



Lane Dilg
Interim City Manager

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**FOURTH REVISED FIRST SUPPLEMENT TO THE EXECUTIVE ORDER OF THE
DIRECTOR OF EMERGENCY SERVICES DECLARING THE EXISTENCE OF A
LOCAL EMERGENCY**

WHEREAS international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

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

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for broader spread of COVID-19; and

WHEREAS, on March 12, 2020, in response to social distancing guidance issued by the Centers for Disease Control and Prevention, the California Department of Public Health, and the Los Angeles County Department of Public Health, the City of Santa Monica (“the City”) cancelled all social gatherings (events, activities, programs, and gatherings) in City facilities that were scheduled to occur through permit or license between March 12, 2020, and March 31, 2020, absent a persuasive showing by the permittee or licensee that the gathering could take place in accordance with the guidance and directives of public health authorities; and

WHEREAS, on March 12, 2020, in response to social distancing guidance issued by the Centers for Disease Control and Prevention, the California Department of Public Health, and the Los Angeles County Department of Public Health, and to protect the health and safety of the City workforce, the City announced that Santa Monica City Hall would be closed to the public and open only to City employees from March 16, 2020, to March 31, 2020; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 13, 2020, the City Manager, in his role as the Director of Emergency Services, (“Director of Emergency Services”) proclaimed the existence of a local emergency pursuant to Chapter 2.16 of the Santa Monica Municipal Code to ensure the availability of mutual aid and an effective the City’s response to the novel coronavirus (“COVID-19”) and this local emergency was restated on March 14, 2020, through a revised declaration of local emergency to ensure compliance with all digital signature requirements; and

WHEREAS, on March 14, 2020, the Director of Emergency Services issued a first supplemental emergency order placing a temporary moratorium on evictions for non-payment of rent and temporarily suspending (a) the discontinuation or shut off of water service for residents and businesses in the City for non-payment of water and sewer bills; (b) the imposition of late payment penalties or fees for delinquent water and/or sewer bills; and (c) the imposition of late payment penalties or fees for parking violations; and

WHEREAS, on March 15, 2020, the Director of Emergency Services issued a second supplemental emergency order temporarily closing the Santa Monica Pier to the general public; and

WHEREAS, on March 16, 2020, the Los Angeles County Department of Public Health issued a Health Officer Order for the Control of COVID-19 temporarily prohibiting group events of 50 or more people, requiring certain social distancing measures, and ordering the closure of certain businesses; and

WHEREAS, on March 16, 2020, the Director of Emergency Services issued a third supplemental emergency order that ordered the temporary closure of bars and nightclubs that do not serve food, movie theaters and entertainment venues, bowling alleys and arcades, gyms and fitness centers, and non-medical physical health and beauty businesses; temporarily prohibited restaurants, bars, and retail food facilities from serving food on-premises; and strongly urged houses of worship to limit large gatherings on their premises and to observe social distancing practices in their services; and

WHEREAS, on March 16, 2020, the Governor of California Governor issued Executive Order N-28-20, suspending any and all provisions of state law that would preempt or otherwise restrict a local government’s exercise of its police powers to impose substantive limitations on residential and commercial evictions with respect to COVID19-related rent payment issues; and

WHEREAS, on March 17, 2020, the Director of Emergency Services issued a Revised Fourth Supplement to the Executive Order to permit public safety facilities, hospitals, clinics, and emergency shelters in all zoning districts and allow the Director of the Department of Planning and Community Development or designee to waive development standards, design review, parking and access requirements, and sign standards related to such uses; to permit limited service and take-out restaurant uses in any zoning district that allows full-service restaurants; to allow drive-through facilities for clinics, convenience markets, farmers markets, general markets, hospitals, pharmacies, and restaurants; to suspend planning deadlines and automatic approvals; to extend interim zoning ordinances now in effect; to direct that street sweeping not be conducted unless essential for public health and safety and suspend parking citations related thereto; to suspend preferential parking rules; to suspend certain regulations relating to the operation of oversize vehicles; and to suspend Breeze bike share fees; and

WHEREAS, on March 18, 2020, the Director of Emergency Services issued a revised First Supplement to the Executive Order of the Director of Emergency Services implementing eviction protections for residential and commercial tenants and suspending removals of rental property from the market under the Ellis Act; and

WHEREAS, on March 18, 2020, the Director of Emergency Services issued a Revised Fifth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency implementing a rear-door boarding policy for all Big Blue Bus (BBB) customers, with the exception of Americans with Disabilities Act customers traveling in mobility devices; suspending all passenger fares on the BBB; suspending discontinuation or shut-off of water services for residents and businesses based on non-payment of water or sewer bills; suspending late payment penalties for (a) water and/or sewer bills; (b) parking citations; (c) refuse and recycling collection bills; (d) Certified Unified Program Agency (CUPA) charges; (e) Fire Prevention inspection charges; (f) Transient Occupancy Taxes; (g) Utility Users Taxes; and (h) Parking Facility Taxes; suspending parking restrictions and limitations in many City parking lots, parking zones, and parking spaces; and suspending penalty assessments related to business licenses and business improvement district assessments; and

WHEREAS, on March 19, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Revised First, Second, Third, Revised Fourth, and Revised Fifth Supplements thereto, and resolved that the proclamation and the aforementioned Supplements shall be operative and in effect through April 30, 2020; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20 directing all residents of the State of California to heed directives issued by the State Health Officer on the same date instructing all Californians to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 19, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of COVID-19, amending and superseding its March 16, 2020, Order, closing all nonessential businesses, and limiting gatherings to 9 people or less; and

WHEREAS, on March 20, 2020, the Director of Emergency Services issued a Sixth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency suspending labor negotiations through April 30, 2020, so that the City may assess the financial impacts of COVID-19 prior to engaging in collective bargaining, and suspending various human resources processes in order to decrease in-person meetings and enable effective emergency response, including suspending requirements associated with the administration of competitive examinations and the appointment of individuals from eligibility lists; suspending certain requirements and minimum qualifications associated with the appointment of temporary, limited-term, and as-needed employees; and modifying the Municipal Code to state that certain additional appointments will be subject to a probationary period; and

WHEREAS, on March 21, 2020, the Director of Emergency Services issued a Seventh Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency aligning the Santa Monica Municipal Code with a California Department of Alcoholic Beverage Control (“ABC”) “Notice of Regulatory Relief” permitting restaurants and retailers holding valid ABC licenses to sell alcoholic beverages for off-site consumption via delivery and take-out; and

WHEREAS, on March 21, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of COVID-19, amending and superseding its March 16, 2020, and March 19, 2020 Orders, closing all nonessential businesses and prohibiting gatherings of non-household members; and

WHEREAS, on March 22, 2020, the Director of Emergency Services issued an Eighth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency adopting as rules and regulations of the City of Santa Monica the Executive Order N-33-20, issued by the Governor of the State of California on March 19, 2020 (the “Governor’s Stay at Home Order”) and the Safer at Home Order for Control of COVID-19, issued by the Los Angeles County Department of Public Health on March 21, 2020 (the “County Department of Public Health’s Safer at Home Order”), the stricter of which shall apply if there is any conflict between the Governor’s Stay at Home Order and the County Department of Public Health’s Safer at Home Order; and authorizing the City to issue administrative citations to enforce this and the previously issued supplements to its emergency declaration; and

WHEREAS, on March 27, 2020, the Governor of California Governor issued Executive Order N-37-20, building on Executive Order N-28-20 by extending the time for a tenant to respond to a summons and prohibiting the enforcement of a writ for tenants unable to pay due to reasons related to COVID-19; and

WHEREAS, on March 27, 2020, the Director of Emergency Services issued a Ninth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency closing certain City facilities, waiving late payment fees for City leases and licenses during the effective period of the order, suspending rent payments for City tenants on the Santa Monica Pier for the month of April, suspending outdoor dining licenses and outdoor dining license payments for City licensees for the month of April, granting the Director of the Department of Housing and Community Development discretion to suspend additional rent or license payments for the month of April for City tenants and licensees whose operations have been closed pursuant to emergency orders issued by the City, the County of Los Angeles Department of Public Health, or the Governor of California, authorizing the City to delay responses and productions of records in response to public record requests under specified circumstances, and extending by one month Santa Monica Fire Department annual permits of operation set to expire on May 1, 2020; and

WHEREAS, on April 1, 2020, the Director of Emergency Services issued a Tenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency imposing requirements specific to construction sites and projects to ensure their compliance with the social distancing and hygiene directives imposed by the County Department of Public Health’s Safer at Home Order; and

WHEREAS, on April 6, 2020, the Judicial Council adopted an emergency court rule that effectively delays all evictions, other than those necessary to protect public health and safety, for the duration of the COVID-19 emergency; the rule is applicable to all courts and to all eviction cases, whether they are based on a tenant's missed rent payment or another reason; among other things, the rule temporarily prohibits a court from issuing a summons after a landlord files an eviction case, unless necessary to protect public health and safety; as a result, even if a landlord files an eviction case, he or she will not have a summons to serve on the tenant until 90 days after the emergency passes; and

WHEREAS, on April 6, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Supplements thereto, and resolved that the proclamation and the aforementioned Supplements shall be operative and in effect through April 30, 2020; and

WHEREAS, on April 8, 2020, the Director of Emergency Services issued a Second Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency enhancing eviction protections to require landlords to provide notice of local eviction protections to tenants, prohibiting no-fault residential evictions, prohibiting certain evictions based on a tenant's refusal of landlord entry into a residential unit, prohibiting certain evictions of residential tenants based on the presence of unauthorized pets or occupants, prohibiting use of the eviction process to seek rent delayed under the Supplement if the landlord has already obtained compensation for the delayed rent through governmental relief, and temporarily enhancing penalties under the City's Tenant Harassment Ordinance to \$15,000; and

WHEREAS, on April 8, 2020, the Director of Emergency Services issued an Eleventh Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency requiring workers and customers at covered businesses (including but not limited to grocery stores, farmers markets, restaurants, hardware stores, transportation providers, and plumbing and similar businesses) to wear face coverings; and

WHEREAS, on April 14, 2020, the City Council ratified the proclamation of local emergency made by the Director of Emergency Services, as well as the Second Revised First, Second, Third, Revised Fourth, Revised Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Supplements thereto, and resolved that the Second Revised First Supplement shall be operative and remain in effect through May 31, 2020, and that the other aforementioned Supplements shall be operative and in effect through May 15, 2020; and

WHEREAS, on April 24, 2020, the Director of Emergency Services issued a Twelfth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency tolling deadlines for reviewing and acting on planning applications, exercising rights under planning entitlements, and expiration of building permits; permitting lodging establishments operating as hotels and motels under Santa Monica's zoning rules to allow stays of greater than 30 days, and waiving the City's rule precluding employees from accepting gifts of any sort to allow City first responders and disaster workers to take advantage of City-approved public or private discount, specials, and subsidies programs; and

WHEREAS, on April 30, 2020, the Director of Emergency Services issued a Third Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency extending the eviction moratorium to June 30 and modifying it by limiting the commercial tenants subject to the protections of the order to exclude multinational companies, public companies, and companies with more than 500 employees; making clear that notice and documentation that indicates any loss of income or increase in expenses due to COVID-19 is sufficient to trigger the moratorium on eviction for non-payment of rent due to financial impacts related to COVID-19, and that a statement written by the tenant in a single communication may constitute both notice and documentation; and extending the protection against eviction based on rent unpaid due to financial impacts related to COVID-19 from 6 to 12 months; in addition, the Third Revised First Supplement, in accordance with the Governor's Executive Order suspending state law provisions, suspends SMMC 5.45.020 and 5.45.030 to the extent they prohibit retail establishments from providing without charge reusable grocery bags or recycled paper bags or single-use plastic carryout bags to customers at point of sale and adds language to the City's Housing Trust Fund and Affirmative Housing Production Program Guidelines to extend eligibility to individuals who were working in Santa Monica prior to March 1, 2020, but lost employment due to COVID-19 related reasons; and

WHEREAS, as of May 6, 2020, the Los Angeles County of Public Health has confirmed 28,644 cases of COVID-19 in Los Angeles County and has advised that bold and aggressive measures are required to be put in place to prevent the further spread of COVID-19; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residential and commercial tenants in Santa Monica have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, further economic impacts are anticipated, leaving residential and commercial tenants vulnerable to eviction; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City's affordable housing stock, to prevent housed individuals from falling into homelessness, and to prevent loss of local businesses; and

WHEREAS, this local emergency includes an economic crisis that could only worsen the existing housing crisis in the City and in Los Angeles County; and

WHEREAS, the City cannot mitigate in the emergency environment the instability and disruption of residential housing that might occur when multi-family buildings are removed from the rental market under the Ellis Act; and

WHEREAS, Ellis Act removals and other no-fault evictions would displace residents from their homes during imposition of COVID-19 related social distancing, quarantine, and home isolation orders that make searching for new housing infeasible and potentially dangerous to one's health and safety; and

WHEREAS, California Government Code 8634 empowers the City to promulgate orders and regulations necessary to provide for the protection of life and property during a local emergency, and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise my authority pursuant to Section 2.16.060 of the Santa Monica Municipal Code to issue this regulation related to the protection of life and property.

NOW, THEREFORE, I, Lane Dilg, the Director of Emergency Services for the City of Santa Monica, do hereby issue the following order to become effective immediately, subject to ratification as soon as practicable by the City Council:

IT IS HEREBY ORDERED THAT:

1. For purposes of this Order, the following terms shall be defined as follows:
 - a. "Endeavor to evict" includes, but is not limited to: serving a Notice to Pay or Quit, a Notice to Perform Covenant or Quit, a Notice of Termination, or any other eviction notice; filing or pursuing an unlawful detainer action based on such notices; or seeking to terminate a tenancy or evict a tenant through other means.
 - b. "Commercial tenant" means any tenant of commercial real property, including non-profits, except a tenant that is not a non-profit and is a multi-national company, a publicly traded company, or a company that, with its affiliates, employs more than 500 employees.
 - c. "Non-retail commercial tenant" means any commercial tenant, other than a non-profit, that is a tenant in an office building; does not collect sales tax on greater than 50% of its revenue; and is not a tenant that provides medical, dental, veterinary, fitness, educational, or child, marriage, family, mental health, or substance abuse counseling services.
 - d. For a residential tenant, "financial impacts related to COVID-19" include, but are not limited to, lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for someone who is sick with COVID-19; (2) layoff, loss of hours, or other income reduction resulting from reduction of hours or closures or any other economic impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures or other circumstances related to COVID-19.

e. For a commercial tenant, “financial impacts related to COVID-19” include, but are not limited to, lost business income as a result of any of the following: (1) the commercial tenant or its employees being sick with COVID-19, or caring for someone who is sick with COVID-19; (2) reduction in or closure of hours of operation, increase in costs and labor, delays or interruptions, or any other economic impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency.

2. A temporary moratorium on eviction for nonpayment of rent by residential and commercial tenants impacted by the COVID-19 crisis is imposed as follows:

a. No landlord shall endeavor to evict a residential or commercial tenant, other than a non-retail commercial tenant, for nonpayment of rent due to financial impacts related to COVID-19, until twelve months after the expiration of this Order. No landlord shall endeavor to evict a non-retail commercial tenant for nonpayment of rent due to financial impacts related to COVID-19 until 30 days after the expiration of this Order.

b. If a tenant is unable to pay rent due to financial impacts related to COVID-19, the tenant shall provide notice and documentation to the landlord within 30 days after rent is due. The tenant must provide notice and documentation in writing, which may be email, text, letter, or any other form of written communication. Notice and documentation that indicates any loss of income or increase in expenses due to COVID-19 is sufficient. A statement written by the tenant in a single communication may constitute both notice and documentation.

c. If a landlord receives notice and documentation that a tenant cannot pay rent due to financial impacts related to COVID-19, and the landlord nonetheless endeavors to evict the tenant in violation of subsection 2(a) above, then the landlord will be deemed to have taken action to terminate a tenancy based upon a legal theory that is untenable under the facts known to the landlord. If a landlord does so by serving a 3-day notice in bad faith, filing an unlawful detainer complaint in bad faith that terminates in the tenant’s favor, or otherwise endeavoring to evict in bad faith, the landlord will be deemed to have violated the City’s Tenant Harassment Ordinance, as set forth in Section 4.56.020 of the Santa Monica Municipal Code.

d. A landlord of a residential or commercial tenant, other than a non-retail commercial tenant, may not, during the term of this Order or thereafter, charge or collect a late fee or penalty for rent that is delayed for reasons stated in this Order if such rent is paid within twelve months after the expiration of this Order. A landlord of a non-retail commercial tenant may not, during the term of this Order or thereafter, charge or collect a late fee or penalty for rent that is delayed for reasons stated in this Order if such rent is paid within 30 days after the expiration of this Order. A landlord of a residential tenant may not, during the term of this Order or thereafter, charge or collect interest that would accrue on such rent during the term of this Order or for twelve months thereafter. A landlord of a commercial tenant, other than a non-retail commercial tenant, may not, during the term of this Order or thereafter, charge or collect interest that would accrue on such rent during the term of this Order or for 90 days thereafter. A landlord of a non-retail commercial tenant may not, during the term of this Order or thereafter, charge or collect interest that would accrue on such rent during the term of this Order.

e. Regardless of any payment plan agreement, a residential tenant will have up to twelve months following the expiration of this Order to pay any rent that was unpaid due to financial impacts related to COVID-19 while this Order was in effect.

f. A landlord may not recover rent that is delayed for reasons stated in this Order if the landlord has already obtained compensation for the rent through federal or state government relief funds or other programs that provide such compensation.

3. A temporary moratorium on eviction for no-fault evictions of residential tenants is imposed as follows:

a. No landlord shall endeavor to evict a residential tenant in a no-fault eviction.

b. No landlord shall remove any residential rental unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060, *et seq.* For any rental unit that has already been removed from the rental market pursuant to the Ellis Act, the period of time before such a tenancy is terminated after notice shall not begin until sixty days after the expiration of this Order.

4. No landlord shall endeavor to evict a residential tenant based on the presence of unauthorized occupants or their pets, or based on nuisance, unless the nuisance substantially endangers or impairs the health or safety of a tenant or other persons in the vicinity of the premises, or causes or threatens to cause substantial damage to the premises, and the reason is stated in the notice as the grounds for the eviction.

5. A temporary moratorium on evictions for a residential tenant's denial of entry by the landlord is imposed as follows:

a. A landlord shall not endeavor to evict a tenant on the ground that the tenant denied entry by the landlord, unless the tenant unreasonably denied entry for the landlord to remedy a condition that substantially endangers or impairs the health or safety of a tenant or other persons in the vicinity of the premises, or that is causing or threatening to cause substantial damage to the premises.

b. If a landlord seeks to remedy such a condition, the landlord shall not permit entry by any person who is, or who the landlord has good cause to believe is, a carrier of the COVID-19 virus. The landlord must ensure that appropriate social distancing, cleaning, and sanitation measures are taken to protect from risk of transmitting the COVID-19 virus during the entry. Such measures must account for: the tenant's report that the tenant or a member of the tenant's household has or believes in good faith to have been recently been exposed to the COVID-19 virus; or the tenant's report that the tenant or a member of the tenant's household is at a higher risk for more serious complications from the COVID-19 virus.

c. A landlord who enters the premises shall promptly leave the premises if the tenant revokes permission to enter because of the landlord's failure to observe appropriate social distancing, cleaning, and sanitization measures.

d. For purposes of this section, "landlord" includes, but is not limited to, any person authorized by the owner to enter the premises, such as maintenance personnel, a prospective buyer, or a prospective tenant.

6. A landlord must provide tenants with the following notices:

a. A landlord must provide, in accordance with the procedures set forth below, a notice that states: “You might be protected from eviction under certain circumstances, including nonpayment of rent due to financial impacts related to COVID-19. If you are unable to pay rent due to financial impacts related to COVID-19, you must provide notice and documentation to your landlord in writing within 30 days after rent is due. If you are a residential tenant, you may also be protected from eviction for certain other reasons. For additional information, contact the City of Santa Monica’s Coronavirus Hotline at (310) 458-8400 or visit santamonica.gov/coronavirus.” This notice must be provided to tenants in writing by mail or email, or by posting in a conspicuous location in the lobby of the property, near a mailbox used by residents of the property, or in or near a public entrance to the property. The notice must be written in the language that the landlord normally uses for verbal communications with the tenant.

b. A landlord must include an additional copy of the same notice with any Notice to Pay Rent or Quit, Notice to Perform Covenant or Quit, Notice to Terminate, and any other notice given as part of an eviction process, in bold underlined 12-point or larger font.

c. If a landlord files an unlawful detainer action during the period in which the Judicial Council Emergency Rules prohibit courts from issuing a summons in an unlawful detainer action unless necessary to protect public health and safety, the landlord must serve the tenant with a copy of the complaint within 3 days of filing the complaint.

d. A landlord who has provided notice as required under section 6, subsection a. of this Order to a tenant under a previous revision of this Order is not required to provide an additional notice to the tenant under section 6, subsection a of this Order.

7. Any medical or financial information that a tenant provides to a landlord to seek protections provided by this Order shall be held in confidence and only used as documentation for processing the tenant’s claim under this Order.

8. This Order grants the following affirmative defenses:

a. This Order grants an affirmative defense that may be raised at any time in an unlawful detainer action in the event that the action is commenced in violation of this Order.

b. In addition, this Order grants an affirmative defense that may be raised at any time by a residential or commercial tenant in an unlawful detainer action or by a residential tenant in any other civil action in the event that the action is commenced based on nonpayment of rent due to the financial impacts of COVID-19 as described above in this Order, regardless of whether the tenant provided the landlord with notice and documentation. Notice and documentation shall create a rebuttable presumption that a tenant is unable to pay rent due to financial impacts related to COVID-19.

c. In addition, this Order grants an affirmative defense that may be raised at any time in an unlawful detainer action in the event that the action is commenced based on a no-fault eviction, or the landlord removed the residential unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060, *et seq.* during the term of this Order, or the residential rental unit was previously removed from the rental market pursuant to the Ellis Act and the period of time before such a tenancy is terminated after notice began less than sixty days after the expiration of this Order, as described above in this Order.

d. In addition, this Order grants an affirmative defense that may be raised at any time in an unlawful detainer action in the event that the action is commenced based on a residential tenant's denial of entry by the landlord, as described above in this Order.

e. In addition, this Order grants an affirmative defense that may be raised at any time in an unlawful detainer action in the event that the action is commenced based on the presence of unauthorized occupants or their pets or a nuisance that does not substantially endanger or impair the health or safety of a tenant or other persons in the vicinity of the premises or cause or threaten to cause substantial damage to the premises, or the action is commenced following an eviction notice that did not state the reason serving as the grounds for the eviction.

f. In addition, this Order grants an affirmative defense that may be raised at any time in an unlawful detainer action in the event that the action is commenced when the landlord failed to include the required notice language in an eviction notice, as described above in this Order.

g. Except for Section 8(f) of this Order, the affirmative defenses granted in this Order shall apply to all actions on or after March 14, 2020. An affirmative defense under Section 8(f) of this Order shall apply for actions taken on or after April 24, 2020.

9. Any provision in a rental agreement, payment plan, or any other agreement between a landlord and tenant that waives or modifies any rights under this Order shall be void as contrary to public policy.

10. A landlord may not deceive a tenant in connection with the rights and obligations under this Order. For purposes of this section, "deceive" includes intentional misrepresentation, negligent misrepresentation, concealment of a material fact, or false promise.

11. This Order will be enforced as follows:

a. A tenant injured by a landlord's violation of any provision of this article has a private right of action against the landlord for violation of California Business and Professions Code Section 17200, *et seq.*, and shall be entitled to attorney's fees and exemplary damages according to proof.

b. A landlord who serves an eviction notice in bad faith and without reasonable grounds, or files or pursues an eviction action in bad faith and without reasonable grounds that terminates in the tenant's favor, or otherwise seeks to wrongfully terminate a tenancy or evict a tenant shall be liable under this Order.

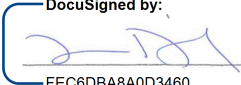
c. This Order shall be enforceable by the Santa Monica Police Department and any City Officer or employee granted authority to issue written notices to appear pursuant to Santa Monica Municipal Code Section 3.36.090 as a misdemeanor pursuant to Government Code Section 8665 and Santa Monica Municipal Code Section 2.16.100, or through the issuance of administrative citations in accordance with Chapter 1.09 of the Santa Monica Municipal Code. Pursuant to Section 1.09.040 of the Santa Monica Municipal Code, the amount of the fine for each violation of any provision of this Order shall be up to a maximum of \$1,000. Pursuant to Santa Monica Municipal Code Section 1.09.040(c), a later payment charge of 10% of the applicable fine shall be imposed for the payment of an administrative fine imposed pursuant to this Order after its due date.

12. The Third Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency (the “Third Revised First Supplement”) is hereby retracted. This Fourth Revised First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency expressly supersedes and replaces the Third Revised First Supplement. However: (a) Section 1 of the First Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency (the “First Supplement”) may continue to be enforced with respect to actions taken between March 14, 2020 and March 18, 2020; (b) Sections 1 and 2 of the First Revised First Supplement may continue to be enforced with respect to actions taken between March 19, 2020 and April 8, 2020; (c) the Second Revised First Supplement may continue to be enforced with respect to actions taken between April 9, 2020 and April 30, 2020; and (d) the Third Revised First Supplement may continue to be enforced with respect to actions taken between May 1, 2020 and the effective date of this Order.

13. Except as otherwise provided, this Order shall take effect immediately and shall remain in effect until June 30, 2020, unless extended or expressly superseded by a duly enacted Resolution or Ordinance of the City Council or by a further Order by the Director of Emergency Services.

14. If any section, subsection, sentence, clause, or phrase of this Order is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Order. The Interim City Manager hereby declares that she would have issued this Executive Order, and any Supplement or Revised Supplement to this Executive Order, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

ADOPTED this 8th day of May 2020.

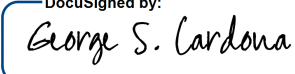
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By: EEC6DBA8A0D3460...
LANE DILG
Interim City Manager
Director of Emergency Services

ATTEST:

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E2E85B056A714C3
DENISE ANDERSON-WARREN
City Clerk

APPROVED AS TO FORM:

DocuSigned by:

ECB444B01A56432
GEORGE S. CARDONA
Interim City Attorney