

## ORDINANCE NO. 2020-010

### **AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BUENAVENTURA, CALIFORNIA, ADDING CHAPTER 6.1020, "TEMPORARY EVICTION MORATORIUM," TO THE SAN BUENAVENTURA MUNICIPAL CODE AND DECLARING THE URGENCY THEREOF**

**WHEREAS**, Section 706(c) of the Charter of the City of San Buenaventura authorizes the City Council to adopt emergency ordinances which become effective immediately upon adoption when the City Council determines the same is necessary to preserve the public peace, health, or safety, and the emergency ordinance contains the reasons for its urgency; and,

**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 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, the Ventura County Board of Supervisors and Public Health Department declared a local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; 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 15, 2020, the City Manager, acting as the Director of Disaster Services under Chapter 2.370 of the San Buenaventura Municipal Code, proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective response to COVID-19 and this declaration was confirmed by Resolution of the City Council on March 17, 2020; and,

**WHEREAS**, On March 16, 2020, the Governor of the State of California issued Executive Order N-28-20 reconfirming the State of Emergency in California as a result of the threat of COVID-19, the additional economic impact the virus is causing to businesses and housing matters, and the need for local jurisdictions to determine, based on their particular needs, additional measures to promote housing security as well as assist commercial tenancies; and,

**WHEREAS**, The Governor's Executive Order N-29-20 suspends any state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions in circumstances where the basis for the eviction is nonpayment of rent or a foreclosure arising out of a substantial decrease in household or business income caused by the COVID-19 pandemic or by any federal, state, or local government response to COVID-19; and,

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

**WHEREAS**, As a result of the public health emergency and Executive Order N-33-20, many residential and commercial tenants in the City have experienced or expect soon to experience sudden and unexpected income and/or revenue 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 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, and to prevent housed individuals from falling into homelessness; and,

**WHEREAS**, During this local emergency, and in the interest of protecting the public peace and safety, it is essential to protect small business owners from losing commercial spaces along with the business itself and to avoid unnecessary displacement of commercial businesses; and,

**WHEREAS**, The City Council finds that this Emergency Ordinance is necessary to protect the public peace, health and safety of the City during the emergency caused by the spread of COVID-19.

The Council of the City of San Buenaventura does ordain as follows:

**SECTION 1. ADDITION TO CODE.** Chapter 6.1020, "Temporary Eviction Moratorium," is hereby added to the San Buenaventura Municipal Code as follows:

**"CHAPTER 6.1020  
TEMPORARY EVICTION MORATORIUM**

**Sections:**

**Sec. 6.1020.010. – Definitions.**

**Sec. 6.1020.020. – Temporary Eviction  
Moratorium.**

- Sec. 6.1020.030. – Application.**
- Sec. 6.1020.040. – Affirmative Defense.**
- Sec. 6.1020.050. – Violations of the Chapter.**
- Sec. 6.1020.060. – Non-Waiver.**
- Sec. 6.1020.070. – Partial Invalidity.**
- Sec. 6.1020.080. – Chapter's Provisions Sunset.**

**Sec. 6.1020.010. Definitions.**

The following definitions apply to the administration and enforcement of this Chapter:

'Financial Impacts Related to COVID-19' include, but are not limited to, tenant lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) out-of-pocket medical expenses related to COVID-19 that exceed 30% of a household's monthly income; (5) child care needs arising from school closures related to COVID-19; or (6) lost revenue resulting from business closures related to COVID-19 or other economic impacts of COVID-19.

'In Writing' means any written form, including email or text communications to a landlord or the landlord's representative with whom the



tenant has previously corresponded by email or text.

'Landlord' means an owner, lessor, or sublessor, who receives or is entitled to receive rent for the use and occupancy of any residential or commercial rental unit or portion thereof in the City of San Buenaventura, and the agent, representative, successor, or transferee of any of the foregoing.

'Local Emergency' means the local emergency proclaimed in response to COVID-19 by the City Manager on March 15, 2020 and confirmed by Resolution of the City Council on March 17, 2020.

'No-Fault Eviction' means any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to Code of Civil Procedure ("CCP") sections 1161(1), 1161(5), or 1161c.

'Rent' means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in connection with, the use or occupancy of a residential or commercial rental unit. Such consideration shall include, but not be limited to, moneys and fair value of goods or services rendered to or for the benefit of the landlord under the rental agreement, or in exchange for a rental unit or housing services of any kind.

'Rental Unit' means any residential dwelling unit or commercial unit in the City of San Buenaventura together with the land and

appurtenant buildings thereto, regardless of zoning status.

'Tenant' means a person entitled by written or oral agreement, sub-tenancy approved by the landlord, or by sufferance, to occupy a residential dwelling unit or commercial unit to the exclusion of others. For purposes of this Chapter and this Chapter only, the term 'tenant' does not include a trespasser, or squatter.

### **Sec. 6.1020.020. Temporary Eviction Moratorium.**

A. Eviction Prohibited. During the period of the Local Emergency, no Landlord shall endeavor to evict a Tenant from any Rental Unit in either of the following situations: (1) for nonpayment of Rent during the Local Emergency if the Tenant demonstrates that the Tenant is unable to pay Rent due to Financial Impacts Related to COVID-19 or (2) for a No-Fault Eviction unless necessary for the health and safety of Tenants, neighbors, or the Landlord.

A Landlord who knows that a Tenant cannot pay some or all of the Rent temporarily for the reasons set forth above shall not serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of Rent.

B. Tenant's Obligations to Notify Landlord. A Landlord knows of a Tenant's inability to pay Rent within the meaning of this Chapter if the Tenant, within 30 days after the date that

Rent is due, notifies the Landlord In Writing of lost income and inability to pay full Rent due to **Financial Impacts Related to COVID-19**, and provides documentation to support the claim. Documentation may include an employer's letter, doctor's note, paystubs, bank statements, or any other documentation the landlord deems sufficient. Any medical or financial information provided to the Landlord shall be held in confidence, and only used for evaluating the Tenant's claim.

C. **Obligation to Pay Rent.** The Tenant shall pay partial rent to the extent the Tenant is able. Nothing in this Chapter shall relieve the Tenant of liability for the unpaid Rent, which the Landlord may seek after expiration of the Local Emergency, and the Tenant must pay within six months of the expiration of the Local Emergency.

D. **Late Fees Prohibited.** A Landlord may not charge or collect a late fee for Rent that is delayed for the reasons stated in this Chapter; nor may a Landlord seek Rent that is delayed or the reasons stated in this Chapter through the eviction process.

#### **Sec. 6.1020.030. Application.**

This Chapter applies to nonpayment eviction notices, No-Fault Eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date on which the Local Emergency was proclaimed until the date the Local Emergency terminates.



#### **Sec. 6.1020.040. Affirmative Defense**

In any action by a Landlord to recover possession of a Rental Unit, the Tenant may raise as an affirmative defense any violation or noncompliance with the provisions of this Chapter.

#### **Sec. 6.1020.050. Violation of the Chapter.**

In addition to any other remedies available under law, any violations of the provisions of this Chapter or application thereof shall entitle the aggrieved Tenant to bring a cause of action for injunctive relief and to recover actual damages, costs, and reasonable attorney's fees.

#### **Sec. 6.1020.060. Non-Waiver.**

The provisions of this Chapter may not be waived, and any term of any lease, contract, or other agreement which purports to waive or limit a Tenant's rights under this Chapter is contrary to public policy, unenforceable, and void.

#### **Sec. 6.1020.070. Partial Invalidity.**

If any provision of this Chapter or application thereof is held to be invalid, this invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions or applications, and to this end the provisions and applications of this Chapter are severable.



**Sec. 6.1020.080. Chapter's Provisions  
Sunset.**

The provisions of this Chapter shall sunset six months after the termination of the Local Emergency."

**SECTION 2. EFFECTIVE DATE.** This Ordinance is an Emergency Ordinance pursuant to City Charter Section 706(c) shall be in full force and effect immediately upon its adoption.

**SECTION 3. SEVERABILITY.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Emergency Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Emergency Ordinance. The City Council hereby declares that it would have adopted this Emergency Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 4. PUBLICATION.** The City Clerk is directed to cause a summary of this Emergency Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

PASSED and ADOPTED this 30th day of March, 2020.

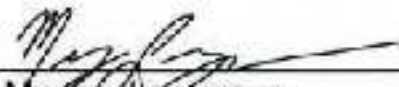
  
\_\_\_\_\_  
MATT LAVERRE  
Mayor

ATTEST:



ANTOINETTE M. MANN, MMC, CRM  
CITY CLERK

APPROVED AS TO FORM  
Gregory G. Diaz, City Attorney

By:  \_\_\_\_\_ 3/23/20  
Megan Lorenzen Date  
Assistant City Attorney

CERTIFICATION

STATE OF CALIFORNIA            )  
COUNTY OF VENTURA         )    SS.  
CITY OF SAN BUENAVENTURA   )

I, ANTOINETTE M. MANN, City Clerk of the City of San Buenaventura, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of Ordinance No. 2020-010 that was introduced and adopted by said City Council at a regular meeting held March 30, 2020, by the following vote:

AYES:           Councilmembers Nasarenko, Brown, Friedman, Weir, Heitmann, Deputy Mayor Rubalcava and Mayor LaVere

NOES:           None

ABSENT:        None

I further certify that said Ordinance No. 2020-010 was published as required by law in the VENTURA COUNTY STAR, a newspaper of general circulation printed and published in said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Buenaventura, California.

*Antoinette M. Mann*

Antoinette M. Mann, MMC, CRM  
City Clerk  
City of San Buenaventura, California

*March 30, 2020*

Date Attested

