

ORDINANCE NO. _____

AN ORDINANCE ADDING PART XII, ENTITLED “EMERGENCIES,” AND CHAPTER 10.70 ENTITLED, “PROHIBITION ON EVICTIONS ARISING FROM SUBSTANTIAL INCOME LOSS OR MEDICAL EXPENSES RELATED TO THE CORONAVIRUS PANDEMIC” TO THE ORDINANCE CODE OF FRESNO COUNTY.

The Board of Supervisors of Fresno County hereby finds and declares the following:

WHEREAS, states of emergency have recently been proclaimed at the local, state, and federal government levels related to the novel coronavirus (“COVID-19”) pandemic;

WHEREAS, due to the pandemic, school districts located in Fresno County have suspended in-person classes through April 20, 2020;

WHEREAS, the City Manager on the City of Fresno (“City”) recently issued an order calling for all individuals currently residing within the City to shelter in place and all businesses with a facility in the City to cease all activities at facilities located within the City through March 31, 2020 in order to stop community spread of COVID-19, subject to exceptions for the provision, receipt, and performance of essential services, and this order may be continued as necessary to address the pandemic; and

WHEREAS, the COVID-19 pandemic and associated public health orders are expected to result in the closure of many local businesses until at least March 31, 2020, and result in extreme restrictions on other local businesses until then, and possibly thereafter; and

WHEREAS, the COVID-19 pandemic and associated public health orders are expected to result in a severe loss of income to a widespread portion of the local population that depend on wages or business income to pay rent and result in substantial medical expenses for certain County residents; and

WHEREAS, the County of Fresno is already experiencing a humanitarian crisis of homelessness; and

WHEREAS, the County of Fresno is also experiencing a housing affordability crisis, which is driving homelessness and displacement of residents; and

WHEREAS, many of the County’s renters are rent-burdened, paying over 30 percent of their income on rent, and some renters are severely rent-burdened, paying over 50 percent of their income on rent, which leaves less money for families to spend on other necessities like food, healthcare, transportation, and education; and

WHEREAS, on March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, which authorizes local jurisdictions to suspend the evictions of tenants for the non-payment of rent if the non-payment is a result of the COVID-19 pandemic; and

WHEREAS, without local protection, eviction notices for failure to pay rent are likely to surge as residents and businesses are unable to earn income due to the COVID-19 pandemic, or are forced to pay substantial medical expenses associated with the COVID-19 pandemic; and

WHEREAS, the Board has determined that it is appropriate to temporarily prohibit evictions, through May 31, 2020, for any tenant (residential or commercial) who can demonstrate that they are being evicted for the failure to pay rent, and that such failure is a direct impact of the COVID-19 pandemic; and

WHEREAS, the Board has determined that urgent action must be taken to protect the health, safety, and welfare of tenants in the unincorporated area of Fresno County;

NOW THEREFORE the Board of Supervisors of Fresno County hereby ordains as follows:

SECTION 1. That Part XII and Chapter 10.70 are hereby added to the Ordinance Code of Fresno County, to read as follows:

XII EMERGENCIES

Chapter 10.70

PROHIBITION ON EVICTIONS ARISING FROM SUBSTANTIAL INCOME LOSS OR MEDICAL EXPENSES RELATED TO THE CORONAVIRUS PANDEMIC

Sections:

10.70.010 Purpose.

10.70.020 Definitions.

10.70.030 Prohibition on evictions stemming from coronavirus pandemic losses.

10.70.040 Severability.

10.70.010 Purpose.

This chapter prohibits evictions through May 31, 2020 for any tenant who can demonstrate that they have received a notice of eviction for failure to pay rent, and that such failure is related to a substantial loss of income or substantial out-of-pocket medical expenses resulting from the 2020 novel coronavirus pandemic or any local, state, or federal government response to the pandemic.

10.70.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section.

(A) “Commercial real property” means any real property that is used for business or income-producing purposes.

(B) “Owner” means any person, acting as principal or through an agent, providing residential or commercial real property for rent, and includes a predecessor in interest to the owner.

(C) “Residential real property” means any dwelling or unit that is intended or used for human habitation.

(D) “Tenancy” means the lawful occupation of residential or commercial real property and includes a lease or sublease.

10.70.030 Prohibition on evictions stemming from coronavirus pandemic losses.

(A) Through May 31, 2020, the owner of residential or commercial real property shall not terminate a tenancy for failure to pay rent if the tenant demonstrates that the failure to pay rent is directly related to a substantial loss of income or substantial out-of-pocket medical expenses associated with the coronavirus pandemic or any local, state, or federal government response to the pandemic.

(B) In order for this section to apply, a tenant must demonstrate through documentation or other objectively verifiable means:

(1) Substantial loss of income from (a) job loss; (b) layoffs; (c) a reduction in the number of compensable hours of work; (d) a store, restaurant, office, or business closure; (e) a substantial decrease in business income caused by a reduction in opening hours or consumer demand; (f) the need to miss work to care for a home-bound school-age child or a family member infected with coronavirus; or (g) other similarly-caused loss of income that resulted from the pandemic; or

(2) substantial out-of-pocket medical expenses related to the pandemic.

(C) This prohibition shall also apply to an owner's action that constitutes constructive eviction under California law. An owner's failure to comply with this ordinance shall render any notice of termination of tenancy void. This section may be asserted as an affirmative defense in an unlawful detainer action. Terminations that are required to comply with an order issued by a government agency or court requiring that the real property be vacated are excepted from this prohibition. An owner's failure to comply with this ordinance does not constitute a criminal offense but will subject an owner to civil fines and penalties as set forth in this Code.

(D) Nothing in this ordinance shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due. Nothing in this ordinance shall prevent the filing or prosecution of any action to recover the amount of rent due so long as said action does not include an unlawful detainer, ejectment or other cause of action to obtain possession of the tenancy property. Nothing in this ordinance shall prevent the termination of a tenancy or the

filing or prosecution of an action for unlawful detainer for non-payment of rent after the expiration date of this urgency ordinance including any extension of the expiration date by further amendment or ordinance.

(E) This ordinance shall be liberally construed to provide the broadest possible protection for tenants in the unincorporated area of the County.

10.70.040 Severability.

If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable. The Board of Supervisors hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION 2.

This ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly.)

SECTION 3.

Effective Date. This ordinance shall take effect immediately as an urgency ordinance. This is based on the Board of Supervisors finding that this ordinance is adopted in compliance with Government Code Section 25123, that it is necessary for the protection of the public peace, health and safety for the reasons contained in the findings set forth at the beginning of this ordinance, which are incorporated by reference herein, and that it is necessary to prevent the County of Fresno from suffering potentially irreversible displacement of tenants resulting from the evictions that this ordinance is designed to prevent.

THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 24th day of March, 2020 to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ernest Buddy Mendes, Chairman of the
Board of Supervisors of the County of Fresno

ATTEST:
BERNICE E. SEIDEL
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____
Deputy