tenants located in the City of Carlsbad with COVID-19 related eviction relief, those state or federal laws, orders, or regulations will control over this resolution and any implementing regulations adopted by the City Manager.
9. That as soon as possible, this resolution is to be filed with the City Clerk's Office and is to be given widespread notice and publicity.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 7th day of April, 2020, by the following vote, to wit:

AYES: Blackburn, Bhat-Patel, Schumacher.

NAYS: Hall.

ABSENT: None.



MATT HALL, Mayor



BARBARA ENGLERSON, City Clerk

(SEAL)



COMPARISON OF EVICTION MORATORIUM ORDINANCES IN SAN DIEGO COUNTY
As of September 8, 2020

City	Expiration	Applicability	Tenant Notification	Documentation Required	Payback Period	Late Fees Allowed	No Fault Eviction Provisions
Carlsbad	Until the local emergency is terminated or the withdrawal of Governor's order, whichever occurs first	Commercial Tenants	Within 10 days after rent is due	Within 10 days of providing notice to landlord	Within 3 months of the expiration of the local emergency	Yes	None
Chula Vista	Sep 30	Residential and Commercial Tenants and Homeowners	Within 7 days after rent due date	Within 7 days of providing notice to landlord	6 months from the expiration date of the ordinance.	No	Prohibits no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord
City of San Diego	Sep 30	Residential and Commercial Tenants	On or before the day rent is due	Within 7 days of providing notice to landlord	Until Dec 30	No	Includes protection from no-fault eviction for tenants who comply with the ordinance
County of San Diego (unincorporated areas only)	EXPIRED Jun 30	Residential and Commercial Tenants	Within 7 days after rent due date	Within 7 days of providing notice to landlord	Until Sep 30; one month extension possible if tenant continues to be impacted by COVID-19.	No	None
Coronado	N/A	N/A	N/A	N/A	N/A	N/A	N/A

City	Expiration	Applicability	Tenant Notification	Documentation Required	Payback Period	Late Fees Allowed	No Fault Eviction Provisions
Del Mar	EXPIRED May 31	Commercial Tenants	Within 7 days after rent due date	Tenant must have documentation available	Not specified	Not specified	No
El Cajon	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Encinitas	Until the local emergency is terminated or the withdrawal of Governor's order, whichever occurs first	Residential and Commercial Tenants	On or before the day each rent payment is due	Within 2 weeks of providing notice to landlord	6 months from the date the ordinance is no longer effective.	Yes	Includes protection from no-fault eviction for tenants who comply with the ordinance
Escondido	Sep 30	Residential and Commercial Tenants	Within 7 days after rent due date	Within 14 days of providing notice to landlord.	Until Dec 30	No	None
Imperial Beach	Until the Governor's Executive Order for the moratorium expires	Residential and Commercial Tenants	Within 7 days after the day rent is due, or 30 days after rent is due if circumstances prevent earlier notice	Within 7 days after providing notice to landlord, or 30 days after rent is due if circumstances prevent earlier notice	Payable upon lifting of ordinance or emergency	Yes	None
La Mesa	EXPIRED May 31	Residential and Commercial Tenants	Not Defined	Not Required	Payable upon lifting of ordinance or emergency	Yes	None
Lemon Grove	N/A	N/A	N/A	N/A	N/A	N/A	N/A

City	Expiration	Applicability	Tenant Notification	Documentation Required	Payback Period	Late Fees Allowed	No Fault Eviction Provisions
National City	Sep 30	Residential and Commercial Tenants and Homeowners	No later than 7 days after rent is due	Within 30 days after the day rent is due	Until Dec 31	No	Includes protection from no-fault eviction for tenants who comply with the ordinance
Oceanside	EXPIRED May 31	Residential and Commercial Tenants	Prior to rent due date	Within 1 week of providing notice to landlord	Not specified	Yes	None
Poway	N/A	N/A	N/A	N/A	N/A	N/A	N/A
San Marcos	Sep 30	Residential and Commercial Tenants	Within 7 days after rent due date	Within 7 days after rent due date	Payable upon lifting of ordinance or emergency	Yes	None
Solana Beach	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Santee	EXPIRED Jul 31	Residential and Commercial Tenants	Within 7 days after the day rent is due	Within 2 weeks of notifying landlord	Payback period equivalent to the length of the moratorium.	Yes	None
Vista	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Assembly Bill No. 3088

CHAPTER 37

An act to amend Sections 1946.2, 1947.12, and 1947.13 of, to amend, repeal, and add Sections 798.56, 1942.5, 2924.15 of, to add Title 19 (commencing with Section 3273.01) to Part 4 of Division 3 of, and to add and repeal Section 789.4 of, the Civil Code, and to amend, repeal, and add Sections 1161 and 1161.2 of, to add Section 1161.2.5 to, to add and repeal Section 116.223 of, and to add and repeal Chapter 5 (commencing with Section 1179.01) of Title 3 of Part 3 of, the Code of Civil Procedure, relating to COVID-19 relief, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 2020. Filed with Secretary of State August 31, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3088, Chiu. Tenancy: rental payment default: mortgage forbearance: state of emergency: COVID-19.

Existing law prescribes various requirements to be satisfied before the exercise of a power of sale under a mortgage or deed of trust. Existing law requires that a notice of default and a notice of sale be recorded and that specified periods of time elapse between the recording and the sale. Existing law establishes certain requirements in connection with foreclosures on mortgages and deeds of trust, including restrictions on the actions mortgage servicers may take while a borrower is attempting to secure a loan modification or has submitted a loan modification application. Existing law applies certain of those requirements only to a first lien mortgage or deed of trust that is secured by owner-occupied residential real property containing no more than four dwelling units.

This bill, the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, would, among other things, until January 1, 2023, additionally apply those protections to a first lien mortgage or deed of trust that is secured by residential real property that is occupied by a tenant, contains no more than four dwelling units, and meets certain criteria, including that a tenant occupying the property is unable to pay rent due to a reduction in income resulting from the novel coronavirus.

The bill would also enact the COVID-19 Small Landlord and Homeowner Relief Act of 2020 (Homeowner Act), which would require a mortgage servicer, as defined, to provide a specified written notice to a borrower, as defined, if the mortgage servicer denies forbearance during the effective time period, as defined, that states the reasons for that denial if the borrower was both current on payments as of February 1, 2020, and is experiencing a financial hardship that prevents the borrower from making timely payments

on the mortgage obligation due, directly or indirectly, to the COVID-19 emergency. The Homeowner Act would also require a mortgage servicer to comply with applicable federal guidance regarding borrower options following a COVID-19 related forbearance.

Existing law provides that a tenant is guilty of unlawful detainer if the tenant continues to possess the property without permission of the landlord after the tenant defaults on rent or fails to perform a condition or covenant of the lease under which the property is held, among other reasons. Existing law requires a tenant be served a 3 days' notice in writing to cure a default or perform a condition of the lease, or return possession of the property to the landlord, as specified. Existing law, the Mobilehome Residency Law, prohibits a tenancy from being terminated unless specified conditions are met, including that the tenant fails to pay rent, utility charges, or reasonable incidental service charges, and 3 days' notice in writing is provided to the tenant, as specified.

This bill would, until February 1, 2025, enact the COVID-19 Tenant Relief Act of 2020 (Tenant Act). The Tenant Act would require that any 3 days' notice that demands payment of COVID-19 rental debt that is served on a tenant during the covered time period meet specified criteria, including that the notice include an unsigned copy of a declaration of COVID-19-related financial distress and that the notice advise the tenant that the tenant will not be evicted for failure to comply with the notice if the tenant delivers a signed declaration of COVID-19-related financial distress to the landlord, as specified. The Tenant Act would define "covered time period" for purposes of these provisions to mean the time between March 1, 2020, and January 31, 2021. The Tenant Act would deem a 3 days' notice that fails to comply with this criteria void and insufficient to support a judgment for unlawful detainer or to terminate a tenancy under the Mobilehome Residency Law. The Tenant Act would prohibit a tenant that delivers a declaration, under penalty of perjury, of COVID-19-related financial distress pursuant to these provisions from being deemed in default with regard to the COVID-19 rental debt, as specified. By expanding the crime of perjury, this bill would create a state-mandated local program. The Tenant Act would prohibit a court from finding a tenant guilty of an unlawful detainer before February 1, 2021, subject to certain exceptions, including if the tenant was guilty of the unlawful detainer before March 1, 2020. The bill would prohibit, before October 5, 2020, a court from taking specified actions with respect to unlawful detainer actions, including issuing a summons on a complaint for unlawful detainer in any action that seeks possession of residential real property and that is based, in whole or in part, on nonpayment of rent or other charges.

The Tenant Act would also authorize a landlord to require a high-income tenant, as defined, to additionally submit documentation supporting the claim that the tenant has suffered COVID-19-related financial distress if the landlord has proof of income showing the tenant is a high-income tenant.

The Tenant Act would preempt an ordinance, resolution, regulation, or administrative action adopted by a city, county, or city and county in

response to the COVID-19 pandemic to protect tenants from eviction based on nonpayment of rental payments, as specified.

The bill would require the Business, Consumer Services and Housing Agency to, in consultation with the Department of Finance, engage with residential tenants, landlords, property owners, deed-restricted affordable housing providers, and financial sector stakeholders about strategies and approaches to direct potential future federal stimulus funding to most effectively and efficiently provide relief to distressed tenants, landlords, and property owners, as specified.

Existing law prohibits a landlord from taking specified actions with intent to terminate the occupancy under any lease or other tenancy or estate at will, however created, of property used by a tenant as the tenant's residence. Existing law makes a violator of those provisions subject to certain damages in a civil action.

This bill would, until February 1, 2021, make a violator of those provisions whose tenant has provided to that violator the declaration of COVID-19-related financial distress described above liable for damages in an amount between \$1,000 and \$2,500.

Existing law, The Small Claims Act, grants jurisdiction to a small claims court in cases where the amount demanded does not exceed \$5,000, as specified, and prohibits a person from filing more than 2 small claims actions in which the amount demanded exceeds \$2,500 anywhere in the state in any calendar year.

This bill would instead, until February 1, 2025, provide that a small claims court has jurisdiction in any action for recovery of COVID-19 rental debt, as defined, regardless of the amount demanded and would provide that a claim for recovery of a COVID-19 rental debt is exempt from the prohibition on filing more than 2 small claims actions described above.

Existing law, the Tenant Protection Act of 2019, prohibits, with certain exceptions, an owner of residential real property from increasing the gross rental rate for a dwelling or unit more than 5% plus the "percentage change in the cost of living," as defined, or 10%, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months, subject to specified conditions. The act exempts certain types of residential real properties, including dormitories constructed and maintained in connection with any higher education institution within the state for use and occupancy by students in attendance at the institution and housing that has been issued a certificate of occupancy within the previous 15 years.

This bill would revise and recast those exemptions to exempt dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school. The bill would also make clarifying changes to the definition of "percentage change in the cost of living."

This bill would also make clarifying and conforming changes.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020.

SEC. 2. The Legislature finds and declares all of the following:

(a) On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency in response to the COVID-19 pandemic. Measures necessary to contain the spread of COVID-19 have brought about widespread economic and societal disruption, placing the state in unprecedented circumstances.

(b) At the end of 2019, California already faced a housing affordability crisis. United States Census data showed that a majority of California tenant households qualified as “rent-burdened,” meaning that 30 percent or more of their income was used to pay rent. Over one-quarter of California tenant households were “severely rent-burdened,” meaning that they were spending over one-half of their income on rent alone.

(c) Millions of Californians are unexpectedly, and through no fault of their own, facing new public health requirements and unable to work and cover many basic expenses, creating tremendous uncertainty for California tenants, small landlords, and homeowners. While the Judicial Council’s Emergency Rule 1, effective April 6, 2020, temporarily halted evictions and stabilized housing for distressed Californians in furtherance of public health goals, the Judicial Council voted on August 14, 2020, to extend these protections through September 1, 2020, to allow the Legislature time to act before the end of the 2019-20 Legislative Session.

(d) There are strong indications that large numbers of California tenants will soon face eviction from their homes based on an inability to pay the rent or other financial obligations. Even if tenants are eventually able to pay their rent, small landlords will continue to face challenges covering their expenses, including mortgage payments in the ensuing months, placing them at risk of default and broader destabilization of the economy.

(e) There are strong indications that many homeowners will also lose their homes to foreclosure. While temporary forbearance is available to homeowners with federally backed mortgages pursuant to the CARES Act, and while some other lenders have voluntarily agreed to provide borrowers with additional time to pay, not all mortgages are covered.

(f) Stabilizing the housing situation for tenants and landlords is to the mutual benefit of both groups and will help the state address the pandemic, protect public health, and set the stage for recovery. It is, therefore, the

intent of the Legislature and the State of California to establish through statute a framework for all impacted parties to negotiate and avoid as many evictions and foreclosures as possible.

(g) This bill shall not relieve tenants, homeowners, or landlords of their financial and contractual obligations, but rather it seeks to forestall massive social and public health harm by preventing unpaid rental debt from serving as a cause of action for eviction or foreclosure during this historic and unforeseeable period and from unduly burdening the recovery through negative credit reporting. This framework for temporary emergency relief for financially distressed tenants, homeowners, and small landlords seeks to help stabilize Californians through the state of emergency in protection of their health and without the loss of their homes and property.

SEC. 3. Section 789.4 is added to the Civil Code, to read:

789.4. (a) In addition to the damages provided in subdivision (c) of Section 789.3 of the Civil Code, a landlord who violates Section 789.3 of the Civil Code, if the tenant has provided a declaration of COVID-19 financial distress pursuant to Section 1179.03 of the Code of Civil Procedure, shall be liable for damages in an amount that is at least one thousand dollars (\$1,000) but not more than two thousand five hundred dollars (\$2,500), as determined by the trier of fact.

(b) This section shall remain in effect until February 1, 2021, and as of that date is repealed.

SEC. 4. Section 798.56 of the Civil Code is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.

(c) (1) Conviction of the homeowner or resident for prostitution, for a violation of subdivision (d) of Section 243, paragraph (2) of subdivision (a), or subdivision (b), of Section 245, Section 288, or Section 451, of the Penal Code, or a felony controlled substance offense, if the act resulting in the conviction was committed anywhere on the premises of the mobilehome park, including, but not limited to, within the homeowner's mobilehome.

(2) However, the tenancy may not be terminated for the reason specified in this subdivision if the person convicted of the offense has permanently vacated, and does not subsequently reoccupy, the mobilehome.

(d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto.

No act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to

the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(e) (1) Except as provided for in the COVID-19 Tenant Relief Act of 2020 (Chapter 5 (commencing with Section 1179.01) of Title 3 of Part 3 of the Code of Civil Procedure), nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. For purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. A copy of this notice shall be sent to the persons or entities specified in subdivision (b) of Section 798.55 within 10 days after notice is delivered to the homeowner. If the homeowner cures the default, the notice need not be sent. The notice may be given at the same time as the 60 days' notice required for termination of the tenancy. A three-day notice given pursuant to this subdivision shall contain the following provisions printed in at least 12-point boldface type at the top of the notice, with the appropriate number written in the blank:

“Warning: This notice is the (insert number) three-day notice for nonpayment of rent, utility charges, or other reasonable incidental services that has been served upon you in the last 12 months. Pursuant to Civil Code Section 798.56 (e) (5), if you have been given a three-day notice to either pay rent, utility charges, or other reasonable incidental services or to vacate your tenancy on three or more occasions within a 12-month period, management is not required to give you a further three-day period to pay rent or vacate the tenancy before your tenancy can be terminated.”

(2) Payment by the homeowner prior to the expiration of the three-day notice period shall cure a default under this subdivision. If the homeowner does not pay prior to the expiration of the three-day notice period, the homeowner shall remain liable for all payments due up until the time the tenancy is vacated.

(3) Payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, and the registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to that payment.

(4) Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner, any junior lienholder, or the registered owner, if other than the homeowner, as provided by this subdivision, may not be exercised more than twice during a 12-month period.

(5) If a homeowner has been given a three-day notice to pay the amount due or to vacate the tenancy on three or more occasions within the preceding 12-month period and each notice includes the provisions specified in paragraph (1), no written three-day notice shall be required in the case of a subsequent nonpayment of rent, utility charges, or reasonable incidental service charges.

In that event, the management shall give written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, as specified in paragraph (b) of Section 798.55, by certified or registered mail, return receipt requested, within 10 days after notice is sent to the homeowner.

(6) When a copy of the 60 days' notice described in paragraph (5) is sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, the default may be cured by any of them on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:

(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner for the nonpayment of rent, utility charges, or reasonable incidental service charges was not sent to the legal owner, junior lienholder, or registered owner, of the mobilehome, if other than the homeowner, during the preceding 12-month period.

(B) The legal owner, junior lienholder, or registered owner of the mobilehome, if other than the homeowner, has not previously cured a default of the homeowner during the preceding 12-month period.

(C) The legal owner, junior lienholder or registered owner, if other than the homeowner, is not a financial institution or mobilehome dealer.

If the default is cured by the legal owner, junior lienholder, or registered owner within the 30-day period, the notice to remove the mobilehome from the park described in paragraph (5) shall be rescinded.

(f) Condemnation of the park.

(g) Change of use of the park or any portion thereof, provided:

(1) The management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed homeowner written notice thereof prior to the inception of the homeowner's tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, that conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

(h) The report required pursuant to subdivisions (b) and (i) of Section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to subdivision (g) of this section.

(i) For purposes of this section, "financial institution" means a state or national bank, state or federal savings and loan association or credit union, or similar organization, and mobilehome dealer as defined in Section 18002.6 of the Health and Safety Code or any other organization that, as part of its usual course of business, originates, owns, or provides loan servicing for loans secured by a mobilehome.

(j) This section remain in effect until February 1, 2025, and as of that date is repealed.

SEC. 5. Section 798.56 is added to the Civil Code, to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.

(c) (1) Conviction of the homeowner or resident for prostitution, for a violation of subdivision (d) of Section 243, paragraph (2) of subdivision (a), or subdivision (b), of Section 245, Section 288, or Section 451, of the Penal Code, or a felony controlled substance offense, if the act resulting in the conviction was committed anywhere on the premises of the mobilehome park, including, but not limited to, within the homeowner's mobilehome.

(2) However, the tenancy may not be terminated for the reason specified in this subdivision if the person convicted of the offense has permanently vacated, and does not subsequently reoccupy, the mobilehome.

(d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto.

No act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(e) (1) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. For purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. A copy of this notice shall be sent to the persons or entities specified in subdivision (b) of Section 798.55 within 10 days after notice is delivered to the homeowner. If the homeowner cures the default, the notice need not be sent. The notice may be given at the same time as the 60 days' notice required for termination of the tenancy. A three-day notice given pursuant to this subdivision shall contain the following provisions printed in at least 12-point boldface type at the top of the notice, with the appropriate number written in the blank:

“Warning: This notice is the (insert number) three-day notice for nonpayment of rent, utility charges, or other reasonable incidental services that has been served upon you in the last 12 months. Pursuant to Civil Code Section 798.56 (e) (5), if you have been given a three-day notice to either pay rent, utility charges, or other reasonable incidental services or to vacate your tenancy on three or more occasions within a 12-month period, management is not required to give you a further three-day period to pay rent or vacate the tenancy before your tenancy can be terminated.”

(2) Payment by the homeowner prior to the expiration of the three-day notice period shall cure a default under this subdivision. If the homeowner does not pay prior to the expiration of the three-day notice period, the homeowner shall remain liable for all payments due up until the time the tenancy is vacated.

(3) Payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on

behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, and the registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to that payment.

(4) Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner, any junior lienholder, or the registered owner, if other than the homeowner, as provided by this subdivision, may not be exercised more than twice during a 12-month period.

(5) If a homeowner has been given a three-day notice to pay the amount due or to vacate the tenancy on three or more occasions within the preceding 12-month period and each notice includes the provisions specified in paragraph (1), no written three-day notice shall be required in the case of a subsequent nonpayment of rent, utility charges, or reasonable incidental service charges.

In that event, the management shall give written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, as specified in paragraph (b) of Section 798.55, by certified or registered mail, return receipt requested, within 10 days after notice is sent to the homeowner.

(6) When a copy of the 60 days' notice described in paragraph (5) is sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, the default may be cured by any of them on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:

(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner for the nonpayment of rent, utility charges, or reasonable incidental service charges was not sent to the legal owner, junior lienholder, or registered owner, of the mobilehome, if other than the homeowner, during the preceding 12-month period.

(B) The legal owner, junior lienholder, or registered owner of the mobilehome, if other than the homeowner, has not previously cured a default of the homeowner during the preceding 12-month period.

(C) The legal owner, junior lienholder or registered owner, if other than the homeowner, is not a financial institution or mobilehome dealer.

If the default is cured by the legal owner, junior lienholder, or registered owner within the 30-day period, the notice to remove the mobilehome from the park described in paragraph (5) shall be rescinded.

(f) Condemnation of the park.

(g) Change of use of the park or any portion thereof, provided:

(1) The management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give the homeowners six months' or more written notice of termination of tenancy.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed homeowner written notice thereof prior to the inception of the homeowner's tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, that conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

(h) The report required pursuant to subdivisions (b) and (i) of Section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to subdivision (g) of this section.

(i) For purposes of this section, "financial institution" means a state or national bank, state or federal savings and loan association or credit union, or similar organization, and mobilehome dealer as defined in Section 18002.6 of the Health and Safety Code or any other organization that, as part of its usual course of business, originates, owns, or provides loan servicing for loans secured by a mobilehome.

(j) This section shall become operative on February 1, 2025.

SEC. 6. Section 1942.5 of the Civil Code is amended to read:

1942.5. (a) If the lessor retaliates against the lessee because of the exercise by the lessee of the lessee's rights under this chapter or because of the lessee's complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days of any of the following:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, has provided notice of a suspected bed bug infestation, or has made an oral complaint to the lessor regarding tenantability.

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability.

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice.

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability.

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke subdivision (a) more than once in any 12-month period.

(c) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited under subdivision (a). This subdivision shall in no way limit the definition of retaliatory conduct prohibited under this section.

(d) Notwithstanding subdivision (a), it is unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of those acts, for the purpose of retaliating against the lessee because the lessee has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law. It is also unlawful for a lessor to bring an action for unlawful detainer based on a cause of action other than nonpayment of COVID-19 rental debt, as defined in Section 1179.02 of the Code of Civil Procedure, for the purpose of retaliating against the lessee because the lessee has a COVID-19 rental debt. In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor's conduct was, in fact, retaliatory.

(e) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited under subdivision (d). This subdivision shall in no way limit the definition of retaliatory conduct prohibited under this section.

(f) This section does not limit in any way the exercise by the lessor of the lessor's rights under any lease or agreement or any law pertaining to the hiring of property or the lessor's right to do any of the acts described in subdivision (a) or (d) for any lawful cause. Any waiver by a lessee of the lessee's rights under this section is void as contrary to public policy.

(g) Notwithstanding subdivisions (a) to (f), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (d), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do

any of the other acts described in subdivision (a) or (d). If the statement is controverted, the lessor shall establish its truth at the trial or other hearing.

(h) Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following:

(1) The actual damages sustained by the lessee.

(2) Punitive damages in an amount of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to that act.

(i) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action.

(j) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

(k) A lessor does not violate subdivision (c) or (e) by complying with any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant.

(l) This section shall remain in effect until February 1, 2021, and as of that date is repealed.

SEC. 7. Section 1942.5 is added to the Civil Code, to read:

1942.5. (a) If the lessor retaliates against the lessee because of the exercise by the lessee of the lessee's rights under this chapter or because of the lessee's complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days of any of the following:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, has provided notice of a suspected bed bug infestation, or has made an oral complaint to the lessor regarding tenantability.

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability.

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice.

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability.

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor.

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive.

(b) A lessee may not invoke subdivision (a) more than once in any 12-month period.

(c) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited under subdivision (a). This subdivision shall in no way limit the definition of retaliatory conduct prohibited under this section.

(d) Notwithstanding subdivision (a), it is unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of those acts, for the purpose of retaliating against the lessee because the lessee has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law. In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of producing evidence that the lessor's conduct was, in fact, retaliatory.

(e) To report, or to threaten to report, the lessee or individuals known to the landlord to be associated with the lessee to immigration authorities is a form of retaliatory conduct prohibited under subdivision (d). This subdivision shall in no way limit the definition of retaliatory conduct prohibited under this section.

(f) This section does not limit in any way the exercise by the lessor of the lessor's rights under any lease or agreement or any law pertaining to the hiring of property or the lessor's right to do any of the acts described in subdivision (a) or (d) for any lawful cause. Any waiver by a lessee of the lessee's rights under this section is void as contrary to public policy.

(g) Notwithstanding subdivisions (a) to (f), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (d), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do any of the other acts described in subdivision (a) or (d). If the statement is controverted, the lessor shall establish its truth at the trial or other hearing.

(h) Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following:

(1) The actual damages sustained by the lessee.

(2) Punitive damages in an amount of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to that act.

(i) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action.

(j) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

(k) A lessor does not violate subdivision (c) or (e) by complying with any legal obligation under any federal government program that provides for rent limitations or rental assistance to a qualified tenant.

(l) This section shall become operative on February 1, 2021.

SEC. 8. Section 1946.2 of the Civil Code is amended to read:

1946.2. (a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate tenancy. If any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this subdivision shall only apply if either of the following are satisfied:

(1) All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.

(2) One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

(b) For purposes of this section, "just cause" includes either of the following:

(1) At-fault just cause, which is any of the following:

(A) Default in the payment of rent.

(B) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.

(C) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(D) Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(E) The tenant had a written lease that terminated on or after January 1, 2020, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section or any other provision of law.

(F) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the Penal Code, on or off the residential real property, that is directed at any owner or agent of the owner of the residential real property.

(G) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(H) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of this code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.

(I) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(J) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the Code of Civil Procedure.

(K) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the Code of Civil Procedure.

(2) No-fault just cause, which includes any of the following:

(A) (i) Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.

(ii) For leases entered into on or after July 1, 2020, clause (i) shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease if the owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the residential real property. Addition of a provision allowing the owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1).

(B) Withdrawal of the residential real property from the rental market.

(C) (i) The owner complying with any of the following:

(I) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(II) An order issued by a government agency or court to vacate the residential real property.

(III) A local ordinance that necessitates vacating the residential real property.

(ii) If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph (3) of subdivision (d).

(D) (i) Intent to demolish or to substantially remodel the residential real property.

(ii) For purposes of this subparagraph, "substantially remodel" means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to

cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(d) (1) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on a no-fault just cause described in paragraph (2) of subdivision (b), the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:

(A) Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph (3).

(B) Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant of the tenant's right to relocation assistance or rent waiver pursuant to this section. If the owner elects to waive the rent for the final month of the tenancy as provided in subparagraph (B) of paragraph (1), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.

(3) (A) The amount of relocation assistance or rent waiver shall be equal to one month of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy. Any relocation assistance shall be provided within 15 calendar days of service of the notice.

(B) If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.

(C) The relocation assistance or rent waiver required by this subdivision shall be credited against any other relocation assistance required by any other law.

(4) An owner's failure to strictly comply with this subdivision shall render the notice of termination void.

(e) This section shall not apply to the following types of residential real properties or residential circumstances:

(1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940.

(2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.

(3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

(4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

(5) Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.

(6) A property containing two separate dwelling units within a single structure in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit.

(7) Housing that has been issued a certificate of occupancy within the previous 15 years.

(8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) (i) The tenants have been provided written notice that the residential property is exempt from this section using the following statement:

“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

(ii) For a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For any tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b).

(9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(f) An owner of residential real property subject to this section shall provide notice to the tenant as follows:

(1) For any tenancy commenced or renewed on or after July 1, 2020, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

(2) For a tenancy existing prior to July 1, 2020, by written notice to the tenant no later than August 1, 2020, or as an addendum to the lease or rental agreement.

(3) The notification or lease provision shall be in no less than 12-point type, and shall include the following:

“California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.”

The provision of the notice shall be subject to Section 1632.

(g) (1) This section does not apply to the following residential real property:

(A) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted on or before September 1, 2019, in which case the local ordinance shall apply.

(B) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted or amended after September 1, 2019, that is more protective than this section, in which case the local ordinance shall apply. For purposes of this subparagraph, an ordinance is “more protective” if it meets all of the following criteria:

(i) The just cause for termination of a residential tenancy under the local ordinance is consistent with this section.

(ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.

(iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.

(2) A residential real property shall not be subject to both a local ordinance requiring just cause for termination of a residential tenancy and this section.

(3) A local ordinance adopted after September 1, 2019, that is less protective than this section shall not be enforced unless this section is repealed.

(h) Any waiver of the rights under this section shall be void as contrary to public policy.

(i) For the purposes of this section, the following definitions shall apply:

(1) "Owner" and "residential real property" have the same meaning as those terms are defined in Section 1954.51.

(2) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

(j) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 9. Section 1947.12 of the Civil Code is amended to read:

1947.12. (a) (1) Subject to subdivision (b), an owner of residential real property shall not, over the course of any 12-month period, increase the gross rental rate for a dwelling or a unit more than 5 percent plus the percentage change in the cost of living, or 10 percent, whichever is lower, of the lowest gross rental rate charged for that dwelling or unit at any time during the 12 months prior to the effective date of the increase. In determining the lowest gross rental amount pursuant to this section, any rent discounts, incentives, concessions, or credits offered by the owner of such unit of residential real property and accepted by the tenant shall be excluded. The gross per-month rental rate and any owner-offered discounts, incentives, concessions, or credits shall be separately listed and identified in the lease or rental agreement or any amendments to an existing lease or rental agreement.

(2) If the same tenant remains in occupancy of a unit of residential real property over any 12-month period, the gross rental rate for the unit of residential real property shall not be increased in more than two increments over that 12-month period, subject to the other restrictions of this subdivision governing gross rental rate increase.

(b) For a new tenancy in which no tenant from the prior tenancy remains in lawful possession of the residential real property, the owner may establish the initial rental rate not subject to subdivision (a). Subdivision (a) is only applicable to subsequent increases after that initial rental rate has been established.

(c) A tenant of residential real property subject to this section shall not enter into a sublease that results in a total rent for the premises that exceeds the allowable rental rate authorized by subdivision (a). Nothing in this subdivision authorizes a tenant to sublet or assign the tenant's interest where otherwise prohibited.

(d) This section shall not apply to the following residential real properties:

(1) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(2) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

(3) Housing subject to rent or price control through a public entity's valid exercise of its police power consistent with Chapter 2.7 (commencing with Section 1954.50) that restricts annual increases in the rental rate to an amount less than that provided in subdivision (a).

(4) Housing that has been issued a certificate of occupancy within the previous 15 years.

(5) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) (i) The tenants have been provided written notice that the residential real property is exempt from this section using the following statement:

“This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

(ii) For a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For a tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b) of Section 1946.2.

(6) A property containing two separate dwelling units within a single structure in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit.

(e) An owner shall provide notice of any increase in the rental rate, pursuant to subdivision (a), to each tenant in accordance with Section 827.

(f) (1) On or before January 1, 2030, the Legislative Analyst's Office shall report to the Legislature regarding the effectiveness of this section and Section 1947.13. The report shall include, but not be limited to, the impact of the rental rate cap pursuant to subdivision (a) on the housing market within the state.

(2) The report required by paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(g) For the purposes of this section, the following definitions shall apply:

(1) “Consumer Price Index for All Urban Consumers for All Items” means the following:

(A) The Consumer Price Index for All Urban Consumers for All Items (CPI-U) for the metropolitan area in which the property is located, as published by the United States Bureau of Labor Statistics, which are as follows:

(i) The CPI-U for the Los Angeles-Long Beach-Anaheim metropolitan area covering the Counties of Los Angeles and Orange.

(ii) The CPI-U for the Riverside-San Bernardo-Ontario metropolitan area covering the Counties of Riverside and San Bernardino.

(iii) The CPI-U for the San Diego-Carlsbad metropolitan area covering the County of San Diego.

(iv) The CPI-U for the San Francisco-Oakland-Hayward metropolitan area covering the Counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo.

(v) Any successor metropolitan area index to any of the indexes listed in clauses (i) to (iv), inclusive.

(B) If the United States Bureau of Labor Statistics does not publish a CPI-U for the metropolitan area in which the property is located, the California Consumer Price Index for All Urban Consumers for All Items as published by the Department of Industrial Relations.

(C) On or after January 1, 2021, if the United States Bureau of Labor Statistics publishes a CPI-U index for one or more metropolitan areas not listed in subparagraph (A), that CPI-U index shall apply in those areas with respect to rent increases that take effect on or after August 1 of the calendar year in which the 12-month change in that CPI-U, as described in subparagraph (B) of paragraph (3), is first published.

(2) “Owner” and “residential real property” shall have the same meaning as those terms are defined in Section 1954.51.

(3) (A) “Percentage change in the cost of living” means the percentage change, computed pursuant to subparagraph (B), in the applicable, as determined pursuant to paragraph (1), Consumer Price Index for All Urban Consumers for All Items.

(B) (i) For rent increases that take effect before August 1 of any calendar year, the following shall apply:

(I) The percentage change shall be the percentage change in the amount published for April of the immediately preceding calendar year and April of the year before that.

(II) If there is not an amount published in April for the applicable geographic area, the percentage change shall be the percentage change in the amount published for March of the immediately preceding calendar year and March of the year before that.

(ii) For rent increases that take effect on or after August 1 of any calendar year, the following shall apply:

(I) The percentage change shall be the percentage change in the amount published for April of that calendar year and April of the immediately preceding calendar year.

(II) If there is not an amount published in April for the applicable geographic area, the percentage change shall be the percentage change in the amount published for March of that calendar year and March of the immediately preceding calendar year.

(iii) The percentage change shall be rounded to the nearest one-tenth of 1 percent.

(4) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

(h) (1) This section shall apply to all rent increases subject to subdivision (a) occurring on or after March 15, 2019.

(2) In the event that an owner has increased the rent by more than the amount permissible under subdivision (a) between March 15, 2019, and January 1, 2020, both of the following shall apply:

(A) The applicable rent on January 1, 2020, shall be the rent as of March 15, 2019, plus the maximum permissible increase under subdivision (a).

(B) An owner shall not be liable to the tenant for any corresponding rent overpayment.

(3) An owner of residential real property subject to subdivision (a) who increased the rental rate on that residential real property on or after March 15, 2019, but prior to January 1, 2020, by an amount less than the rental rate increase permitted by subdivision (a) shall be allowed to increase the rental rate twice, as provided in paragraph (2) of subdivision (a), within 12 months of March 15, 2019, but in no event shall that rental rate increase exceed the maximum rental rate increase permitted by subdivision (a).

(i) Any waiver of the rights under this section shall be void as contrary to public policy.

(j) This section shall remain in effect until January 1, 2030, and as of that date is repealed.

(k) (1) The Legislature finds and declares that the unique circumstances of the current housing crisis require a statewide response to address rent gouging by establishing statewide limitations on gross rental rate increases.

(2) It is the intent of the Legislature that this section should apply only for the limited time needed to address the current statewide housing crisis, as described in paragraph (1). This section is not intended to expand or limit the authority of local governments to establish local policies regulating rents consistent with Chapter 2.7 (commencing with Section 1954.50), nor is it a statement regarding the appropriate, allowable rental rate increase when a local government adopts a policy regulating rent that is otherwise consistent with Chapter 2.7 (commencing with Section 1954.50).

(3) Nothing in this section authorizes a local government to establish limitations on any rental rate increases not otherwise permissible under Chapter 2.7 (commencing with Section 1954.50), or affects the existing authority of a local government to adopt or maintain rent controls or price controls consistent with that chapter.

SEC. 10. Section 1947.13 of the Civil Code is amended to read:

1947.13. (a) Notwithstanding subdivision (a) of Section 1947.12, upon the expiration of rental restrictions, the following shall apply:

(1) The owner of an assisted housing development who demonstrates, under penalty of perjury, compliance with all applicable provisions of Sections 65863.10, 65863.11, and 65863.13 of the Government Code and any other applicable federal, state, or local law or regulation may establish the initial unassisted rental rate for units in the applicable housing development. Any subsequent rent increase in the development shall be subject to Section 1947.12.

(2) The owner of a deed-restricted affordable housing unit or an affordable housing unit subject to a regulatory restriction contained in an agreement with a government agency limiting rental rates that is not within an assisted housing development may, subject to any applicable federal, state, or local law or regulation, establish the initial rental rate for the unit upon the expiration of the restriction. Any subsequent rent increase for the unit shall be subject to Section 1947.12.

(b) For purposes of this section:

(1) "Assisted housing development" has the same meaning as defined in paragraph (3) of subdivision (a) of Section 65863.10 of the Government Code.

(2) "Expiration of rental restrictions" has the same meaning as defined in paragraph (5) of subdivision (a) of Section 65863.10 of the Government Code.

(c) This section shall remain in effect until January 1, 2030, and as of that date is repealed.

(d) Any waiver of the rights under this section shall be void as contrary to public policy.

(e) This section shall not be construed to preempt any local law.

SEC. 11. Section 2924.15 of the Civil Code is amended to read:

2924.15. (a) Unless otherwise provided, paragraph (5) of subdivision (a) of Section 2924, and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 shall apply only to a first lien mortgage or deed of trust that meets either of the following criteria:

(1) (A) The first lien mortgage or deed of trust is secured by owner-occupied residential real property containing no more than four dwelling units.

(B) For purposes of this paragraph, "owner-occupied" means that the property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes.

(2) The first lien mortgage or deed of trust is secured by residential real property that is occupied by a tenant, contains no more than four dwelling units, and meets all of the conditions described in subparagraph (B).

(A) For the purposes of this paragraph:

(i) "Applicable lease" means a lease entered pursuant to an arm's length transaction before, and in effect on, March 4, 2020.

(ii) “Arm’s length transaction” means a lease entered into in good faith and for valuable consideration that reflects the fair market value in the open market between informed and willing parties.

(iii) “Occupied by a tenant” means that the property is the principal residence of a tenant.

(B) To meet the conditions of this subdivision, a first lien mortgage or deed of trust shall have all of the following characteristics:

(i) The property is owned by an individual who owns no more than three residential real properties, or by one or more individuals who together own no more than three residential real properties, each of which contains no more than four dwelling units.

(ii) The property is occupied by a tenant pursuant to an applicable lease.

(iii) A tenant occupying the property is unable to pay rent due to a reduction in income resulting from the novel coronavirus.

(C) Relief shall be available pursuant to subdivision (a) of Section 2924 and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 for so long as the property remains occupied by a tenant pursuant to a lease entered in an arm’s length transaction.

(b) This section shall remain in effect until January 1, 2023, and as of that date is repealed.

SEC. 12. Section 2924.15 is added to the Civil Code, to read:

2924.15. (a) Unless otherwise provided, paragraph (5) of subdivision (a) of Section 2924 and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 shall apply only to a first lien mortgage or deed of trust that is secured by owner-occupied residential real property containing no more than four dwelling units.

(b) As used in this section, “owner-occupied” means that the property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes.

(c) This section shall become operative on January 1, 2023.

SEC. 13. Title 19 (commencing with Section 3273.01) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 19. COVID-19 SMALL LANDLORD AND HOMEOWNER RELIEF ACT

CHAPTER 1. TITLE AND DEFINITIONS

3273.01. This title is known, and may be cited, as the “COVID-19 Small Landlord and Homeowner Relief Act of 2020.”

3273.1. For purposes of this title:

(a) (1) “Borrower” means any of the following:

(A) A natural person who is a mortgagor or trustor or a confirmed successor in interest, as defined in Section 1024.31 of Title 12 of the Code of Federal Regulations.

(B) An entity other than a natural person only if the secured property contains no more than four dwelling units and is currently occupied by one or more residential tenants.

(2) "Borrower" shall not include an individual who has surrendered the secured property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the mortgagee, trustee, beneficiary, or authorized agent.

(3) Unless the property securing the mortgage contains one or more deed-restricted affordable housing units or one or more affordable housing units subject to a regulatory restriction limiting rental rates that is contained in an agreement with a government agency, the following mortgagors shall not be considered a "borrower":

(A) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(B) A corporation.

(C) A limited liability company in which at least one member is a corporation.

(4) "Borrower" shall also mean a person who holds a power of attorney for a borrower described in paragraph (1).

(b) "Effective time period" means the time period between the operational date of this title and April 1, 2021.

(c) (1) "Mortgage servicer" or "lienholder" means a person or entity who directly services a loan or who is responsible for interacting with the borrower, managing the loan account on a daily basis, including collecting and crediting periodic loan payments, managing any escrow account, or enforcing the note and security instrument, either as the current owner of the promissory note or as the current owner's authorized agent.

(2) "Mortgage servicer" or "lienholder" also means a subservicing agent to a master servicer by contract.

(3) "Mortgage servicer" shall not include a trustee, or a trustee's authorized agent, acting under a power of sale pursuant to a deed of trust.

3273.2. (a) The provisions of this title apply to a mortgage or deed of trust that is secured by residential property containing no more than four dwelling units, including individual units of condominiums or cooperatives, and that was outstanding as of the enactment date of this title.

(b) The provisions of this title shall apply to a depository institution chartered under federal or state law, a person covered by the licensing requirements of Division 9 (commencing with Section 22000) or Division 20 (commencing with Section 50000) of the Financial Code, or a person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code.

CHAPTER 2. MORTGAGES

3273.10. (a) If a mortgage servicer denies a forbearance request made during the effective time period, the mortgage servicer shall provide written

notice to the borrower that sets forth the specific reason or reasons that forbearance was not provided, if both of the following conditions are met:

(1) The borrower was current on payment as of February 1, 2020.

(2) The borrower is experiencing a financial hardship that prevents the borrower from making timely payments on the mortgage obligation due, directly or indirectly, to the COVID-19 emergency.

(b) If the written notice in subdivision (a) cites any defect in the borrower's request, including an incomplete application or missing information, that is curable, the mortgage servicer shall do all of the following:

(1) Specifically identify any curable defect in the written notice.

(2) Provide 21 days from the mailing date of the written notice for the borrower to cure any identified defect.

(3) Accept receipt of the borrower's revised request for forbearance before the aforementioned 21-day period lapses.

(4) Respond to the borrower's revised request within five business days of receipt of the revised request.

(c) If a mortgage servicer denies a forbearance request, the declaration required by subdivision (b) of Section 2923.5 shall include the written notice together with a statement as to whether forbearance was or was not subsequently provided.

(d) A mortgage servicer, mortgagee, or beneficiary of the deed of trust, or an authorized agent thereof, who, with respect to a borrower of a federally backed mortgage, complies with the relevant provisions regarding forbearance in Section 4022 of the federal Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) (Public Law 116-136), including any amendments or revisions to those provisions, shall be deemed to be in compliance with this section. A mortgage servicer of a nonfederally backed mortgage that provides forbearance that is consistent with the requirements of the CARES Act for federally backed mortgages shall be deemed to be in compliance with this section.

3273.11. (a) A mortgage servicer shall comply with applicable federal guidance regarding borrower options following a COVID-19 related forbearance.

(b) Any mortgage servicer, mortgagee, or beneficiary of the deed of trust, or authorized agent thereof, who, with respect to a borrower of a federally backed loan, complies with the guidance to mortgagees regarding borrower options following a COVID-19-related forbearance provided by the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal Housing Administration of the United States Department of Housing and Urban Development, the United States Department of Veterans Affairs, or the Rural Development division of the United States Department of Agriculture, including any amendments, updates, or revisions to that guidance, shall be deemed to be in compliance with this section.

(c) With respect to a nonfederally backed loan, any mortgage servicer, mortgagee, or beneficiary of the deed of trust, or authorized agent thereof,

who, regarding borrower options following a COVID-19 related forbearance, reviews a customer for a solution that is consistent with the guidance to servicers, mortgagees, or beneficiaries provided by Fannie Mae, Freddie Mac, the Federal Housing Administration of the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Rural Development division of the Department of Agriculture, including any amendments, updates or revisions to such guidance, shall be deemed to be in compliance with this section.

3273.12. It is the intent of the Legislature that a mortgage servicer offer a borrower a postforbearance loss mitigation option that is consistent with the mortgage servicer's contractual or other authority.

3273.14. A mortgage servicer shall communicate about forbearance and postforbearance options described in this article in the borrower's preferred language when the mortgage servicer regularly communicates with any borrower in that language.

3273.15. (a) A borrower who is harmed by a material violation of this title may bring an action to obtain injunctive relief, damages, restitution, and any other remedy to redress the violation.

(b) A court may award a prevailing borrower reasonable attorney's fees and costs in any action based on any violation of this title in which injunctive relief against a sale, including a temporary restraining order, is granted. A court may award a prevailing borrower reasonable attorney's fees and costs in an action for a violation of this article in which relief is granted but injunctive relief against a sale is not granted.

(c) The rights, remedies, and procedures provided to borrowers by this section are in addition to and independent of any other rights, remedies, or procedures under any other law. This section shall not be construed to alter, limit, or negate any other rights, remedies, or procedures provided to borrowers by law.

3273.16. Any waiver by a borrower of the provisions of this article is contrary to public policy and shall be void.

SEC. 14. Section 116.223 is added to the Code of Civil Procedure, to read:

116.223. (a) The Legislature hereby finds and declares as follows:

(1) There is anticipated to be an unprecedented number of claims arising out of nonpayment of residential rent that occurred between March 1, 2020, and January 31, 2021, related to the COVID-19 pandemic.

(2) These disputes are of special importance to the parties and of significant social and economic consequence collectively as the people of the State of California grapple with the health, economic, and social impacts of the COVID-19 pandemic.

(3) It is essential that the parties have access to a judicial forum to resolve these disputes expeditiously, inexpensively, and fairly.

(4) It is the intent of the Legislature that landlords of residential real property and their tenants have the option to litigate disputes regarding rent which is unpaid for the time period between March 1, 2020, and January 31, 2021, in the small claims court. It is the intent of the Legislature that

the jurisdictional limits of the small claims court not apply to these disputes over COVID-19 rental debt.

(b) (1) Notwithstanding paragraph (1) of subdivision (a) Section 116.220, Section 116.221, or any other law, the small claims court has jurisdiction in any action for recovery of COVID-19 rental debt, as defined in Section 1179.02, and any defenses thereto, regardless of the amount demanded.

(2) In an action described in paragraph (1), the court shall reduce the damages awarded for any amount of COVID-19 rental debt sought by payments made to the landlord to satisfy the COVID-19 rental debt, including payments by the tenant, rental assistance programs, or another third party pursuant to paragraph (3) of subdivision (a) of Section 1947.3 of the Civil Code.

(3) An action to recover COVID-19 rental debt, as defined in Section 1179.02, brought pursuant to this subdivision shall not be commenced before March 1, 2021.

(c) Any claim for recovery of COVID-19 rental debt, as defined in Section 1179.02, shall not be subject to Section 116.231, notwithstanding the fact that a landlord of residential rental property may have brought two or more small claims actions in which the amount demanded exceeded two thousand five hundred dollars (\$2,500) in any calendar year.

(d) This section shall remain in effect until February 1, 2025, and as of that date is repealed.

SEC. 15. Section 1161 of the Code of Civil Procedure is amended to read:

1161. A tenant of real property, for a term less than life, or the executor or administrator of the tenant's estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. When the tenant continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to the tenant; provided the expiration is of a nondefault nature however brought about without the permission of the landlord, or the successor in estate of the landlord, if applicable; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant, or employer and employee, or principal and agent, or licensor and licensee, has been lawfully terminated or the time fixed for occupancy by the agreement between the parties has expired; but nothing in this subdivision shall be construed as preventing the removal of the occupant in any other lawful manner; but in case of a tenancy at will, it shall first be terminated by notice, as prescribed in the Civil Code.

2. When the tenant continues in possession, in person or by subtenant, without the permission of the landlord, or the successor in estate of the landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, excluding Saturdays and Sundays and other judicial holidays, in writing, requiring its payment, stating the amount that is due, the name, telephone number, and address of the person to whom the rent payment shall be made,

and, if payment may be made personally, the usual days and hours that person will be available to receive the payment (provided that, if the address does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner), or the number of an account in a financial institution into which the rental payment may be made, and the name and street address of the institution (provided that the institution is located within five miles of the rental property), or if an electronic funds transfer procedure has been previously established, that payment may be made pursuant to that procedure, or possession of the property, shall have been served upon the tenant and if there is a subtenant in actual occupation of the premises, also upon the subtenant.

The notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, if the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord or the successor in estate of the landlord, if applicable, the tenant shall be deemed to be holding by permission of the landlord or successor in estate of the landlord, if applicable, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during that year, and the holding over for that period shall be taken and construed as a consent on the part of a tenant to hold for another year.

An unlawful detainer action under this paragraph shall be subject to the COVID-19 Tenant Relief Act of 2020 (Chapter 5 (commencing with Section 1179.01)) if the default in the payment of rent is based upon the COVID-19 rental debt.

3. When the tenant continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, excluding Saturdays and Sundays and other judicial holidays, in writing, requiring the performance of those conditions or covenants, or the possession of the property, shall have been served upon the tenant, and if there is a subtenant in actual occupation of the premises, also, upon the subtenant. Within three days, excluding Saturdays and Sundays and other judicial holidays, after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to the lessee or the subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of that person's unlawful detention of the premises underlet to or held by that person.

An unlawful detainer action under this paragraph shall be subject to the COVID-19 Tenant Relief Act of 2020 (Chapter 5 (commencing with Section 1179.01)) if the neglect or failure to perform other conditions or covenants of the lease or agreement is based upon the COVID-19 rental debt.

4. Any tenant, subtenant, or executor or administrator of that person's estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of the lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using the premises for an unlawful purpose, thereby terminates the lease, and the landlord, or the landlord's successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of the demised premises under this chapter. For purposes of this subdivision, a person who commits or maintains a public nuisance as described in Section 3482.8 of the Civil Code, or who commits an offense described in subdivision (c) of Section 3485 of the Civil Code, or subdivision (c) of Section 3486 of the Civil Code, or uses the premises to further the purpose of that offense shall be deemed to have committed a nuisance upon the premises.

5. When the tenant gives written notice as provided in Section 1946 of the Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice, without the permission of the landlord, or the successor in estate of the landlord, if applicable.

6. As used in this section:

"COVID-19 rental debt" has the same meaning as defined in Section 1179.02.

"Tenant" includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

7. This section shall remain in effect until February 1, 2025, and as of that date is repealed.

SEC. 16. Section 1161 is added to the Code of Civil Procedure, to read:

1161. A tenant of real property, for a term less than life, or the executor or administrator of the tenant's estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. When the tenant continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to the tenant; provided the expiration is of a nondefault nature however brought about without the permission of the landlord, or the successor in estate of the landlord, if applicable; including the case where the person to be removed became the occupant of the premises as a servant,

employee, agent, or licensee and the relation of master and servant, or employer and employee, or principal and agent, or licensor and licensee, has been lawfully terminated or the time fixed for occupancy by the agreement between the parties has expired; but nothing in this subdivision shall be construed as preventing the removal of the occupant in any other lawful manner; but in case of a tenancy at will, it shall first be terminated by notice, as prescribed in the Civil Code.

2. When the tenant continues in possession, in person or by subtenant, without the permission of the landlord, or the successor in estate of the landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, excluding Saturdays and Sundays and other judicial holidays, in writing, requiring its payment, stating the amount that is due, the name, telephone number, and address of the person to whom the rent payment shall be made, and, if payment may be made personally, the usual days and hours that person will be available to receive the payment (provided that, if the address does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of mailing to the name and address provided by the owner), or the number of an account in a financial institution into which the rental payment may be made, and the name and street address of the institution (provided that the institution is located within five miles of the rental property), or if an electronic funds transfer procedure has been previously established, that payment may be made pursuant to that procedure, or possession of the property, shall have been served upon the tenant and if there is a subtenant in actual occupation of the premises, also upon the subtenant.

The notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, if the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord or the successor in estate of the landlord, if applicable, the tenant shall be deemed to be holding by permission of the landlord or successor in estate of the landlord, if applicable, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during that year, and the holding over for that period shall be taken and construed as a consent on the part of a tenant to hold for another year.

3. When the tenant continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, excluding Saturdays and Sundays and other judicial holidays, in writing, requiring the performance of those conditions or covenants, or the possession of the property, shall have been served upon the tenant, and if there is a subtenant in actual occupation of the premises, also, upon the

subtenant. Within three days, excluding Saturdays and Sundays and other judicial holidays, after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to the lessee or the subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of that person's unlawful detention of the premises underlet to or held by that person.

4. Any tenant, subtenant, or executor or administrator of that person's estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of the lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using the premises for an unlawful purpose, thereby terminates the lease, and the landlord, or the landlord's successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of the demised premises under this chapter. For purposes of this subdivision, a person who commits or maintains a public nuisance as described in Section 3482.8 of the Civil Code, or who commits an offense described in subdivision (c) of Section 3485 of the Civil Code, or subdivision (c) of Section 3486 of the Civil Code, or uses the premises to further the purpose of that offense shall be deemed to have committed a nuisance upon the premises.

5. When the tenant gives written notice as provided in Section 1946 of the Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice, without the permission of the landlord, or the successor in estate of the landlord, if applicable.

6. As used in this section, "tenant" includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

7. This section shall become operative on February 1, 2025.

SEC. 17. Section 1161.2 of the Code of Civil Procedure is amended to read:

1161.2. (a) (1) The clerk shall allow access to limited civil case records filed under this chapter, including the court file, index, and register of actions, only as follows:

(A) To a party to the action, including a party's attorney.

(B) To a person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any.

(C) To a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.

(D) To a person by order of the court, which may be granted ex parte, on a showing of good cause.

(E) Except as provided in subparagraph (G), to any person by order of the court if judgment is entered for the plaintiff after trial more than 60 days since the filing of the complaint. The court shall issue the order upon issuing judgment for the plaintiff.

(F) Except as provided in subparagraph (G), to any other person 60 days after the complaint has been filed if the plaintiff prevails in the action within 60 days of the filing of the complaint, in which case the clerk shall allow access to any court records in the action. If a default or default judgment is set aside more than 60 days after the complaint has been filed, this section shall apply as if the complaint had been filed on the date the default or default judgment is set aside.

(G) (i) In the case of a complaint involving residential property based on Section 1161a as indicated in the caption of the complaint, as required in subdivision (c) of Section 1166, to any other person, if 60 days have elapsed since the complaint was filed with the court, and, as of that date, judgment against all defendants has been entered for the plaintiff, after a trial.

(ii) Subparagraphs (E) and (F) shall not apply if the plaintiff filed the action between March 4, 2020, and January 31, 2021, and the action is based on an alleged default in the payment of rent.

(2) This section shall not be construed to prohibit the court from issuing an order that bars access to the court record in an action filed under this chapter if the parties to the action so stipulate.

(b) (1) For purposes of this section, “good cause” includes, but is not limited to, both of the following:

(A) The gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code.

(B) The gathering of evidence by a party to an unlawful detainer action solely for the purpose of making a request for judicial notice pursuant to subdivision (d) of Section 452 of the Evidence Code.

(2) It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subparagraph (D) of paragraph (1) of subdivision (a).

(c) Upon the filing of a case so restricted, the court clerk shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant, and that access to the court file will be delayed for 60 days except to a party, an attorney for one of the parties, or any other person who (1) provides to the clerk the names of at least one plaintiff and one

defendant in the action and provides to the clerk the address, including any applicable apartment, unit, or space number, of the subject premises, or (2) provides to the clerk the name of one of the parties in the action or the case number and can establish through proper identification that the person lives at the subject premises. The notice shall also contain a statement that access to the court index, register of actions, or other records is not permitted until 60 days after the complaint is filed, except pursuant to an order upon a showing of good cause for access. The notice shall contain on its face the following information:

(1) The name and telephone number of the county bar association.

(2) The name and telephone number of any entity that requests inclusion on the notice and demonstrates to the satisfaction of the court that it has been certified by the State Bar of California as a lawyer referral service and maintains a panel of attorneys qualified in the practice of landlord-tenant law pursuant to the minimum standards for a lawyer referral service established by the State Bar of California and Section 6155 of the Business and Professions Code.

(3) The following statement:

“The State Bar of California certifies lawyer referral services in California and publishes a list of certified lawyer referral services organized by county. To locate a lawyer referral service in your county, go to the State Bar’s internet website at www.calbar.ca.gov or call 1-866-442-2529.”

(4) The name and telephone number of an office or offices funded by the federal Legal Services Corporation or qualified legal services projects that receive funds distributed pursuant to Section 6216 of the Business and Professions Code that provide legal services to low-income persons in the county in which the action is filed. The notice shall state that these telephone numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to “all occupants” and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

(d) Notwithstanding any other law, the court shall charge an additional fee of fifteen dollars (\$15) for filing a first appearance by the plaintiff. This fee shall be added to the uniform filing fee for actions filed under this chapter.

(e) This section does not apply to a case that seeks to terminate a mobilehome park tenancy if the statement of the character of the proceeding in the caption of the complaint clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

(f) This section does not alter any provision of the Evidence Code.

(g) This section shall remain in effect until February 1, 2021, and as of that date is repealed.

SEC. 18. Section 1161.2 is added to the Code of Civil Procedure, to read:

1161.2. (a) (1) The clerk shall allow access to limited civil case records filed under this chapter, including the court file, index, and register of actions, only as follows:

(A) To a party to the action, including a party's attorney.

(B) To a person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any.

(C) To a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.

(D) To a person by order of the court, which may be granted ex parte, on a showing of good cause.

(E) To any person by order of the court if judgment is entered for the plaintiff after trial more than 60 days since the filing of the complaint. The court shall issue the order upon issuing judgment for the plaintiff.

(F) Except as provided in subparagraph (G), to any other person 60 days after the complaint has been filed if the plaintiff prevails in the action within 60 days of the filing of the complaint, in which case the clerk shall allow access to any court records in the action. If a default or default judgment is set aside more than 60 days after the complaint has been filed, this section shall apply as if the complaint had been filed on the date the default or default judgment is set aside.

(G) In the case of a complaint involving residential property based on Section 1161a as indicated in the caption of the complaint, as required in subdivision (c) of Section 1166, to any other person, if 60 days have elapsed since the complaint was filed with the court, and, as of that date, judgment against all defendants has been entered for the plaintiff, after a trial.

(2) This section shall not be construed to prohibit the court from issuing an order that bars access to the court record in an action filed under this chapter if the parties to the action so stipulate.

(b) (1) For purposes of this section, "good cause" includes, but is not limited to, both of the following:

(A) The gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code.

(B) The gathering of evidence by a party to an unlawful detainer action solely for the purpose of making a request for judicial notice pursuant to subdivision (d) of Section 452 of the Evidence Code.

(2) It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subparagraph (D) of paragraph (1) of subdivision (a).

(c) Upon the filing of a case so restricted, the court clerk shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant, and that access to the court file will be delayed for 60 days except to a party, an attorney for one of the parties, or any other person who (1) provides to the clerk the names of at least one plaintiff and one defendant in the action and provides to the clerk the address, including any

applicable apartment, unit, or space number, of the subject premises, or (2) provides to the clerk the name of one of the parties in the action or the case number and can establish through proper identification that the person lives at the subject premises. The notice shall also contain a statement that access to the court index, register of actions, or other records is not permitted until 60 days after the complaint is filed, except pursuant to an order upon a showing of good cause for access. The notice shall contain on its face the following information:

(1) The name and telephone number of the county bar association.

(2) The name and telephone number of any entity that requests inclusion on the notice and demonstrates to the satisfaction of the court that it has been certified by the State Bar of California as a lawyer referral service and maintains a panel of attorneys qualified in the practice of landlord-tenant law pursuant to the minimum standards for a lawyer referral service established by the State Bar of California and Section 6155 of the Business and Professions Code.

(3) The following statement:

“The State Bar of California certifies lawyer referral services in California and publishes a list of certified lawyer referral services organized by county. To locate a lawyer referral service in your county, go to the State Bar’s internet website at www.calbar.ca.gov or call 1-866-442-2529.”

(4) The name and telephone number of an office or offices funded by the federal Legal Services Corporation or qualified legal services projects that receive funds distributed pursuant to Section 6216 of the Business and Professions Code that provide legal services to low-income persons in the county in which the action is filed. The notice shall state that these telephone numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to “all occupants” and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

(d) Notwithstanding any other law, the court shall charge an additional fee of fifteen dollars (\$15) for filing a first appearance by the plaintiff. This fee shall be added to the uniform filing fee for actions filed under this chapter.

(e) This section does not apply to a case that seeks to terminate a mobilehome park tenancy if the statement of the character of the proceeding in the caption of the complaint clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

(f) This section does not alter any provision of the Evidence Code.

(g) This section shall become operative on February 1, 2021.

SEC. 19. Section 1161.2.5 is added to the Code of Civil Procedure, to read:

1161.2.5. (a) (1) Except as provided in Section 1161.2, the clerk shall allow access to civil case records for actions seeking recovery of COVID-19 rental debt, as defined in Section 1179.02, including the court file, index, and register of actions, only as follows:

- (A) To a party to the action, including a party's attorney.
 - (B) To a person who provides the clerk with the names of at least one plaintiff and one defendant.
 - (C) To a resident of the premises for which the COVID-19 rental debt is owed who provides the clerk with the name of one of the parties or the case number and shows proof of residency.
 - (D) To a person by order of the court, which may be granted ex parte, on a showing of good cause.
- (2) To give the court notice that access to the records in an action is limited, any complaint or responsive pleading in a case subject to this section shall include on either the first page of the pleading or a cover page, the phrase "ACTION FOR RECOVERY OF COVID-19 RENTAL DEBT AS DEFINED UNDER SECTION 1179.02" in bold, capital letters, in 12 point or larger font.
- (b) (1) For purposes of this section, "good cause" includes, but is not limited to, both of the following:
 - (A) The gathering of newsworthy facts by a person described in Section 1070 of the Evidence Code.
 - (B) The gathering of evidence by a party to a civil action solely for the purpose of making a request for judicial notice pursuant to subdivision (d) of Section 452 of the Evidence Code.
 - (2) It is the intent of the Legislature that a simple procedure be established to request the ex parte order described in subparagraph (D) of paragraph (1) of subdivision (a).
 - (c) This section does not alter any provision of the Evidence Code.
 - (d) This section shall remain in effect until February 1, 2021, and as of that date is repealed.
- SEC. 20. Chapter 5 (commencing with Section 1179.01) is added to Title 3 of Part 3 of the Code of Civil Procedure, to read:

CHAPTER 5. COVID-19 TENANT RELIEF ACT OF 2020

- 1179.01. This chapter is known, and may be cited, as the COVID-19 Tenant Relief Act of 2020.
- 1179.01.5. (a) It is the intent of the Legislature that the Judicial Council and the courts have adequate time to prepare to implement the new procedures resulting from this chapter, including educating and training judicial officers and staff.
- (b) Notwithstanding any other law, before October 5, 2020, a court shall not do any of the following:
 - (1) Issue a summons on a complaint for unlawful detainer in any action that seeks possession of residential real property and that is based, in whole or in part, on nonpayment of rent or other charges.
 - (2) Enter a default or a default judgment for restitution in an unlawful detainer action that seeks possession of residential real property and that is based, in whole or in part, on nonpayment of rent or other charges.

(c) (1) A plaintiff in an unlawful detainer action shall file a cover sheet in the form specified in paragraph (2) that indicates both of the following:

(A) Whether the action seeks possession of residential real property.

(B) If the action seeks possession of residential real property, whether the action is based, in whole or part, on an alleged default in payment of rent or other charges.

(2) The cover sheet specified in paragraph (1) shall be in the following form:

“UNLAWFUL DETAINER SUPPLEMENTAL COVER SHEET

1. This action seeks possession of real property that is:

a. Residential

b. Commercial

2. (Complete only if paragraph 1(a) is checked) This action is based, in whole or in part, on an alleged default in payment of rent or other charges.

a. Yes

b. No

Date: _____

Type Or Print Name Signature Of Party Or Attorney For Party”

(3) The cover sheet required by this subdivision shall be in addition to any civil case cover sheet or other form required by law, the California Rules of Court, or a local court rule.

(4) The Judicial Council may develop a form for mandatory use that includes the information in paragraph (2).

(d) This section does not prevent a court from issuing a summons or entering default in an unlawful detainer action that seeks possession of residential real property and that is not based, in whole or in part, on nonpayment of rent or other charges.

1179.02. For purposes of this chapter:

(a) “Covered time period” means the time period between March 1, 2020, and January 31, 2021.

(b) “COVID-19-related financial distress” means any of the following:

(1) Loss of income caused by the COVID-19 pandemic.

(2) Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.

(3) Increased expenses directly related to the health impact of the COVID-19 pandemic.

(4) Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit a tenant’s ability to earn income.

(5) Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.

(6) Other circumstances related to the COVID-19 pandemic that have reduced a tenant’s income or increased a tenant’s expenses.

(c) “COVID-19 rental debt” means unpaid rent or any other unpaid financial obligation of a tenant under the tenancy that came due during the covered time period.

(d) “Declaration of COVID-19-related financial distress” means the following written statement:

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.

4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.

5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.

6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Signed under penalty of perjury:

Dated:

(e) “Landlord” includes all of the following or the agent of any of the following:

- (1) An owner of residential real property.
- (2) An owner of a residential rental unit.
- (3) An owner of a mobilehome park.
- (4) An owner of a mobilehome park space or lot.

(f) “Protected time period” means the time period between March 1, 2020, and August 31, 2020.

(g) “Rental payment” means rent or any other financial obligation of a tenant under the tenancy.

(h) “Tenant” means any natural person who hires real property except any of the following:

(1) Tenants of commercial property, as defined in subdivision (c) of Section 1162 of the Civil Code.

(2) Those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

(i) “Transition time period” means the time period between September 1, 2020, and January 31, 2021.

1179.02.5. (a) For purposes of this section:

(1) (A) “High-income tenant” means a tenant with an annual household income of 130 percent of the median income, as published by the Department of Housing and Community Development in the Official State Income

Limits for 2020, for the county in which the residential rental property is located.

(B) For purposes of this paragraph, all lawful occupants of the residential rental unit, including minor children, shall be considered in determining household size.

(C) "High-income tenant" shall not include a tenant with a household income of less than one hundred thousand dollars (\$100,000).

(2) "Proof of income" means any of the following:

(A) A tax return.

(B) A W-2.

(C) A written statement from a tenant's employer that specifies the tenant's income.

(D) Pay stubs.

(E) Documentation showing regular distributions from a trust, annuity, 401k, pension, or other financial instrument.

(F) Documentation of court-ordered payments, including, but not limited to, spousal support or child support.

(G) Documentation from a government agency showing receipt of public assistance benefits, including, but not limited to, social security, unemployment insurance, disability insurance, or paid family leave.

(H) A written statement signed by the tenant that states the tenant's income, including, but not limited to, a rental application.

(b) (1) This section shall apply only if the landlord has proof of income in the landlord's possession before the service of the notice showing that the tenant is a high-income tenant.

(2) This section does not do any of the following:

(A) Authorize a landlord to demand proof of income from the tenant.

(B) Require the tenant to provide proof of income for the purposes of determining whether the tenant is a high-income tenant.

(C) (i) Entitle a landlord to obtain, or authorize a landlord to attempt to obtain, confidential financial records from a tenant's employer, a government agency, financial institution, or any other source.

(ii) Confidential information described in clause (i) shall not constitute valid proof of income unless it was lawfully obtained by the landlord with the tenant's consent during the tenant screening process.

(3) Paragraph (2) does not alter a party's rights under Title 4 (commencing with Section 2016.010), Chapter 4 (commencing with Section 708.010) of Title 9, or any other law.

(c) A landlord may require a high-income tenant that is served a notice pursuant to subdivision (b) or (c) of Section 1179.03 to submit, in addition to and together with a declaration of COVID-19-related financial distress, documentation supporting the claim that the tenant has suffered COVID-19-related financial distress. Any form of objectively verifiable documentation that demonstrates the COVID-19-related financial distress the tenant has experienced is sufficient to satisfy the requirements of this subdivision, including the proof of income, as defined in subparagraphs (A)

to (G), inclusive, of paragraph (2) of subdivision (a), a letter from an employer, or an unemployment insurance record.

(d) A high-income tenant is required to comply with the requirements of subdivision (c) only if the landlord has included the following language on the notice served pursuant to subdivision (b) or (c) of Section 1179.03 in at least 12-point font:

“Proof of income on file with your landlord indicates that your household makes at least 130 percent of the median income for the county where the rental property is located, as published by the Department of Housing and Community Development in the Official State Income Limits for 2020. As a result, if you claim that you are unable to pay the amount demanded by this notice because you have suffered COVID-19-related financial distress, you are required to submit to your landlord documentation supporting your claim together with the completed declaration of COVID-19-related financial distress provided with this notice. If you fail to submit this documentation together with your declaration of COVID-19-related financial distress, and you do not either pay the amount demanded in this notice or deliver possession of the premises back to your landlord as required by this notice, you will not be covered by the eviction protections enacted by the California Legislature as a result of the COVID-19 pandemic, and your landlord can begin eviction proceedings against you as soon as this 15-day notice expires.”

(e) A high-income tenant that fails to comply with subdivision (c) shall not be subject to the protections of subdivision (g) of Section 1179.03.

(f) (1) A landlord shall be required to plead compliance with this section in any unlawful detainer action based upon a notice that alleges that the tenant is a high-income tenant. If that allegation is contested, the landlord shall be required to submit to the court the proof of income upon which the landlord relied at the trial or other hearing, and the tenant shall be entitled to submit rebuttal evidence.

(2) If the court in an unlawful detainer action based upon a notice that alleges that the tenant is a high-income tenant determines that at the time the notice was served the landlord did not have proof of income establishing that the tenant is a high-income tenant, the court shall award attorney’s fees to the prevailing tenant.

1179.03. (a) (1) Any notice that demands payment of COVID-19 rental debt served pursuant to subdivision (e) of Section 798.56 of the Civil Code or paragraph (2) or (3) of Section 1161 shall be modified as required by this section. A notice which does not meet the requirements of this section, regardless of when the notice was issued, shall not be sufficient to establish a cause of action for unlawful detainer or a basis for default judgment.

(2) Any case based solely on a notice that demands payment of COVID-19 rental debt served pursuant to subdivision (e) of Section 798.56 of the Civil Code or paragraph (2) or (3) of Section 1161 may be dismissed if the notice does not meet the requirements of this section, regardless of when the notice was issued.

(3) Notwithstanding paragraphs (1) and (2), this section shall have no effect if the landlord lawfully regained possession of the property or obtained

a judgment for possession of the property before the operative date of this section.

(b) If the notice demands payment of rent that came due during the protected time period, as defined in Section 1179.02, the notice shall comply with all of the following:

(1) The time period in which the tenant may pay the amount due or deliver possession of the property shall be no shorter than 15 days, excluding Saturdays, Sundays, and other judicial holidays.

(2) The notice shall set forth the amount of rent demanded and the date each amount became due.

(3) The notice shall advise the tenant that the tenant cannot be evicted for failure to comply with the notice if the tenant delivers a signed declaration of COVID-19-related financial distress to the landlord on or before the date that the notice to pay rent or quit or notice to perform covenants or quit expires, by any of the methods specified in subdivision (f).

(4) The notice shall include the following text in at least 12-point font:

“NOTICE FROM THE STATE OF CALIFORNIA: If you are unable to pay the amount demanded in this notice, and have decreased income or increased expenses due to COVID-19, your landlord will not be able to evict you for this missed payment if you sign and deliver the declaration form included with your notice to your landlord within 15 days, excluding Saturdays, Sundays, and other judicial holidays, but you will still owe this money to your landlord. If you do not sign and deliver the declaration within this time period, you may lose the eviction protections available to you. You must return this form to be protected. You should keep a copy or picture of the signed form for your records.

You will still owe this money to your landlord and can be sued for the money, but you cannot be evicted from your home if you comply with these requirements. You should keep careful track of what you have paid and any amount you still owe to protect your rights and avoid future disputes. Failure to respond to this notice may result in an unlawful detainer action (eviction) being filed against you.

For information about legal resources that may be available to you, visit lawhelpca.org.”

(c) If the notice demands payment of rent that came due during the transition time period, as defined in Section 1179.02, the notice shall comply with all of the following:

(1) The time period in which the tenant may pay the amount due or deliver possession of the property shall be no shorter than 15 days, excluding Saturdays, Sundays, and other judicial holidays.

(2) The notice shall set forth the amount of rent demanded and the date each amount became due.

(3) The notice shall advise the tenant that the tenant will not be evicted for failure to comply with the notice, except as allowed by this chapter, if the tenant delivers a signed declaration of COVID-19-related financial distress to the landlord on or before the date the notice to pay rent or quit

or notice to perform covenants or quit expires, by any of the methods specified in subdivision (f).

(4) The notice shall include the following text in at least 12-point font:

“NOTICE FROM THE STATE OF CALIFORNIA: If you are unable to pay the amount demanded in this notice, and have decreased income or increased expenses due to COVID-19, you may sign and deliver the declaration form included with your notice to your landlord within 15 days, excluding Saturdays, Sundays, and other judicial holidays, and your landlord will not be able to evict you for this missed payment so long as you make the minimum payment (see below). You will still owe this money to your landlord. You should keep a copy or picture of the signed form for your records.

If you provide the declaration form to your landlord as described above AND, on or before January 31, 2021, you pay an amount that equals at least 25 percent of each rental payment that came due or will come due during the period between September 1, 2020, and January 31, 2021, that you were unable to pay as a result of decreased income or increased expenses due to COVID-19, your landlord cannot evict you. Your landlord may require you to submit a new declaration form for each rental payment that you do not pay that comes due between September 1, 2020, and January 31, 2021.

For example, if you provided a declaration form to your landlord regarding your decreased income or increased expenses due to COVID-19 that prevented you from making your rental payment in September and October of 2020, your landlord could not evict you if, on or before January 31, 2021, you made a payment equal to 25 percent of September’s and October’s rental payment (i.e., half a month’s rent). If you were unable to pay any of the rental payments that came due between September 1, 2020, and January 31, 2021, and you provided your landlord with the declarations in response to each 15-day notice your landlord sent to you during that time period, your landlord could not evict you if, on or before January 31, 2021, you paid your landlord an amount equal to 25 percent of all the rental payments due from September through January (i.e., one and a quarter month’s rent).

You will still owe the full amount of the rent to your landlord, but you cannot be evicted from your home if you comply with these requirements. You should keep careful track of what you have paid and any amount you still owe to protect your rights and avoid future disputes. Failure to respond to this notice may result in an unlawful detainer action (eviction) being filed against you.

For information about legal resources that may be available to you, visit lawhelpca.org.”

(d) An unsigned copy of a declaration of COVID-19-related financial distress shall accompany each notice delivered to a tenant to which subdivision (b) or (c) is applicable. If the landlord was required, pursuant to Section 1632 of the Civil Code, to provide a translation of the rental contract or agreement in the language in which the contract or agreement was negotiated, the landlord shall also provide the unsigned copy of a declaration of COVID-19-related financial distress to the tenant in the

language in which the contract or agreement was negotiated. The Department of Real Estate shall make available an official translation of the text required by paragraph (4) of subdivision (b) and paragraph (4) of subdivision (c) in the languages specified in Section 1632 of the Civil Code by no later than September 15, 2020.

(e) If a tenant owes a COVID-19 rental debt to which both subdivisions (b) and (c) apply, the landlord shall serve two separate notices that comply with subdivisions (b) and (c), respectively.

(f) A tenant may deliver the declaration of COVID-19-related financial distress to the landlord by any of the following methods:

(1) In person, if the landlord indicates in the notice an address at which the declaration may be delivered in person.

(2) By electronic transmission, if the landlord indicates an email address in the notice to which the declaration may be delivered.

(3) Through United States mail to the address indicated by the landlord in the notice. If the landlord does not provide an address pursuant to subparagraph (1), then it shall be conclusively presumed that upon the mailing of the declaration by the tenant to the address provided by the landlord, the declaration is deemed received by the landlord on the date posted, if the tenant can show proof of mailing to the address provided by the landlord.

(4) Through any of the same methods that the tenant can use to deliver the payment pursuant to the notice if delivery of the declaration by that method is possible.

(g) Except as provided in Section 1179.02.5, the following shall apply to a tenant who, within 15 days of service of the notice specified in subdivision (b) or (c), excluding Saturdays, Sundays, and other judicial holidays, demanding payment of COVID-19 rental debt delivers a declaration of COVID-19-related financial distress to the landlord by any of the methods provided in subdivision (f):

(1) With respect to a notice served pursuant to subdivision (b), the tenant shall not then or thereafter be deemed to be in default with regard to that COVID-19 rental debt for purposes of subdivision (e) of Section 798.56 of the Civil Code or paragraphs (2) and (3) of Section 1161.

(2) With respect to a notice served pursuant to subdivision (c), the following shall apply:

(A) Except as provided by subparagraph (B), the landlord may not initiate an unlawful detainer action before February 1, 2021.

(B) A tenant shall not be guilty of unlawful detainer, now or in the future, based upon nonpayment of COVID-19 rental debt that came due during the transition period if, on or before January 31, 2021, the tenant tenders one or more payments that, when taken together, are of an amount equal to or not less than 25 percent of each transition period rental payment demanded in one or more notices served pursuant to subsection (c) and for which the tenant complied with this subdivision by timely delivering a declaration of COVID-19-related financial distress to the landlord.

(h) (1) (A) Within the time prescribed in Section 1167, a tenant shall be permitted to file a signed declaration of COVID-19-related financial distress with the court.

(B) If the tenant files a signed declaration of COVID-19-related financial distress with the court pursuant to this subdivision, the court shall dismiss the case, pursuant to paragraph (2), if the court finds, after a noticed hearing on the matter, that the tenant's failure to return a declaration of COVID-19-related financial distress within the time required by subdivision (g) was the result of mistake, inadvertence, surprise, or excusable neglect, as those terms have been interpreted under subdivision (b) of Section 473.

(C) The noticed hearing required by this paragraph shall be held with not less than five days' notice and not more than 10 days' notice, to be given by the court, and may be held separately or in conjunction with any regularly noticed hearing in the case, other than a trial.

(2) If the court dismisses the case pursuant to paragraph (1), that dismissal shall be without prejudice as follows:

(A) If the case was based in whole or in part upon a notice served pursuant to subdivision (b), the court shall dismiss any cause of action based on the notice served pursuant to subdivision (b).

(B) Before February 1, 2021, if the case is based in whole or in part on a notice served pursuant to subdivision (c), the court shall dismiss any cause of action based on the notice served pursuant to subdivision (c).

(C) On or after February 1, 2021, if the case is based in whole or in part on a notice served pursuant to subdivision (c), the court shall dismiss any cause of action based upon the notice served pursuant to subdivision (c) if the tenant, within five days of the court's order to do so, makes the payment required by subparagraph (B) of paragraph (1) of subdivision (g), provided that if the fifth day falls on a Saturday, Sunday, or judicial holiday the last day to pay shall be extended to the next court day.

(3) If the court dismisses the case pursuant to this subdivision, the tenant shall not be considered the prevailing party for purposes of Section 1032, any attorney's fee provision appearing in contract or statute, or any other law.

(i) Notwithstanding any other law, a notice which is served pursuant to subdivision (b) or (c) that complies with the requirements of this chapter and subdivision (e) of Section 798.56 of the Civil Code or paragraphs (2) and (3) of Section 1161, as applicable, need not include specific language required by any ordinance, resolution, regulation, or administrative action adopted by a city, county, or city and county.

1179.03.5. (a) Before February 1, 2021, a court may not find a tenant guilty of an unlawful detainer unless it finds that one of the following applies:

(1) The tenant was guilty of the unlawful detainer before March 1, 2020.

(2) In response to service of a notice demanding payment of COVID-19 rental debt pursuant to subdivision (e) of Section 798.56 of the Civil Code or paragraph (2) or (3) of Section 1161, the tenant failed to comply with the requirements of Section 1179.03.

(3) (A) The unlawful detainer arises because of a termination of tenancy for any of the following:

(i) An at-fault just cause, as defined in paragraph (1) of subdivision (b) of Section 1946.2 of the Civil Code.

(ii) (I) A no-fault just cause, as defined in paragraph (2) of subdivision (b) of Section 1946.2 of the Civil Code, other than intent to demolish or to substantially remodel the residential real property, as defined in subparagraph (D) of paragraph (2) of subdivision (b) of Section 1946.2.

(II) Notwithstanding subclause (I), termination of a tenancy based on intent to demolish or to substantially remodel the residential real property shall be permitted if necessary to maintain compliance with the requirements of Section 1941.1 of the Civil Code, Section 17920.3 or 17920.10 of the Health and Safety Code, or any other applicable law governing the habitability of residential rental units.

(iii) The owner of the property has entered into a contract for the sale of that property with a buyer who intends to occupy the property, and all the requirements of paragraph (8) of subdivision (e) of Section 1946.2 of the Civil Code have been satisfied.

(B) In an action under this paragraph, other than an action to which paragraph (2) also applies, the landlord shall be precluded from recovering COVID-19 rental debt in connection with any award of damages.

(b) (1) This section does not require a landlord to assist the tenant to relocate through the payment of relocation costs if the landlord would not otherwise be required to do so pursuant to Section 1946.2 of the Civil Code or any other law.

(2) A landlord who is required to assist the tenant to relocate pursuant to Section 1946.2 of the Civil Code or any other law, may offset the tenant's COVID-19 rental debt against their obligation to assist the tenant to relocate.

1179.04. (a) On or before September 30, 2020, a landlord shall provide, in at least 12-point font, the following notice to tenants who, as of September 1, 2020, have not paid one or more rental payments that came due during the protected time period:

“NOTICE FROM THE STATE OF CALIFORNIA: The California Legislature has enacted the COVID-19 Tenant Relief Act of 2020 which protects renters who have experienced COVID-19-related financial distress from being evicted for failing to make rental payments due between March 1, 2020, and January 31, 2021.

“COVID-19-related financial distress” means any of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to the health impact of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit your ability to earn income.

5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.

6. Other circumstances related to the COVID-19 pandemic that have reduced your income or increased your expenses.

This law gives you the following protections:

1. If you failed to make rental payments due between March 1, 2020, and August 31, 2020, because you had decreased income or increased expenses due to the COVID-19 pandemic, as described above, you cannot be evicted based on this nonpayment.

2. If you are unable to pay rental payments that come due between September 1, 2020, and January 31, 2021, because of decreased income or increased expenses due to the COVID-19 pandemic, as described above, you cannot be evicted if you pay 25 percent of the rental payments missed during that time period on or before January 31, 2021.

You must provide, to your landlord, a declaration under penalty of perjury of your COVID-19-related financial distress attesting to the decreased income or increased expenses due to the COVID-19 pandemic to be protected by the eviction limitations described above. Before your landlord can seek to evict you for failing to make a payment that came due between March 1, 2020, and January 31, 2021, your landlord will be required to give you a 15-day notice that informs you of the amounts owed and includes a blank declaration form you can use to comply with this requirement.

If your landlord has proof of income on file which indicates that your household makes at least 130 percent of the median income for the county where the rental property is located, as published by the Department of Housing and Community Development in the Official State Income Limits for 2020, your landlord may also require you to provide documentation which shows that you have experienced a decrease in income or increase in expenses due to the COVID-19 pandemic. Your landlord must tell you in the 15-day notice whether your landlord is requiring that documentation. Any form of objectively verifiable documentation that demonstrates the financial impact you have experienced is sufficient, including a letter from your employer, an unemployment insurance record, or medical bills, and may be provided to satisfy the documentation requirement.

It is very important you do not ignore a 15-day notice to pay rent or quit or a notice to perform covenants or quit from your landlord. If you are served with a 15-day notice and do not provide the declaration form to your landlord before the 15-day notice expires, you could be evicted. You could also be evicted beginning February 1, 2021, if you owe rental payments due between September 1, 2020, and January 31, 2021, and you do not pay an amount equal to at least 25 percent of the payments missed for that time period.

For information about legal resources that may be available to you, visit lawhelpca.org.”

(b) The landlord may provide the notice required by subdivision (a) in the manner prescribed by Section 1162 or by mail.

(c) (1) A landlord may not serve a notice pursuant to subdivision (b) or (c) of Section 1179.03 before the landlord has provided the notice required by subdivision (a).

(2) The notice required by subdivision (a) may be provided to a tenant concurrently with a notice pursuant to subdivision (b) or (c) of Section 1179.03 that is served on or before September 30, 2020.

1179.05. (a) Any ordinance, resolution, regulation, or administrative action adopted by a city, county, or city and county in response to the COVID-19 pandemic to protect tenants from eviction is subject to all of the following:

(1) Any extension, expansion, renewal, reenactment, or new adoption of a measure, however delineated, that occurs between August 19, 2020, and January 31, 2021, shall have no effect before February 1, 2021.

(2) Any provision which allows a tenant a specified period of time in which to repay COVID-19 rental debt shall be subject to all of the following:

(A) If the provision in effect on August 19, 2020, required the repayment period to commence on a specific date on or before March 1, 2021, any extension of that date made after August 19, 2020, shall have no effect.

(B) If the provision in effect on August 19, 2020, required the repayment period to commence on a specific date after March 1, 2021, or conditioned commencement of the repayment period on the termination of a proclamation of state of emergency or local emergency, the repayment period is deemed to begin on March 1, 2021.

(C) The specified period of time during which a tenant is permitted to repay COVID-19 rental debt may not extend beyond the period that was in effect on August 19, 2020. In addition, a provision may not permit a tenant a period of time that extends beyond March 31, 2022, to repay COVID-19 rental debt.

(b) This section does not alter a city, county, or city and county's authority to extend, expand, renew, reenact, or newly adopt an ordinance that requires just cause for termination of a residential tenancy or amend existing ordinances that require just cause for termination of a residential tenancy, consistent with subdivision (g) of Section 1946.2, provided that a provision enacted or amended after August 19, 2020, shall not apply to rental payments that came due between March 1, 2020, and January 31, 2021.

(c) The one-year limitation provided in subdivision (2) of Section 1161 is tolled during any time period that a landlord is or was prohibited by any ordinance, resolution, regulation, or administrative action adopted by a city, county, or city and county in response to the COVID-19 pandemic to protect tenants from eviction based on nonpayment of rental payments from serving a notice that demands payment of COVID-19 rental debt pursuant to subdivision (e) of Section 798.56 of the Civil Code or paragraph (2) of Section 1161.

(d) It is the intent of the Legislature that this section be applied retroactively to August 19, 2020.

(e) The Legislature finds and declares that this section addresses a matter of statewide concern rather than a municipal affair as that term is used in

Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

(f) It is the intent of the Legislature that the purpose of this section is to protect individuals negatively impacted by the COVID-19 pandemic, and that this section does not provide the Legislature's understanding of the legal validity on any specific ordinance, resolution, regulation, or administrative action adopted by a city, county, or city and county in response to the COVID-19 pandemic to protect tenants from eviction.

1179.06. Any provision of a stipulation, settlement agreement, or other agreement entered into on or after the effective date of this chapter, including a lease agreement, that purports to waive the provisions of this chapter is prohibited and is void as contrary to public policy.

1179.07. This chapter shall remain in effect until February 1, 2025, and as of that date is repealed.

SEC. 21. (a) The Business, Consumer Services and Housing Agency shall, in consultation with the Department of Finance, engage with residential tenants, landlords, property owners, deed restricted affordable housing providers, and financial sector stakeholders about strategies and approaches to direct potential future federal stimulus funding to most effectively and efficiently provide relief to distressed tenants, landlords, and property owners, including exploring strategies to create access to liquidity in partnership with financial institutions or other financial assistance. Subject to availability of funds and other budget considerations, and only upon appropriation by the Legislature, these strategies should inform implementation of the funds. In creating these strategies, special focus shall be given to low-income tenants, small property owners, and affordable housing providers who have suffered direct financial hardship as a result of the COVID-19 pandemic.

(b) For the purposes of this section, "future federal stimulus funding" does not include funding identified in the 2020 Budget Act.

SEC. 22. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 24. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To avert economic and social harm by providing a structure for temporary relief to financially distressed tenants, homeowners, and small landlords during the public health emergency, and to ensure that landlords and tenants are able to calculate the maximum allowable rental rate increase within a 12-month period at the earliest possible time, it is necessary that this act take effect immediately.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Agency Order.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the issuance of an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19.

DATES: This Order is effective September 4, 2020 through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Nina Witkowsky, Acting Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-10, Atlanta, GA 30329; Telephone: 404-639-7000; Email: cdcregulations@cdc.gov.

SUPPLEMENTARY INFORMATION:

Background

There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID-19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an

immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID-19.¹

COVID-19 presents a historic threat to public health. According to one recent study, the mortality associated with COVID-19 during the early phase of the outbreak in New York City was comparable to the peak mortality observed during the 1918 H1N1 influenza pandemic.² During the 1918 H1N1 influenza pandemic, there were approximately 50 million influenza-related deaths worldwide, including 675,000 in the United States. To respond to this public health threat, the Federal, State, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these best efforts, COVID-19 continues to spread and further action is needed.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase. Unsheltered homelessness also increases the risk that individuals will experience severe illness from COVID-19.

Applicability

Under this Order, a landlord, owner of a residential property, or other person³ with a legal right to pursue

¹ CDC, People with Certain Medical Conditions, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (accessed August 26, 2020).

² Faust JS, Lin Z, del Rio C. Comparison of Estimated Excess Deaths in New York City During the COVID-19 and 1918 Influenza Pandemics. *JAMA New Open*. 2020;3(8):e2017527. doi:10.1001/jamanetworkopen.2020.17527.

³ For purposes of this Order, “person” includes corporations, companies, associations, firms,

eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order. This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. Nor does this order apply to American Samoa, which has reported no cases of COVID-19, until such time as cases are reported.

In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Renter’s or Homeowner’s Declaration

Attachment A is a Declaration form that tenants, lessees, or residents of residential properties who are covered by the CDC’s order temporarily halting residential evictions to prevent the further spread of COVID-19 may use. To invoke the CDC’s order these persons must provide an executed copy of the Declaration form (or a similar declaration under penalty of perjury) to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. Each adult listed on the lease, rental agreement, or housing contract should likewise complete and provide a declaration. Unless the CDC order is extended, changed, or ended, the order prevents these persons from being evicted or removed from where they are living through December 31, 2020. These persons are still required to pay rent and follow all the other terms of their lease and rules of the place where they live. These persons may also still be evicted for reasons other than not paying rent or making a housing

partnerships, societies, and joint stock companies, as well as individuals.

payment. Executed declarations should not be returned to the Federal Government.

Centers for Disease Control and Prevention, Department of Health and Human Services

Order Under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

Summary

Notice and Order; and subject to the limitations under “Applicability”: Under 42 CFR 70.2, a landlord, owner of a residential property, or other person⁴ with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

Definitions

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person”⁵ means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or

other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

(1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return),⁶ (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;

(3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary⁷ out-of-pocket medical expenses;

(4) the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual’s circumstances may permit, taking into account other nondiscretionary expenses; and

(5) eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

“Evict” and “Eviction” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property. This does not include foreclosure on a home mortgage.

“Residential property” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or

similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the State, territorial, tribal, or local jurisdiction.

“State” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“U.S. territory” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

Statement of Intent

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within congregate or shared living settings, or through unsheltered homelessness;
- mitigating the further spread of COVID-19 from one U.S. State or U.S. territory into any other U.S. State or U.S. territory; and
- supporting response efforts to COVID-19 at the Federal, State, local, territorial, and tribal levels.

Background

There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID-19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an

⁴ For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

⁵ This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., *Who gets evicted? Assessing individual, neighborhood, and network factors*, Social Science Research 62 (2017), 366–377. <http://dx.doi.org/10.1016/j.ssresearch.2016.08.017>, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Point-in-Time Count & Survey, page 22, available at: https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf.

⁶ According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two bedroom house without spending more than 30% of one’s income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See National Low-Income Housing Coalition, *Out of Reach: The High Cost of Housing 2020*, available at: <https://reports.nlihc.org/oor>. As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

⁷ An extraordinary medical expense is any unreimbursed medical expense likely to exceed 7.5% of one’s adjusted gross income for the year.

immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID-19.⁸

COVID-19 presents a historic threat to public health. According to one recent study, the mortality associated with COVID-19 during the early phase of the outbreak in New York City was comparable to the peak mortality observed during the 1918 H1N1 influenza pandemic.⁹ During the 1918 H1N1 influenza pandemic, there were approximately 50 million influenza-related deaths worldwide, including 675,000 in the United States. To respond to this public health threat, the Federal, State, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these significant efforts, COVID-19 continues to spread and further action is needed.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into close quarters in congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19.

Applicability

This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more

⁸ CDC, People with Certain Medical Conditions, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (accessed August 26, 2020).

⁹ Faust JS, Lin Z, del Rio C. Comparison of Estimated Excess Deaths in New York City During the COVID-19 and 1918 Influenza Pandemics. *JAMA New Open*. 2020;3(8):e2017527. doi:10.1001/jamanetworkopen.2020.17527.

restrictive than the requirements in this Order.

Additionally, this Order shall not apply to American Samoa, which has reported no cases of COVID-19, until such time as cases are reported.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents;¹⁰ (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

Eviction and Risk of COVID-19 Transmission

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding.¹¹ Studies show that COVID-19 transmission occurs readily within households; household contacts are estimated to be 6 times more likely to become infected by an

¹⁰ Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See *What to Do if You are Sick*, available at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>.

¹¹ United States Census Bureau. American Housing Survey, 2017. <https://www.census.gov/programs-surveys/ahs.html>.

index case of COVID-19 than other close contacts.¹²

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing, and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, cognitive decline, or no access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms.¹³ Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with Federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020.¹⁴ The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and local officials using emergency powers.

Researchers estimated that this temporary Federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.¹⁵

¹² Bi Q, Wu Y, Mei S, et al. *Epidemiology and transmission of COVID-19 in 391 cases and 1286 of their close contacts in Shenzhen, China: a retrospective cohort study*. *Lancet Infect Dis* 2020. [https://doi.org/10.1016/S1473-3099\(20\)30287-5](https://doi.org/10.1016/S1473-3099(20)30287-5).

¹³ See CDC COVID-19 Guidance for Shared or Congregate Housing, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html>.

¹⁴ Because evictions generally require 30-days' notice, the effects of housing displacement due to the expiration of the CARES act are not expected to manifest until August 27, 2020.

¹⁵ See Congressional Research Service. *CARES Act Eviction Moratorium*, (April 7, 2020) available at: <https://crsreports.congress.gov/product/pdf/IN/IN11320>.

Approximately 12.3 million rental units have federally backed financing, representing 28% of renters. Other data show more than 2 million housing vouchers along with approximately 2 million other federally assisted rental units.¹⁶

The Federal moratorium, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were protected under State and local moratoria. In the absence of State and local protections, as many as 30–40 million people in America could be at risk of eviction.¹⁷ A wave of evictions on that scale would be unprecedented in modern times.¹⁸ A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus contributing to the spread of COVID–19.

The statistics on interstate moves show that mass evictions would likely increase the interstate spread of COVID–19. Over 35 million Americans, representing approximately 10% of the U.S. population, move each year.¹⁹ Approximately 15% of moves are interstate.²⁰

Eviction, Homelessness, and Risk of Severe Disease From COVID–19

Evicted individuals without access to housing or assistance options may also contribute to the homeless population, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID–19 than the general population.²¹ In Seattle-King County, 5–15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.²² Additionally,

some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Among people who entered shelters throughout the United States in 2017, 27% were staying with family or friends beforehand.²³

People experiencing homelessness are a high-risk population. It may be more difficult for these persons to consistently access the necessary resources in order to adhere to public health recommendations to prevent COVID–19. For instance, it may not be possible to avoid certain congregate settings such as homeless shelters, or easily access facilities to engage in handwashing with soap and water.

Extensive outbreaks of COVID–19 have been identified in homeless shelters.²⁴ In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members.²⁵ In Boston, Massachusetts, universal COVID–19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents.²⁶ COVID–19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested).²⁷ Throughout the United States, among 208 shelters reporting universal diagnostic testing data, 9% of shelter clients have tested positive.²⁸

CDC guidance recommends increasing physical distance between beds in homeless shelters.²⁹ To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to

individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

In the context of the current pandemic, large increases in evictions could have at least two potential negative consequences. One is if homeless shelters increase occupancy in ways that increase the exposure risk to COVID–19. The other is if homeless shelters turn away the recently homeless, who could become unsheltered, and further contribute to the spread of COVID–19. Neither consequence is in the interest of the public health.

The risk of COVID–19 spread associated with unsheltered homelessness (those who are sleeping outside or in places not meant for human habitation) is of great concern to CDC. Over 35% of homeless persons are typically unsheltered.³⁰ The unsheltered homeless are at higher risk for infection when there is community spread of COVID–19. The risks associated with sleeping and living outdoors or in an encampment setting are different than from staying indoors in a congregate setting, such as an emergency shelter or other congregate living facility. While outdoor settings may allow people to increase physical distance between themselves and others, they may also involve exposure to the elements and inadequate access to hygiene, sanitation facilities, health care, and therapeutics. The latter factors contribute to the further spread of COVID–19.

Additionally, research suggests that the population of persons who would be evicted and become homeless would include many who are predisposed to developing severe disease from COVID–19. Five studies have shown an association between eviction and hypertension, which has been associated with more severe outcomes from COVID–19.³¹ Also, the homeless

[uploads/2020/07/Count-Us-In-2020-Final_7.29.2020.pdf](https://www.huduser.gov/portal/datasets/assths/statedata98/descript.html)

²³ United States Department of Housing and Urban Development. The 2017 Annual Homeless Assessment Report (AHAR) to Congress: Part 2. Available at: <https://files.hudexchange.info/resources/documents/2017-AHAR-Part-2.pdf>

²⁴ Mosites E, et al, *Assessment of SARS-CoV-2 Infection Prevalence in Homeless Shelters—Four U.S. Cities, March 27–April 15, 2020*. MMWR 2020 May 1;69(17):521–522.

²⁵ Tobolowsky FA, et al. *COVID–19 Outbreak Among Three Affiliated Homeless Service Sites—King County, Washington, 2020*. MMWR 2020 May 1;69(17):523–526.

²⁶ Baggett TP, Keyes H, Sporn N, Gaeta JM. *Prevalence of SARS-CoV-2 Infection in Residents of a Large Homeless Shelter in Boston*. JAMA. 2020 Apr 27;323(21):2191–2. Online ahead of print.

²⁷ Imbert E, et al. *Coronavirus Disease 2019 (COVID–19) Outbreak in a San Francisco Homeless Shelter*. Clin Infect Dis. 2020 Aug 3.

²⁸ National Health Care for the Homeless Council and Centers for Disease Control and Prevention. Universal Testing Data Dashboard. Available at: <https://nhchc.org/cdc-covid-dashboard/>.

²⁹ Centers for Disease Control and Prevention. Interim Guidance for Homeless Service Providers to Plan and Respond to COVID–19. <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html>.

³⁰ In January 2018, 552,830 people were counted as homeless in the United States. Of those, 194,467 (35 percent) were unsheltered, and 358,363 (65 percent) were sheltered. See, Council of Economic Advisors, *The State of Homelessness in America* (September 2019), available at <https://www.whitehouse.gov/wp-content/uploads/2019/09/The-State-of-Homelessness-in-America.pdf>.

³¹ Hugo Vasquez-Vera, et al. *The threat of home eviction and its effects on health through the equity*
Continued

¹⁶ See HUD, A Picture of Subsidized Households General Description of the Data and Bibliography, available at: <https://www.huduser.gov/portal/datasets/assths/statedata98/descript.html>.

¹⁷ See Emily Benfer, et al., *The COVID–19 Eviction Crisis: An Estimated 30–40 Million People in America are at Risk*, available at: <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>.

¹⁸ As a baseline, approximately 900,000 renters are evicted every year in the United States. Princeton University Eviction Lab. National Estimates: Eviction in America. <https://evictionlab.org/national-estimates/>.

¹⁹ See U.S. Census Bureau, CPS Historical Migration/Geographic Mobility Tables, available at: <https://www.census.gov/data/tables/time-series/demo/geographic-mobility/historic.html>.

²⁰ *Id.*

²¹ See CDC, Coronavirus Disease 2019 (COVID–19), People Who Are at Increased Risk for Severe Illness, available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html> (accessed August 26, 2020).

²² Seattle-King County. Point in Time Count. <https://regionalhomelessnessystem.org/wp-content/>

often have underlying conditions that increase their risk of severe outcomes of COVID-19.³² Among patients with COVID-19, homelessness has been associated with increased likelihood of hospitalization.³³

These public health risks may increase seasonally. Each year, as winter approaches and the temperature drops, many homeless move into shelters to escape the cold and the occupancy of shelters increases.³⁴ At the same time, there is evidence to suggest that the homeless are more susceptible to respiratory tract infections,³⁵ which may include seasonal influenza. While there are differences in the epidemiology of COVID-19 and seasonal influenza, the potential co-circulation of viruses during periods of increased occupancy in shelters could increase the risk to occupants in those shelters.

In short, evictions threaten to increase the spread of COVID-19 as they force people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase. Unsheltered homelessness also increases the risk that individuals will experience severe illness from COVID-19.

Findings and Action

Therefore, I have determined the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or U.S. territories that

lens: A systematic review. *Social Science and Medicine*. 175 (2017) 199e208.

³² Fazel S, Geddes JR, Kushel M. *The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations*. *Lancet*. 2014;384(9953):1529–1540.

³³ Hsu HE, et al. *Race/Ethnicity, Underlying Medical Conditions, Homelessness, and Hospitalization Status of Adult Patients with COVID-19 at an Urban Safety-Net Medical Center—Boston, Massachusetts, 2020*. *MMWR* 2020 Jul 10;69(27):864–869. Historically, African Americans and Hispanic Americans are disproportionately represented in evictions compared to other races. They are more likely to experience severe outcomes of COVID-19. *Id.*

³⁴ See, generally, the Annual Homeless Assessment Report to Congress (2007), available at: <https://www.huduser.gov/Publications/pdf/ahar.pdf> (acknowledging the seasonality of shelter bed use).

³⁵ Ly TDA, Edouard S, Badiaga S, et al. Epidemiology of respiratory pathogen carriage in the homeless population within two shelters in Marseille, France, 2015–2017: Cross sectional 1-day surveys. *Clin Microbiol Infect*. 2019; 25(2):249.e1–249.e6.

do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.³⁶

Based on the convergence of COVID-19, seasonal influenza, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, all of which may be exacerbated as fall and winter approach, I have determined that a temporary halt on evictions through December 31, 2020, subject to further extension, modification, or rescission, is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (“APA”) but rather an emergency action taken under the existing authority of 42 CFR 70.2. In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and comment and the opportunity to comment on this Order and the delay in effective date. See 5 U.S.C. 553(b)(3)(B). Considering the public-health emergency caused by COVID-19, it would be impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

A delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that could have potentially significant consequences. As discussed above, one potential consequence would be that evicted individuals would move into close quarters in congregate or shared living settings, including homeless shelters, which would put the individuals at higher risk to COVID-19. Another potential consequence would be if evicted individuals become

homeless and unsheltered, and further contribute to the spread of COVID-19. A delay in the effective date of the Order that leads to such consequences would defeat the purpose of the Order and endanger the public health. Immediate action is necessary.

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs has determined that it would be a major rule under the Congressional Review Act (CRA). But there would not be a delay in its effective date. The agency has determined that for the same reasons, there would be good cause under the CRA to make the requirements herein effective immediately.

If any provision of this Order, or the application of any provision to any persons, entities, or circumstances, shall be held invalid, the remainder of the provisions, or the application of such provisions to any persons, entities, or circumstances other than those to which it is held invalid, shall remain valid and in effect.

This Order shall be enforced by Federal authorities and cooperating State and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Criminal Penalties

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than \$250,000 if the violation results in a death or one year in jail, or both, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate court proceedings as appropriate seeking imposition of these criminal penalties.

Notice to Cooperating State and Local Officials

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid State and local authorities in the enforcement of their quarantine and

³⁶ In the United States, public health measures are implemented at all levels of government, including the Federal, State, local, and tribal levels. Publicly-available compilations of pending measures indicate that eviction moratoria and other protections from eviction have expired or are set to expire in many jurisdictions. Eviction Lab, *COVID-19 Housing Policy Scorecard*, available at: <https://evictionlab.org/covid-policy-scorecard/>.

other health regulations and to accept State and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order.

Notice of Available Federal Resources

While this order to prevent eviction is effectuated to protect the public health, the States and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD) has informed CDC that all HUD grantees—states, cities, communities, and nonprofits—who received Emergency Solutions Grants (ESG) or Community Development Block Grant (CDBG) funds under the CARES Act may use these funds to provide temporary rental assistance, homelessness prevention, or other aid to individuals who are experiencing financial hardship because of the pandemic and are at risk of being evicted, consistent with applicable laws, regulations, and guidance.

HUD has further informed CDC that:

HUD's grantees and partners play a critical role in prioritizing efforts to support this goal. As grantees decide how to deploy CDBG—CV and ESG—CV funds provided by the CARES Act, all communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

HUD stands at the ready to support American communities take these steps to reduce the spread of COVID-19 and maintain economic prosperity. Where gaps are identified, grantees should coordinate across available Federal, non-Federal, and philanthropic funds to ensure these critical needs are sufficiently addressed, and utilize HUD's technical assistance to design and implement programs to support a coordinated response to eviction prevention needs. For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, State and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties.

Similarly, the Department of the Treasury has informed CDC that the funds allocated through the Coronavirus Relief Fund may be used to fund rental assistance programs to prevent eviction. Visit <https://home.treasury.gov/policy->

issues/cares/state-and-local-governments for more information.

Effective Date

This Order is effective upon publication in the **Federal Register** and will remain in effect, unless extended, modified, or rescinded, through December 31, 2020.

Attachment

Declaration Under Penalty of Perjury for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID-19

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID-19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through December 31, 2020. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

I certify under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing;³⁷
- I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or

³⁷ "Available government assistance" means any governmental rental or housing payment benefits available to the individual or any household member.

wages, lay-offs, or extraordinary³⁸ out-of-pocket medical expenses;

- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;

- If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options.³⁹

- I understand that I must still pay rent or make a housing payment, and comply with other obligations that I may have under my tenancy, lease agreement, or similar contract. I further understand that fees, penalties, or interest for not paying rent or making a housing payment on time as required by my tenancy, lease agreement, or similar contract may still be charged or collected.

- I further understand that at the end of this temporary halt on evictions on December 31, 2020, my housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay may make me subject to eviction pursuant to State and local laws.

I understand that any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

Signature of Declarant Date

Authority

The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Dated: September 1, 2020.

Nina B. Witkofsky,

Acting Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2020-19654 Filed 9-1-20; 4:15 pm]

BILLING CODE 4163-18-P

³⁸ An "extraordinary" medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

³⁹ "Available housing" means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to you.



CITY COUNCIL Staff Report

Meeting Date: September 15, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Jeff Murphy, Community Development Director
Jeff.Murphy@carlsbadca.gov, 760-602-2783

Subject: Empower the Director of Emergency Services to Temporarily Suspend or Modify Certain Land Development Standards in the Westfield Carlsbad Specific Plan to Mitigate the Economic Effects of the COVID-19 Pandemic State of Emergency on Local Businesses

Recommended Action

Adopt a resolution empowering the director of emergency services to temporarily suspend or modify certain land development standards in the Westfield Carlsbad Specific Plan to mitigate the economic effects of the COVID-19 pandemic state of emergency on local businesses.

Executive Summary

With the ongoing closures associated with the COVID-19 pandemic, businesses are struggling to find ways to continue operations, even on a limited basis. While the city has found creative solutions to allow temporary activation of public and private property, city regulations do not provide enough flexibility to allow certain solutions that could further help businesses operate during these unprecedented times.

On August 24, 2020, the Ad Hoc City Council Economic Revitalization Subcommittee recommended temporarily suspending or modifying certain land development standards within the Westfield Carlsbad Specific Plan to allow more flexibility in the temporary use of the city-owned parking lot parcels. The Westfield Carlsbad Specific Plan regulates land uses at The Shoppes at Carlsbad shopping center. If the City Council supports the recommendations of the subcommittee, the attached resolution will empower the director of emergency services (the city manager) under Carlsbad Municipal Code Chapter 6.04, Emergency Services, to temporarily suspend or modify certain land development standards within the Westfield Carlsbad Specific Plan and Section 8.17 of the Carlsbad Municipal Code for the duration of the local COVID-19 pandemic state of emergency.

Discussion

Background

The city has recently received requests from certain businesses operating within The Shoppes at Carlsbad shopping center to authorize the outdoor commercial activation of the parking lot

for temporarily operations during the pandemic, similar to the authority given other businesses throughout the city. The owners of the shopping center have also requested that the parking lot be allowed to be used for other COVID-19-related services, including a temporary drive-thru clinic that performs COVID testing.

However, under the 2013 Westfield Carlsbad Specific Plan, which sets the land use regulations for The Shoppes at Carlsbad, these temporary activations are not explicitly allowed or permitted on the property. Furthermore, even if these temporary activations were authorized under the code, the specific plan greatly limits their duration to no more than 60 days. The private property permit has been the permit used to activate similar parking lots in other private retail centers. Because the parking lot at The Shoppes at Carlsbad is owned by the city and is considered public property, staff cannot use the private property permit to authorize this use of the parking lot.

At its meeting on August 18, 2020, during a discussion of the COVID-19 Actions and Expenditures Report, the City Council passed a minute motion directing the city manager to investigate the options to temporarily modify or suspend certain requirements governing temporary uses in the Westfield Carlsbad Specific Plan area (Exhibit 2). In response, staff identified those sections within the plan that complicate the city's ability to allow for workable solutions for parking lot activation and developed recommendations on how best to allow for the temporary suspension of those regulations to help struggling businesses and to allow for COVID-related services.

Staff presented the information to the Ad Hoc City Council Economic Revitalization Subcommittee on August 24, 2020 (Exhibit 3). The subcommittee asked some clarifying questions, including questions on the certification and licensing requirements for drive-thru COVID testing. The subcommittee considered the information and responses provided and recommended the temporary suspensions and modifications as proposed by staff. After the meeting, the COVID Clinic, the company interested in operating a drive-thru COVID testing facility at the shopping center parking lot, provided a written response to the questions raised by the subcommittee members (Exhibit 4).

Should the City Council support the recommendations of the subcommittee, the attached resolution will empower the director of emergency services (the city manager) under Carlsbad Municipal Code Chapter 6.04, Emergency Services, to temporarily suspend or modify those standards specified above and detailed below for the duration of the local COVID-19 pandemic state of emergency. Once the City Council ends the local state of emergency, the temporary suspension of the standards will also end, and any temporary improvements allowed under the suspended or modified standards will need to be removed.

Code sections needing suspension or modification

Below is an overview of certain sections of the Westfield Carlsbad Specific Plan and the municipal code that prevent businesses from expanding their operations outdoors during the COVID-19 pandemic state of emergency, followed by staff's recommendations for removing the impediments.

Temporary uses allowed

Section 3.2 of the specific plan covers the type of temporary events that are currently allowed in the parking lot:

- Automotive demonstrations and product awareness events with local Carlsbad dealers
- Bicycling or skating demonstrations or shows
- Christmas tree lots
- City-wide events
- Farmers' markets
- Pumpkin patches
- Seasonal garden centers
- Other similar events

The expansion of existing retail businesses and the COVID clinic do not fit within the allowances listed above. Staff recommends that this standard be modified to allow businesses within the shopping center to temporarily expand their operations into the parking lot for the duration of the COVID-19 state of emergency. It would also allow other uses of the parking lot that would help businesses at the shopping center during the pandemic. This expansion would also apply to a COVID clinic or other similar COVID-related operations.

Permit duration

Section 6.2 of the plan states that seasonal events, such as Christmas tree lots and pumpkin patches, cannot be in operation for more than 60 days, while non-seasonal events cannot go on for more than 10 days. Staff recommends that this standard be suspended to allow commercial use of the parking lot to continue for the duration of the state of emergency. Once the City Council ends the local state of emergency, the temporary suspension of the standards will also end, and any temporary improvements allowed under the suspended or modified standards must be removed.

Private property permits

On June 9, 2020, an additional materials memo was provided to the City Council regarding the use and purpose of the special event on private property permit (Exhibit 5). In short, Carlsbad Municipal Code Chapter 8.17 regulates special events that may affect traffic, the public right of way, fire and police services or often require direct involvement of city staff. Examples of special events may include parades, concerts, demonstrations, public assemblies and spectator and participation sports such as marathons, bicycle races and tournaments.

The code recognizes that some special events are minor in scope and scale, held entirely on private property and do not impact public roads or services. These functions may involve weekend sales, store reopening or special business events that occur for a short duration, typically in a business's parking lot or private common area. The special event regulations authorize these forms of special events with the approval of a special event on private property permit. This is an administrative permit issued by the community development director for a minor event or function held entirely on private property that does not require a traffic control plan and does not impact public road segments or intersections beyond normal operations.

The department has issued over 50 special events on private property permits since June to allow businesses throughout the city, most of which have been restaurants, to successfully activate their parking lots to operate on a limited basis.

While The Shoppes at Carlsbad is a private retail center, the parking lot that serves the shopping center is owned by the city, making it public property. As noted above, this means that staff is precluded from using special events on private property permits under Chapter 8.17 to activate the parking lot at The Shoppes at Carlsbad.

Staff recommends that the City Council authorize the director of emergency services to use the private property permit procedures in Chapter 8.17 for activation of the parking lot at The Shoppes at Carlsbad for the duration of the COVID state of emergency.

This would enable businesses at The Shoppes, such as gyms, restaurants, salons and others, to move operations into the parking lot during the pandemic. It would also allow other uses of the parking lot in support of businesses at The Shoppes, and allow a COVID testing clinic and other similar COVID-related operations to operate in the parking lot and private common areas.

Because the city is the owner of the parking lots, permits issued on public property at The Shoppes will be required to indemnify the city and provide liability insurance in an amount satisfactory to the city's risk manager. The private property permit is a free permit, and should the City Council agree to authorize the director of emergency services to apply this permit to activate the public parking lot at The Shoppes, the permit will remain free to applicants.

Fiscal Analysis

None.

Next Steps

The director of emergency services will issue an emergency order temporarily suspending or modifying the identified land development standards. Staff will also inform and educate the owners of and businesses at The Shoppes at Carlsbad of the allowance and the permitting process.

Environmental Evaluation (CEQA)

This action is statutorily exempt from the California Environmental Quality Act under California Public Resources Code Section 20180(b)(4) for specific actions necessary to prevent or mitigate an emergency, and is categorically exempt from CEQA under CEQA Guidelines 15301, existing facilities, and 15304(e), minor temporary use of land having negligible or no permanent effects on the environment.

Public Notification

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date. Notice of the meeting was also posted on social media and on the city's website.

Exhibits

1. City Council resolution
2. Referenced sections of the Westfield Carlsbad Specific Plan

3. Memorandum to the City Council Ad Hoc Economic Revitalization Subcommittee, dated August 24, 2020
4. Letter from COVID Clinic, dated August 25, 2020
5. City Council Memorandum, dated June 9, 2020

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, EMPOWERING THE DIRECTOR OF EMERGENCY SERVICES TO TEMPORARILY SUSPEND OR MODIFY CERTAIN LAND DEVELOPMENT STANDARDS IN THE WESTFIELD CARLSBAD SPECIFIC PLAN TO MITIGATE THE ECONOMIC EFFECTS OF THE COVID-19 PANDEMIC STATE OF EMERGENCY ON LOCAL BUSINESSES

WHEREAS, Carlsbad Municipal Code Section 6.04.090(A) designates the City Manager as the Director of Emergency Services (Director); and

WHEREAS, Carlsbad Municipal Code Section 6.04.100(A)(6)(e) empowers the Director, in the event of a proclamation of a local or statewide emergency, to execute any special powers conferred upon him by City Council resolution; and

WHEREAS, on Jan. 31, 2020, the Secretary of the United States Department of Public Health and Human Services declared a public health emergency as a result of the COVID-19 pandemic; and

WHEREAS, on Feb. 14, 2020, the San Diego County Health Officer declared a local health emergency as a result of the COVID-19 pandemic, which the San Diego County Board of Supervisors subsequently ratified; and

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a statewide state of emergency as a result of the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, the Director proclaimed a local state of emergency as a result of the COVID-19 pandemic, which the City Council subsequently ratified and extended; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing individuals living in California to comply with a State Public Health Officer order to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations at critical infrastructure sectors; and

WHEREAS, on May 4, 2020, Governor Newsom issued Executive Order N-60-20 allowing non-essential businesses to reopen in four stages in compliance with criteria set by the State Public Health Officer and based on certain public health criteria being met on a county-by-county basis; and

WHEREAS, by June 19, 2020, dine-in restaurants, alcohol-serving businesses offering dine-in meals, personal care services businesses and other businesses in Carlsbad were permitted to reopen subject to compliance with safe reopening plans; and

WHEREAS, because of increased rates of COVID-19 infection, on July 13, 2020, the State Public Health Officer issued an order and on July 14, 2020, the San Diego County Public Health Officer issued an order (collectively, "Public Health Orders") restricting indoor operations at dine-in restaurants, alcohol-serving businesses offering dine-in meals, and businesses offering certain personal care services, including nail salons, hair salons, and barbershops; and

WHEREAS, as a result of the Public Health Orders, dine-in restaurants, alcohol-serving businesses offering dine-in meals, and businesses offering certain personal care services, including nail salons, hair salons, and barbershops, in the Westfield Carlsbad Specific Plan area and other businesses throughout Carlsbad must reduce all indoor operations for a potentially prolonged period of time; and

WHEREAS, strict compliance with certain land development standards and regulations in the Westfield Carlsbad Specific Plan and Chapter 8.17, Special Events, of the Carlsbad Municipal Code hinders Carlsbad businesses from moving their operations outdoors, which could lead to their closure and harm their economic viability; and

WHEREAS, it is in the public interest to take steps to ensure local businesses remain economically viable during the COVID-19 pandemic state of emergency; and

WHEREAS, adopting this resolution will empower the Director to temporarily suspend or modify the land development standards identified in Attachment A to support local businesses and maintain their economic viability, to ensure the availability of important services to local residents, and to promote a stable business and job market for employers and employees to return to once the COVID-19 pandemic state of emergency is abated; and

WHEREAS, adopting this resolution is necessary and appropriate to mitigate the immediate threats to the public health, safety, and welfare of residents and local businesses from the significant economic impacts of the COVID-19 pandemic by assisting businesses to successfully reopen and remain open in compliance with the Public Health Orders.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That the Director is empowered to temporarily suspend or modify the land development standards identified in Attachment A.

3. That the authorization provided to the Director in this resolution shall remain in effect for the duration of the local COVID-19 pandemic emergency unless terminated earlier by City Council action.
4. That upon the expiration or termination of the authorization provided to the Director in this resolution, the temporary suspension or modification of the land development standards identified in Attachment A will be of no further force and effect, all improvements for any temporary outdoor business use must be immediately removed, and all outdoor spaces must be returned to the condition they were in just prior to their temporary outdoor business use.
5. That the Director may take any further action necessary and appropriate to carry out the purpose and intent of this resolution.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

**LAND DEVELOPMENT STANDARDS AND SPECIAL EVENT PERMIT REQUIREMENTS
TEMPORARILY SUSPENDED OR MODIFIED DURING THE LOCAL COVID-19 PANDEMIC STATE OF
EMERGENCY**

A. Section 3.2 (Temporary Parking Lot Events) of the Westfield Carlsbad Specific Plan

Temporary parking lot events shall be modified to also allow businesses within The Shoppes at Carlsbad to temporarily expand their operations into the parking lot for the duration of the COVID-19 pandemic state of emergency, as well as any other uses that would be in support of businesses at the shopping center. This expansion would also apply to a COVID clinic or other similar COVID-related operations.

B. Chapter 8.17 (Special Events) of the Carlsbad Municipal Code

A special event on private property permit shall be used to authorize temporary parking lot events, as described in Section A above. As the city is the owner of the parking lots, permits issued on public property at The Shoppes at Carlsbad will be required to indemnify the city and provide liability insurance in an amount satisfactory to the city's risk manager.

C. Section 6.2 (Temporary Parking Lot Event Permit) of the Westfield Carlsbad Specific Plan

The time limitations for temporary parking lot events shall be suspended. The duration of a temporary parking lot event, as described in Section A above and permitted in Section B above, shall remain valid for the duration of the local COVID-19 pandemic emergency unless terminated earlier by City Council action. Once the City Council ends the local state of emergency, the temporary suspension of the standards will also end and any temporary improvements allowed under the suspended or modified standards must be removed.

Westfield Carlsbad Specific Plan

Prepared For:



225 Broadway, Suite 1700
San Diego, CA 92101

City of Carlsbad

1200 Carlsbad Village Drive
Carlsbad, CA 92008

Prepared by:



Hofman Planning & Engineering
3156 Lionshead Avenue, Suite 1
Carlsbad, CA 92010

3.2 TEMPORARY USES

Temporary Parking Lot Events

Westfield Carlsbad's significant parking lot space (over 50 acres) and efficient regional access (e.g. from State Route 78, El Camino Real, and an on-site mass transit center) offer ample opportunity for temporary events. Properly programmed and managed events maximize both the use of the site and benefits to area residents, visitors and businesses contributing significantly to the overall vibrancy of the regional shopping center.

The following temporary events are allowed subject to the requirements as described in Section 6.3 of the specific plan:

- Automotive Demonstrations/Product Awareness with local Carlsbad dealers (excluding tent sales and used car sales)
- Bike/Skate Demonstration or Show
- Christmas Tree Lot
- City-wide Events (such as 4th of July Celebration or other holiday/seasonal events, MS Bike Ride, Carlsbad Marathon, etc)
- Farmers' Markets
- Pumpkin Patch
- Seasonal Garden Centers
- Other similar events subject to mutual agreement between Plaza Camino Real, LLC and the City of Carlsbad

In conjunction with the temporary events listed above, retail stores at Westfield Carlsbad shall be able to setup and operate temporary booths/stalls in support of any events. The products/services offered in the temporary booths/stalls shall be complimentary and compatible with the primary special event, and the number and size of the booths/stalls shall be limited, such that they remain incidental and subordinate to the primary temporary event use.

All temporary events are to occur within one of the designated areas shown in Figure 6.

Any temporary events occurring within the public right-of-way may be allowed if they meet City of Carlsbad Police definition for Special Event per Section 8.17.020, and an application for a Special Event Permit is filed with and approved by the City of Carlsbad.

3.3 PROHIBITED USES

The following uses are prohibited from the Westfield Carlsbad Specific Plan:

- Tattoo parlors
- Pawn shops

6.1 STAFF APPROVAL – ADMINISTRATIVE REVIEW

Proposed development that qualifies in a category requiring only staff approval is not subject to discretionary review and findings are not required to be made, instead the Planning staff shall review the associated materials (e.g. sign permit, building permit, landscape construction change, etc.) for compliance with the relevant development and design guidelines of the Westfield Carlsbad Specific Plan.

6.3 SIGN APPLICATION AND PERMIT PROCEDURES

Prior to the issuance of any new signage for Westfield Carlsbad, a comprehensive sign program shall be prepared for review and approval by the City Planner. The submitted and approved Sign Program shall be in conformance with the provisions of this specific plan chapter. Any conflicts between the municipal code and this specific plan shall be resolved by the provisions of this specific plan and pending sign program which implements the signage allowances available to Westfield Carlsbad.

6.2 TEMPORARY PARKING LOT EVENTS PERMIT

Those uses listed in Section 3.2 "Temporary Uses" of specific plan shall be applied for and processed in accordance with the provisions of Chapter 8.17 (Special Events) of the Carlsbad Municipal Code. In addition to the requirements of Chapter 8.17, applications for a Temporary Use shall be subject to the following limitations and requirements:

- Total duration of not more than 60 days for seasonal events, such as but not limited to Christmas tree lots and pumpkin patches
- Total duration of not more than 10 days for non-seasonal events
- Location within the pre-approved areas shown in Figure 3 of this specific plan

When a business or property owner plans an outdoor event on private property that is not a Special Event as defined in C.M.C. Chapter 8.17, the business or property owner may apply for a permit to hold such an event to the Community and Economic Development Director or his or her designee in accordance with the application requirements of the City of Carlsbad's Community & Economic Development Policy 8 – Minor Special Events on Private Property.

Sign Program Purpose

The purpose of the Westfield Carlsbad sign program is to review and approve signage that is integrated with the shopping center's existing and planned buildings, proposed improvements, site characteristics and landscaping to form a unified architectural statement. The sign program also allows tenants as well as the public to benefit from a uniform set of standards and allowances with regards to Westfield Carlsbad signage.

Application and fees

The sign permit application for a sign program shall be made in writing on the form provided by the planning division. The application shall be accompanied by the required fee. Such application shall include the following information:

1. A copy of the approved Westfield Carlsbad specific plan area drawn to scale showing the location of property lines, rights-of-way, adjacent streets, sidewalks and on-site buildings, landscaped areas, off-street parking and vehicular access points.
2. A drawing to scale showing the design of each sign type allowed, including north arrow, dimensions (height and width), sign size (area), colors, materials, method of



August 24, 2020

To: Ad Hoc City Council Economic Revitalization Subcommittee
From: Jeff Murphy, Community Development Director
Via: Gary Barberio, Deputy City Manager, Community Services Branch
Re: **Improving the city's ability to provide temporary relief for businesses in The Shoppes at Carlsbad Shopping Center during the COVID-19 emergency**

The city has recently received requests from certain businesses within The Shoppes at Carlsbad to authorize the outdoor activation of the parking lot in order to allow temporary operations during COVID, similar to the authority given other businesses throughout the city. The owners of the shopping center have also requested that the parking lot be allowed to be used for other COVID-related services, including a temporary drive-thru clinic that performs COVID testing.

However, pursuant to the 2013 Westfield Carlsbad Specific Plan, which sets forth the land use regulations for The Shoppes at Carlsbad, these temporary activations are not explicitly allowed or permitted on the property. Furthermore, even if these temporary activations were authorized under the code, the specific plan greatly limits duration (up to 60 days, maximum). Lastly, the private property permit has been the permitting tool used to activate similar parking lots in other private retail centers. Because the parking lot at the Shoppes at Carlsbad's is owned by the city and is considered public property, staff is precluded from using this permitting tool.

Staff recommends that the City Council empower the director of emergency services (city manager) under Carlsbad Municipal Code Chapter 6.04, Emergency Services, to temporarily suspend or modify those standards specified above and detailed below for the duration of the local COVID-19 pandemic state of emergency. Once the City Council ends the local state of emergency, the temporary suspension of the standards will also end and any temporary improvements allowed under the suspended or modified standards must be removed.

Code Sections Needing Suspension or Modification

Below is an overview of certain sections of the Westfield Carlsbad Specific Plan and city municipal code that prevent businesses from expanding their operations outdoors during the COVID-19 pandemic state of emergency, followed by staff's recommendations for removing the impediments.

- Temporary Uses Allowed

Section 3.2 of the specific plan covers the type of temporary events that are allowed in the parking lot; specifically,

- Automotive Demonstrations/Product Awareness with local Carlsbad dealers
- Bike/Skate Demonstration or Show
- Christmas Tree Lot
- City-wide Events
- Farmers' Markets
- Pumpkin Patch
- Seasonal Garden Centers
- Other similar events

Neither the expansion of existing retail businesses nor the COVID clinic fit within the allowances listed above. Staff recommends that this standard be modified to allow businesses within the shopping center to temporarily expand their operations into the parking lot for the duration of the COVID state of emergency, as well as any other uses that would be in support of businesses at the shopping center. This expansion would also apply to a COVID clinic or other similar COVID-related operations.

- Permit Duration

Section 6.2 of the plan states that the total duration of seasonal events, like Christmas tree lots and pumpkin patches, cannot not exceed 60 days; for non-seasonal events, no more than 10 days. Staff recommends that this standard be suspended to allow COVID related activations in the parking lot for the duration of the state of emergency.

- Private Property Permits

On June 9, 2020, an additional materials memo was provided to the City Council regarding the use and purpose of the special event on private property permit. In short, Carlsbad Municipal Code Section 8.17 regulates special events that may affect traffic, public right-of-way, fire and police services, and/or often requires direct involvement of city staff. Examples of special events may include parades, concerts, demonstrations, public assemblies and spectator and participation sports such as marathons, bicycle races and tournaments.

The code recognizes that some special events are minor in scope and scale, held entirely on private property and do not impact public roads or services. These functions may involve weekend sales, store reopening or special business events that occur for a short duration, typically in a business's parking lot or private common area. The special event regulations authorize these forms of special events with the approval of a special event on private property permit. This is an administrative permit issued by the community development director for a minor event or function held entirely on private property that does not require a traffic control plan or impact public road segments or intersections beyond normal operations.

Since June, the department has issued over 50 special events on private property permits to allow businesses throughout the city, most of which have been restaurants, to successfully activate their parking lots to operate on a limited basis.

While The Shoppes at Carlsbad is a private retail center, the parking lot that serves the shopping center is owned by the city, making it public property. As such, staff is precluded from using special events on private property permits under Section 8.17 to activate the parking lot at The Shoppes at Carlsbad. Staff recommends that the City Council authorize the Director of Emergency Services to use the private property permit procedures in Section 8.17 for activation of the parking lot at The Shoppes at Carlsbad for the duration of the COVID state of emergency. Like other retail centers, this would include allowing businesses at The Shoppes, such as gyms, restaurants, salons and other similar retail uses or uses in support of businesses at The Shoppes, to operate in the parking lot and private common areas. As the city is the owner of the parking lots, permits issued on public property at The Shoppes will be required to indemnify the city and provide liability insurance in an amount satisfactory to the city's risk manager. The private property permit is a free permit, and should the City Council agree to authorize the Director of Emergency Services to apply this permit to activate the public parking lot at The Shoppes, the permit will remain free to applicants.

Attachment A: Relevant Sections of the Westfield Carlsbad Specific Plan

cc: Scott Chadwick, City Manager
Celia Brewer, City Attorney
Cindie McMahon, Assistant City Attorney
Ron Kemp, Assistant City Attorney
David Graham, Chief Innovation Officer
Curtis Jackson, Real Estate Manager



August 25, 2020

Curtis M. Jackson, Esq.
 Real Estate Manager
 City of Carlsbad
 3096 Harding St.
 Carlsbad, CA 92008

Dear Mr. Jackson,

Please find the requested information for the Carlsbad City Council:

1. What type of certification is required for COVID CLINIC, Inc. to operate?
 In the city of Carlsbad, we are required to have a business license, an event permit and the state issued CLIA certificate.
2. Do the offered tests require FDA approval?
 To date, no test has been given approvals for COVID testing by the FDA. The tests we administer have received Emergency Use Authorization (EUA) from the FDA.
3. What types of tests are we conducting?
 Rapid COVID-19 Test, Expedited COVID-19 PCR Tests, Rapid COVID-19 Antibody Test
4. What specifically was missing that made Covid Clinic not compliant previously, and what was remedied?
 We were waiting on the state issued CLIA (Clinical Laboratory Improvement Amendments) certificate that certifies us to operate as a lab since we do both the testing and the lab processing on site. We now have this for all of our locations.
5. What is the price point and accessibility for your tests?
 Our motto is "COVID testing for all" so insurance is not required to take a test. We serve local communities and depending on demand, same day appointments are available. We offer the Rapid Covid-19 Test (\$150), Expedited COVID-19 PCR Tests (\$375-\$475), Rapid COVID-19 Antibody Test (\$99). Results are delivered digitally in as little as 20 minutes depending on the test. We encourage patients with insurance to submit the test expense to their insurance company for reimbursement.

We are looking forward to serving the community of Carlsbad with rapid and efficient testing.

Sincerely,

Matthew Abinante, DO, MPH

All Receive - Agenda Item # 7
 For the Information of the:
 CITY COUNCIL
 Date 6/9/20 CA CC
 CM ACM DCM (3)



Council Memorandum

June 9, 2020

To: Honorable Mayor Hall and Members of the City Council
From: Gary Barberio, Deputy City Manager, Community Services
 David Graham, Chief Innovation Officer
 Jeff Murphy, Community Development Director
Via: Geoff Patnoe, Assistant City Manager 
Re: **Additional Materials Related to Staff Report Item No.7 – COVID-19 Actions and Expenditures Report**

In response to the COVID-19 health emergency the State of California and County of San Diego require Carlsbad companies to implement adaptations to business operations to reduce the likelihood of disease transmission. Through ongoing engagement with the business community, the Community Development Department and Office of Innovation and Economic Development have identified that the expansion of operations onto sidewalks and activation of private parking lots can help mitigate the loss of usable indoor space.

This memorandum provides information on how the city will process permits for Carlsbad businesses requesting to utilize their private parking lots and/or city sidewalks to expand operations during the COVID-19 social distancing protocols.

Background

With the state and county health officer's recent approval to move farther through stage 2 of California's reopening plan, dine-in restaurants and in-store retail have been allowed to reopen with modifications. Additionally, the California State Department of Alcoholic Beverage Control has also recently granted further regulatory relief that allows for expanded on-site sale privileges for license owners.

Because businesses will be required to enact social distancing and follow other restrictions to prevent the spread of the coronavirus, their ability to accommodate typical customer traffic within their establishments will be limited. As such, businesses may request the use of their private parking lots and/or public sidewalks to help maintain distance protocols while improving their ability to accommodate customers.

On June 1, 2020 an informational item on temporary outdoor activation in response to COVID-19 was presented to the Ad Hoc City Council Economic Revitalization Subcommittee. The information provided, and further detail are provided in this memorandum.

Discussion

Attachment A outlines the requirements and permitting processes to allow businesses to temporarily utilize their private parking lots, or the public sidewalk outside of their establishment, while the mandated social distancing criteria is in place. Important process takeaways are as follows:

- Permit authority is currently in place; no City Council action is necessary to implement
- Permits are administrative and approved by the Community Development Director
- Permits are given high priority and processed within two business days
- A private property permit is free; right-of-way use permit is \$381
- Permits are valid for one year or until protocols change, whichever comes first

Next Steps

Staff will be posting information on the website and actively advising business owners of this available option. A joint communication from the Carlsbad Chamber of Commerce, Carlsbad Village Association and City of Carlsbad will be issued on June 10, 2020 with information regarding the temporary use of private parking lots and public sidewalks for business use during the COVID-19 social distancing protocols. This information will also be posted to the city's COVID-19 business resources page and will be regularly discussed during business community engagement.

Attachment: A. Permit processing protocols for allowing temporary use of private parking lots and public sidewalks for business use during the COVID-19 social distancing requirements.

cc: Scott Chadwick, City Manager
Celia Brewer, City Attorney
Ron Kemp, Deputy City Attorney
Michael Calderwood, Carlsbad Fire Chief
Neil Gallucci, Carlsbad Police Chief

Permit processing protocols for allowing temporary use of private parking lots and public sidewalks for business use during COVID-19 social distancing restrictions

Below summarizes the permit requirements to allow for the temporary use of private parking lots and public sidewalks. Private property permits shall be valid for one year from the date of issuance or until the state and county health office releases businesses from the coronavirus social distancing protocols or impose new restrictions/limitations, whichever comes first.

A. PRIVATE PARKING LOTS

1. Authority

Carlsbad Municipal Code §8.17 (Special Events) defines and establishes the authority for approving a "Private Property Permit."¹

2. Permit Submittal Requirements

The business/property owner shall submit the following information to the Community Development Department:

- Private Property Special Event Permit Application (no fee is required for this application)
- Copy of ABC application, if applicable
- Detailed description of outdoor operations (i.e., intended use, occupancy levels, hours of operation)
- Fully dimensioned, to-scale site plan of proposed area showing the following:
 - Parking area showing parking stalls
 - Temporary structures and location
 - Location of proposed customer areas
 - Path of travel from existing structure to outdoor area
 - ADA access and path of travel
 - If a portion of the parking lot will still be accessible to vehicles,
 - Types and location of temporary protective barriers
 - Vehicle paths of travel
 - The following notes must be clearly shown on the plans:
 - "The total number of tables/chairs placed outside shall not exceed the total number of tables/chairs removed from inside the building required for social distancing."
 - "Egress routes shall be clear and maintained and at all times"

¹ [§8.17.020](#) defines a "Private Property Permit" as an administrative permit issued by the community development director for a minor event/function held entirely on private property; §8.17.020 defines a "Minor Event" as a special event that does not require a traffic control plan or impact public road segments or intersections beyond normal operations; [§8.17.040](#) exempts Private Property Permits from a Special Event Permit.

Attachment A

Permit processing protocols for allowing temporary use of private parking lots and public sidewalks for business use during COVID-19 social distancing requirements

- “Dedicated fire lanes shall be accessible at all times”
- “ADA and pedestrian access shall be maintained at all times.”
- “Any accessible parking stalls shall remain open for parking”

3. Permit Review Criteria

Once submitted, the application packet will be routed (same day) to the following points of contact for processing:

- Development Services Manager, Community Development Dept. (lead)
- Building Official, Community Development Dept., Building & Code Enforcement
- Assistant Fire Marshal, Carlsbad Fire Dept.
- Community Services Officer, Carlsbad Police Dept.

When reviewing applications, staff will focus on the following standards.

- Compliance with applicable Fire Code requirements
 - A separate Tent Permit may be required from the Fire Dept for certain size canopies.
- Compliance with applicable Building Code requirements, including ADA requirements
- Vehicle path of travel and temporary barriers provide a safe and navigable layout
- All required notes, conditions are clearly shown on the plans.

Permit reviews are to be completed within two business days from submittal date and provided to the permit lead. A meeting with the applicant shall be scheduled as soon as possible to address any deficiencies or issues. Every attempt should be made to resolve conflicts and issue the permit within the two-day period.

A. PUBLIC SIDEWALKS (only within the Village and Barrio Master Plan area)

1. Authority

Pursuant to section 2.6.5.B of the [Carlsbad Village and Barrio Master Plan](#), a right-of-way use permit (charged as a “minor right-of-way permit” under the fee ordinance) is required for sidewalk cafés and outdoor displays. Section [11.16.030](#) of the Carlsbad Municipal Code authorizes the city engineer to issue right-of-way permits, including right-of-way use permits.

All standards of the Carlsbad Village and Barrio Master Plan section 2.6.5.B Sidewalk Cafe shall apply to establishments wishing to utilize the public sidewalk for operations during social distancing restrictions.

Exception: Because the business operations and improvements in the right-of-way are temporary (no permanent structures authorized), pursuant to the authority granted under Section 2.6.5.B.7.b of the Master Plan, the city engineer has determined that an Encroachment Agreement is not necessary for right-of-way use permits issued under these protocols.

2. Permit Submittal Requirements

The business/property owner shall submit the following information to the Community Development Department:

Permit processing protocols for allowing temporary use of private parking lots and public sidewalks for business use during COVID-19 social distancing requirements

- Right-of-way use permit application [Form E-12](#)
- Submittal requirements pursuant to [Form E-12A](#), excluding checklist item #7
- A permit fee of \$381
- Copy of ABC application, if applicable
- Detailed description of outdoor operations (include use, occupancy levels, hours of operation)
- Fully dimensioned to-scale site plan of proposed area showing the following:
 - Six-foot minimum unobstructed ADA path of travel, to maintain social distancing
 - Pictures supporting the site plan
 - Description and photos (if available) of proposed tables, chairs, displays and temporary fencing to be used in the right-of-way.
- The following notes shall be included on the plans:
 - “No permanent fixtures shall be allowed in the public right-of-way.”
 - “ADA and pedestrian access shall be maintained at all times.”
 - “Sidewalk, planter and adjacent gutter areas shall always be kept free of litter and debris.”
 - “A six-foot horizontal and seven-foot vertical clear path of travel shall always be maintained.”
 - “Approved tables, chairs, displays and temporary fencing shall be kept clean and free of graffiti, rust, chipped/scratched paint.”

Once submitted, the application packet will be routed (same day) to the Engineering Technician, Community Development Dept./Land Development Engineering for review and processing. Permit reviews are to be completed within two business days from submittal date. A meeting with the applicant shall be scheduled as soon as possible to address any deficiencies or issues. Every attempt should be made to resolve conflicts and issue the permit within the two-day period.

3. Permit Review Criteria

Compliance with the submittal requirements described above and Section 2.6.5.B of the Carlsbad Village and Barrio Master Plan (as modified herein).



CITY COUNCIL
Staff Report

Meeting Date: Sept. 15, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Nathan Schmidt, Transportation Planning and Mobility Manager
Nathan.schmidt@carlsbadca.gov, 760-637-7183

Subject: Approval and Direction on Traffic and Mobility Commission Work Plan for Fiscal Year 2020-21

Recommended Actions

1. Adopt a resolution approving the Traffic and Mobility Commission Work Plan for fiscal year 2020-21
2. Provide direction to the Traffic and Mobility Commission on priorities of items within the work plan and the level of detail of Traffic and Mobility Commission meeting minutes

Executive Summary

Carlsbad Municipal Code Section 2.15.020 (C) requires that each board or commission provide to the City Council for its approval an annual work plan of activities to be undertaken.

In this item, the City Council is being asked to approve the Traffic and Mobility Commission's work plan for fiscal year 2020-21, which is attached. The Traffic and Mobility Commission is also requesting direction from City Council on prioritizing the work plan items and level of detail of Traffic and Mobility Commission meeting minutes.

Discussion

The proposed work plan includes activities the Traffic and Mobility Commission anticipates undertaking in 2020-21. The goal of the plan is to encourage increased dialogue between the Traffic and Mobility Commission and the City Council. The plan is also intended to ensure that the commission is working in line with the council's priorities.

The Traffic and Mobility Commission worked with the staff liaison and the chief innovation officer to develop the attached Traffic and Mobility Commission Work Plan for FY 2020-21. Some items contained in the work plan will carry over into future years.

At its meeting on Aug. 3, 2020, the commission approved the draft work plan unanimously with a vote of 7-0, recommending City Council approval of the proposed work plan for FY 2020-21 (Exhibit 1, Attachment A). Attached as Exhibit 2 are the draft minutes of the Aug. 3, 2020 Traffic and Mobility Commission meeting.

At its meeting on Sept. 8, 2020, the Traffic and Mobility Commission selected Chair Mona Gocan to present the proposed work plan at the Sept. 15, 2020, City Council meeting. The commission also discussed its request that City Council prioritize items on the work plan such as the Transportation Impact Analysis Guidelines, traffic impact fees and the Sustainable Mobility Plan and its section on safe routes to school. The commission also requested the council's direction on the level of detail to be provided in the commission meeting minutes that are presented to the City Council in connection with the commission's recommendations.

Next Steps

With the City Council's approval of the proposed work plan and prioritization of items described in the work plan, future agendas for the Traffic and Mobility Commission will be developed according to the plan. The commission will incorporate elements of the communications plan into its rules and regulations, which does not require City Council approval.

With the City Council's direction, the commission's minutes will be drafted accordingly.

Fiscal Analysis

None

Environmental Evaluation (CEQA)

This action does not constitute a "project" within the meaning of the California Environmental Quality Act under Public Resources Code section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Public Notification and Outreach

Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

Exhibit

1. Resolution, with proposed Traffic and Mobility Commission Work Plan attached
2. Draft minutes of the Aug. 3, 2020, Traffic and Mobility Commission Meeting

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING THE TRAFFIC AND MOBILITY COMMISSION WORK PLAN FOR FISCAL YEAR (FY) 2020-21.

WHEREAS, Chapter 2.15 of the Carlsbad Municipal Code requires that each board or commission provide to the City Council for its approval an annual work plan of activities to be undertaken by the board or commission; and

WHEREAS, consistent with the duties of the Traffic and Mobility Commission under Chapter 2.28 of the Carlsbad Municipal Code, staff prepared a draft annual work plan for the Traffic and Mobility Commission that is designed to promote mobility and traffic safety within the city and to implement the General Plan Mobility Element; and

WHEREAS, on Aug. 3, 2020, the Traffic and Mobility Commission considered and unanimously recommended City Council approval of the draft annual work plan for FY 2020-21.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That the City Council of the City of Carlsbad approves the Traffic and Mobility

Commission Work Plan for FY 2020-21, attached hereto as Attachment A.

PASSED, APPROVED AND ADOPTED at a regular Meeting of the City Council of the City of

Carlsbad, California on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

City of Carlsbad

Traffic and Mobility Commission Work Plan

Fiscal Year 2020-21

I. Mission Statement

The Traffic and Mobility Commission is committed to enhancing safe mobility for the city and its residents by using data-driven decision-making and a forward-looking approach to transportation. We are transparent and do the right thing the right way.

II. Duties

The City Council has established a goal to have the City of Carlsbad become a leader in multimodal transportation systems and creative approaches to moving people and goods through and within the City of Carlsbad. Consistent with Carlsbad Municipal Code Chapter 2.28, the City of Carlsbad Traffic and Mobility Commission was established. The duties of the Traffic and Mobility Commission are defined as follows by the Carlsbad Municipal Code Section 2.28.050:

It shall be the duty of the traffic and mobility commission to study matters concerning mobility and traffic safety, including implementation of the General Plan Mobility Element, and to make written recommendations to the city council and planning commission regarding measures that should be taken to promote mobility and traffic safety within the city as follows:

- A. Review staff studies and reports, and make recommendations to the city council and planning commission on mobility and traffic safety matters, including but not limited to those related to pedestrian, bicycle, vehicular and transit modes of travel, and parking and school safety;
- B. Provide a public forum to review community input regarding mobility and traffic safety matters, including but not limited to those related to pedestrian, bicycle, vehicular and transit modes of travel, and parking and school safety;
- C. Review and provide recommendations for revision to the city codes and plans on mobility and traffic safety matters, including but not limited to pedestrian, bicycle, vehicular and transit modes of travel, and parking and school safety.

III. FY 2020-21 Goals & Objectives

Consistent with Carlsbad Municipal Code Chapter 2.15, the Traffic and Mobility Commission will provide advisory recommendations within the scope of this work plan.

The Traffic and Mobility Commission will focus on the following FY 2020-21 Goals/Objectives:

1. **Goal:** Review staff recommendations on the multimodal transportation system, and

provide input based on data, best practices and public input.

- a) **Objective:** Review and provide input on mobility policies, programs, processes and informational reports including the Growth Management Program (GMP) Annual Monitoring Reports, Before/After Studies from the Traffic Signal Capital Improvement Program (CIP) project, Traffic Impact Fee program and other reports within the purview of the Commission. In addition, the Traffic and Mobility Commission will review the list of CIP projects as part of the Transportation Director's bi-annual transportation update report.
 - b) **Objective:** Review and provide input on mobility plans currently in process including the Sustainable Mobility Plan, Local Roadway Safety Plan (LRSP), Citywide Transportation Demand Management (TDM) Program and the Traffic Signal Master Plan.
 - c) **Objective:** Review and provide input on Carlsbad Residential Traffic Management Program projects and proposed traffic control devices such as parking restrictions, speed limits, stop signs, roundabouts and traffic signal evaluations.
 - d) **Objective:** Review and provide input to the new Mobility Systems Evaluation and Monitoring (MSEM) manual including: Transportation Impact Analysis (TIA) Guidelines, Growth Management Program Annual Traffic Monitoring Manual, vehicle level of service (LOS) evaluation methods, multimodal (pedestrian, bicycle and transit) LOS evaluation methods and Vehicle Miles Traveled (VMT) Analysis Guidelines.
 - e) **Objective:** Provide opportunities for public input on scheduled city projects that have the potential to improve mobility options.
2. **Goal:** Focus on mobility around school locations including safety.
- a) **Objective:** Review and provide input on significant mobility and safety projects near schools. Proactively engage the school district in Safe Routes to School (SRTS) planning and work with the schools to develop SRTS and access plans.
 - b) **Objective:** Receive informational reports from the Carlsbad Police Department regarding school traffic education and enforcement.
3. **Goal:** Enhance transparency.
- a) **Objective:** Propose upgrades of the city website to enhance public input related to mobility issues.
 - b) **Objective:** Work with the city clerk's office to provide video recordings of all Traffic and Mobility Commissions meetings on the city website.



Minutes

Council Chambers
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Monday, Aug. 3, 2020, 3:00 p.m.

CALL TO ORDER: Chair Gocan called the Meeting to order at 3:02 p.m.

ROLL CALL: Present: Gocan, Perez, Hunter, Penseyres, Fowler, Linke and Wanamaker.

APPROVAL OF MINUTES:

This meeting was conducted virtually via Zoom due to the stay-at-home order for COVID-19.

Motion by Vice-chair Perez seconded by Commissioner Linke, to approve the minutes for the July 6, 2020 meeting.

Motion carried: 6/0/1 (Abstain: Wanamaker)

PUBLIC COMMENTS ON ITEMS NOT LISTED ON THE AGENDA:

Public comments submitted via email prior to the T&MC meeting and it was read into record:

Steven Kesten, a Carlsbad resident, requested staff to slow vehicle speeds at the intersection of Avenida Encinas and Portage Way by implementing traffic calming measures such as road bumps, speed bumps, or flashing stop sign, with a flashing warning sign well before the 4-way stop.

Danna Van Noy, a Carlsbad resident, requested staff to improve the stop signs at the intersection of Avenida Encinas and Portage Way by moving the signs closer to the street and illuminate them with red blinking lights like they have in the City of Encinitas.

Brian and Rachel Whiffin, a Carlsbad resident, requested staff to put in a traffic signal at Avenida Encinas at Portage to help slow the flow of traffic and keep our community safe.

Lauren Brown, a Carlsbad resident, requested staff to consider installing additional safety measures at the intersection of Avenida Encinas and Portage Way, like speed bumps, crosswalk indicators, etc. The ones that are currently installed up the road have not proven to be sufficient.

Farhad Sharifi, a Carlsbad resident, requested staff to have speed bumps and or pedestrian crossing warning signals placed at the intersection of Avenida Encinas and Portage Way. The neighborhood kids cross this intersection often to get to the pool, tennis courts, and Batiquitos lagoon trail. We have witnessed multiple close calls and we need additional safety procedures in place before a tragic accident.

Will Keep, a Carlsbad resident, requested staff to either install a flashing light crosswalk or speed bumps at the intersection of Avenida Encinas and Portage Way, just prior to the 4-way stop.

Barbara Gallo, a Carlsbad resident, requested staff to implement methods to slow vehicle speeds at the intersection of Avenida Encinas and Portage Way, such as road bumps, speed bumps, or flashing stop sign, with a flashing warning sign well before the 4-way stop.

Jeri Gordon, a Carlsbad resident, requested staff to implement methods to slow down vehicles speeding at the intersection of Avenida Encinas and Portage Way.

CONSENT CALENDAR:

Motion by Commissioner Linke, seconded by Commissioner Hunter, to approve Consent Calendar Item Nos. 1 through 2. Motion carried unanimously, 7/0.

1. **AMERICANS WITH DISABILITIES ACT IMPROVEMENT PROGRAM** – Support staff’s Recommendation to implement the Americans with Disabilities Act (ADA) Improvement Program – Fiscal Year (FY) 2019-20 Pedestrian Ramp Improvement Project (Project), Capital Improvement Program (CIP) Project No. 6049-20. (Staff Contact: Hossein Ajideh and Scott Lyle, Public Works)
2. **AMEND PROCEDURAL RULES AND REGULATIONS TO ADD THE PLEDGE OF ALLEGIANCE** – Support staff’s recommendation to approve the amended Procedural Rules and Regulations to add the Pledge of Allegiance to meetings of the Traffic and Mobility Commission and adopt Resolution No. 2020-3 that supersedes Resolution No. 2020-2. (Staff contact: Nathan Schmidt, Public Works)

DEPARTMENTAL REPORTS:

3. **POLICE MONTHLY REPORT** – (Staff contact: Lieutenant Christie Calderwood, Police Department)
Staff Recommendation: Receive report

Lieutenant Calderwood reported on police activities during the month of July including electronic signage as part of enforcing restrictions on loud exhaust along Carlsbad Boulevard with a fix-it ticket of \$25 fine.

On July 31, 2020, a DUI Checkpoint was enforced on Carlsbad Boulevard and Beech Avenue. Bicycle Patrol is still operating and they received the San Diego County Bicycle Coalition business cards and officers will hand these out to cyclists as a referral to the non-profit organization for education. Report was presented via a PowerPoint presentation (on file in the Office of the City Clerk).

4. **TRAFFIC CALMING ON CADENCIA STREET** – (Staff Contact: John Kim and Lindy Pham, Public Works)

Staff Recommendation: Approve staff recommendations

City Traffic Engineer Kim and Senior Engineer Jim presented the report including a PowerPoint presentation (on file in the Office of the City Clerk).

The following individuals submitted their comment via e-mail prior to the T&MC meeting and it was read into record:

Dan and Catherine Weaver, a Carlsbad resident, requested staff to place stop signs at the intersection of Venado Street and Del Rey because it is necessary to control the traffic and traffic speeds.

Paul Marangos, a Carlsbad resident, commented that the traffic calming plans as proposed will not be sufficient to prevent speeding vehicles going north on Cadencia Street commence right after the Del Rey intersection. The speed bump and the speed displays will be ignored. The same is true going south on Cadencia street with regard to the speed displays. A four-way stop sign at the intersection of Cadencia Street and Venado Street would solve both prongs of the problem.

Richard and Mimi Sampson, Carlsbad residents, learned from the agenda packet that the city is now proposing speed indicator signs on Cadencia. Their hope is that these signs are not being offered as a replacement for more physical restrictions to speeding such as speed bumps, roundabouts, etc.

Phillip R. Goodman, a Carlsbad resident, understands that traffic calming measures proposed for the lower portion of Cadenica Street are in the process but he wants to see traffic calming measures for the portion of Cadenica Street above Del Rey Avenue which is needed. The installation of the three permanent speed indicator signs in that segment will not have much effect.

Victor Lanz, a Carlsbad resident, agreed with the statement above from Phillip Goodman.

Motion by Commissioner Hunter seconded by Commissioner Fowler to approve staff recommendations for the traffic calming plan on Cadencia Street from Del Rey Avenue to approximately 500 feet north of Piragua Street.

Motion carried: 6/0/0/1 (Abstained: Linke)

5. **CARLSBAD BOULEVARD PEDESTRIAN IMPROVEMENT PROJECT** – (Staff Contact: Miriam Jim and Lindy Pham, Public Works)

Staff's Recommendation: Receive update on the project

Senior Engineer Jim and Associate Engineer Pham presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

City Traffic Engineer Kim clarified that this project is proposing to install curb extensions, high visibility crosswalk markings, green bicycle lane treatments and in-pavement flashing lights to augment the existing Rectangular Rapid Flashing Beacon (RRFB) systems at the marked uncontrolled crosswalks on Carlsbad Boulevard at Army/Navy Academy, Oak Avenue, Sycamore Avenue, Maple Avenue, Cherry Avenue and Hemlock Avenue. Staff will bring to the T&MC other projects along Carlsbad Boulevard that will evaluate complete streets type enhancements such as the Terramar project that is proposing a roundabout at the intersection of Cannon Road and Carlsbad Boulevard. The Tamarack Avenue and Carlsbad Boulevard intersection improvement project is another significant project that will address complete streets improvements along the Carlsbad Boulevard corridor.

City Traffic Engineer Kim thanked the commissioners for the input provided and staff will review and revise the plans based on their feedback.

Chair Gocan requested a five minutes break and the Traffic & Mobility Commission meeting resumed at 5:21 p.m.

6. **FISCAL YEAR 2020-21 TRAFFIC AND MOBILITY COMMISSION WORK PLAN** – Support staff’s recommendation to approve Fiscal Year 2020-21 Work Plan for submittal to City Council. (Staff contact: Nathan Schmidt, Public Works)

Staff’s Recommendation: Approve staff recommendations

Transportation Planning and Mobility Manager Schmidt presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

- Commissioner Linke stated that the work plan looks great and he presented the letter he submitted asking for the Carlsbad Traffic Impact Fee Program to be added to the work plan and reviewed a PowerPoint presentation (on file in the office of the City Clerk).
- Commissioner Linke inquired if staff will consider including the Traffic Impact Fee to the FY 2020-21 Work Plan.
- Transportation Planning and Mobility Manager Schmidt stated that staff is currently working on a Capital Improvement Project identified to update the Traffic Impact Fee (TIF) program and the review of the TIF is within the purview of the T&MC.

Motion by Commissioner Linke seconded by Commissioner Hunter to add the Traffic Impact Fee Program into the Fiscal Year 2020-21 Work Plan.

Motion carried: 6/0/0/1 (Abstain: Perez)

CITY TRAFFIC ENGINEER REPORT:

City Traffic Engineer Comments: Attachment A

- City Traffic Engineer Kim added that at the last T&MC meeting a Carlsbad resident submitted an email with his concerns about Aviara and Poinsettia and staff is working with the resident to address his concerns.

Chair Gocan asked Transportation Planning and Mobility Manager Schmidt for an update on the Sustainable Mobility Plan (SMP), Ad-Hoc Committee.

Chair Gocan inquired if she could participate on the SMP Ad-Hoc Committee meeting related to Safe Routes to School.

Chair Gocan asked Vice-Chair Perez for an update on the Housing Element, Ad-Hoc Advisory Committee.

Chair Gocan asked Commissioner Linke for an update on the Regional Advisory Committee on Traffic and Mobility along the highway 76 corridor.

TRAFFIC AND MOBILITY COMMISSION COMMENTS:

- Commissioner Linke welcomed Commissioner Wanamaker to the Traffic and Mobility Commission. He inquired if staff will address the resident's emails received concerning the four way stop at the intersection of Avenida Encinas and Portage Way.
- City Traffic Engineer Kim stated that staff will respond to the resident's concerns.

ADJOURNMENT:

Chair Gocan adjourned the Traffic and Mobility Commission Meeting on Aug. 3, 2020, at 5:57 p.m.

Eliane Paiva, Minutes Clerk

DRAFT