

EMERGENCY ORDER
IN AND FOR THE CITY OF VANCOUVER, WASHINGTON,
EMERGENCY ORDER

No. 2020-08

REGARDING FORECLOSURES, EVICTIONS, AND RENTAL PROPERTY INSPECTIONS; ADDING A DEFENSE FROM RESIDENTIAL FORECLOSURE ON PRIVATE MORTGAGES; ADDING A DEFENSE FROM EVICTION FOR SMALL BUSINESSES WITH FEWER THAN FIFTY (50) EMPLOYEES; AND REQUIRING SPECIFIED SANTITATION MEASURES BE TAKEN WHEN CONDUCTING INSPECTIONS OF RESIDENTIAL RENTAL PROPERTY.

On March 11, 2020, the World Health Organization announced that the novel coronavirus (COVID-19) constitutes a global pandemic due to the alarming spread and severity of the disease and also, in the words of World Health Organization Director-General Dr. Tedros Adhanom Ghebreyesus, due to the “alarming levels of inaction.”

At 14:30 hours on March 13, 2020, the City of Vancouver declared a civil emergency pursuant to Washington State Constitution Article VI, Section 11, Revised Code of Washington Chapter 38.52, and Vancouver Municipal Code Chapter 2.12 to address the public health threat posed by COVID-19. (Declaration of Civil Emergency No. 2020-01). The Vancouver City Council ratified and confirmed Declaration of Civil Emergency No. 2020-01 by Resolution (M-4061) on March 16, 2020.

On March 18, 2020, the United States Department of Housing and Urban Development (HUD) Secretary Ben Carson, in consultation with the President of the United States and the Coronavirus Task Force, authorized the Federal Housing Administration (FHA) to implement an immediate [Federal Foreclosure and Eviction Moratorium](#) for single family homeowners with FHA-insured mortgages for sixty (60) days. However, by its terms, the federal foreclosure moratorium does not apply to mortgages that are outside of the FHA conservatorship. Washington State has encouraged, but not required, private lenders to offer forbearances, waive late fees, postpone foreclosure actions, and provide other specified relief during the pendency of the declared emergency by way of a [Guidance Letter](#) to Washington State Regulated and Exempt Residential Mortgage Loan Servicers Regarding Support for Borrowers Impacted by the Novel Coronavirus (COVID-19). However, borrowers within the City of Vancouver remain vulnerable to foreclosure actions on privately serviced loans. The City of Vancouver has previously declared the existence of an Affordable Housing Emergency, Resolution M-3885 (2016), and a substantial portion of our workforce has recently been impacted by layoffs, reduced work hours and corresponding reductions in pay as a result of COVID-19. As a result, an immediate threat is

posed to the life, health and safety of Vancouver residents who are unable to make payments on privately serviced mortgages. Accordingly, I find that the action described herein is necessary in order to mitigate this threat to residents of the City of Vancouver.

On March 18, 2020, Governor Jay Inslee found that a temporary moratorium on evictions throughout Washington State would help reduce economic hardship and related life, health, and safety risks to those who are unable to pay rent as a result of the COVID-19 pandemic, and issued Washington State Emergency [Proclamation 20-19](#), prohibiting residential evictions by all residential landlords operating residential rental property in Washington State. However, certain additional concerns exist within the City of Vancouver rental market. Particularly, small businesses are not included within the protections of Proclamation 20-19 and therefore remain at risk of eviction. Small businesses play a vital role in maintaining the stability of our local economy. Yet such businesses are also at an increased risk of economic hardship due to temporary restrictions on the provisions of services under the “Stay Home, Stay Healthy” Proclamation as well as volatility in the global economy.

As of April 3, 2020, the State of Washington remains in a declared state of emergency. Clark County, Washington has recorded a total of at least eight (8) COVID-19 related deaths; a total of 1,203 people have been tested countywide, and of those, 131 were positive.

Foreclosures on privately held residential mortgages; evictions of small businesses; and inspections of residential rental tenancies without proper sanitation measures are placing the life, health and safety of private home owners, small business tenants, and residential tenants at risk. Further, these measures endanger the stability of our local economy as a whole and risk further transmission of COVID-19 throughout the City of Vancouver. As a result of the foregoing, I find that immediate action is necessary in order to preserve the safety, health and welfare of residents of the City of Vancouver as set forth herein. In providing the relief specified below, I am cognizant of the competing interests of mortgage servicers and landlords who have reasonable expectations to safeguard and generate earnings and profits from their property investments and holdings. However, under our current state of emergency, I find that the following action is needed to preserve the life, health and safety of our residents:

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED THAT:

As a result of the above-referenced situation, pursuant to Washington State Constitution Article VI, Section 11, Revised Code of Washington Chapter 38.52, Vancouver Municipal Code Chapter 2.12, and Resolution (M-4061) of the Vancouver City Council, I hereby Order that a state of emergency continues to exist in the City of Vancouver. I further Order that Emergency Orders 2020-02 and 2020-03 (as amended), and Emergency Orders 2020-04, 2020-05, 2020-06, 2020-07, remain in full force and effect.

FURTHERMORE, based on the above situation and pursuant to Vancouver Municipal Code Chapter 2.12, I hereby issue the following additional Emergency Orders:

Section 1. Defense from Residential Foreclosure on Private Mortgages.

- A. Given the public health emergency and public safety issues presented by the circumstances described in Declaration of Civil Emergency 2020-01, it shall be unlawful to initiate or advance a Private Residential Foreclosure Action with respect to any property within the city limits of Vancouver while this Emergency Order is in effect, except in such circumstances when foreclosure is necessary to abate proven threats to the safety of others or the protection of the property. Any mortgagor may raise this emergency order as a defense in any pending or initiated Private Residential Foreclosure Action. Nothing in this order is intended to preclude a court from granting a continuance of a hearing date to allow a pending foreclosure action to be heard after the expiration of this Emergency Order.
- B. “Private Residential Foreclosure Action” for purposes of this Emergency Order means a civil legal action by a residential mortgage loan holder or servicer (“Servicer”), against a mortgage borrower related to residential real property located within the City of Vancouver (“Mortgagors”).
 - i. Provided, that a Private Residential Foreclosure Action does not include any action taken on loans made, guaranteed or covered under the Federal Housing Financing Authority (FHFA) conservatorship.
 - ii. Provided further, that the affirmative defense provided in Section 1.A. shall not apply to foreclosures based on a financial instrument entered into after the signing of this Emergency Order.
- C. Nothing in this Emergency Order prevents any Servicer from initiating an action to enforce any contractual obligations, including without limitation late fees, after the conclusion of this Emergency Order.

Section 2. Defense from Eviction of Small Businesses.

- A. It shall be unlawful for any landlord or landlord’s agent to initiate or advance an unlawful detainer action while this Emergency Order is in effect, on any property in which the tenant is:

- i. a Small Business tenant of commercial property located within the City of Vancouver; and
 - ii. the Small Business has not engaged in any act or omission constituting an imminent threat of damage to the property or to the health or safety of the public, neighbors, or the commercial lessor.
- B. “Small Business” for purposes of this Emergency Order means a person or entity that, on the date this Emergency Order was issued:
 - i. Had a valid Vancouver Business License issued pursuant to Vancouver Municipal Code 5.04; and
 - ii. Employed fewer than fifty (50) employees.

Section 3. Inspection of Residential Property - Equipment Required.

- A. In order to reduce the transmission of COVID-19 and protect the life, health and safety of residential tenants within the City of Vancouver, while this Emergency Order is in effect, every landlord, or landlord’s agent, who enters the interior of residential rental property or a dwelling unit within the City of Vancouver for the purpose of conducting an inspection authorized under RCW 59.18, shall:
 - i. Wear personal protective equipment (PPE) including, at a minimum, a face mask, gloves, and disposable shoe coverings at all times during the inspection of the interior of the rental premises.
 - ii. Adhere to social distancing requirements recommended by the Centers for Disease Control and Prevention (CDC) and Clark County Department of Public Health.
- B. Section 3 of this Emergency Order shall not be construed to broaden or expand any rights to inspection, nor allow any inspection activity that is otherwise prohibited by operation of law, including without limitation, Washington State Gubernatorial [Proclamation 20-25.1](#).

Section 4. Duration. Unless modified, extended or terminated by the Vancouver City Council or Vancouver City Manager, this Emergency Order is hereby effective immediately and shall remain in effect until April 30, 2020, at 23:59 hours.

SIGNED, this 3rd day of April, 2020, at 10:55 hours.

ATTEST:

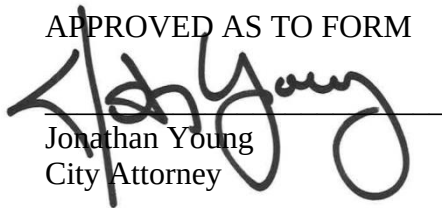


Natasha Ramras
City Clerk

CITY OF VANCOUVER


Eric Holmes
City Manager

APPROVED AS TO FORM



Jonathan Young
City Attorney