

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY OF STOCKTON ENACTING A TEMPORARY MORATORIUM ON EVICTIONS OF CERTAIN VULNERABLE RESIDENTS AND DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM THE NOVEL CORONAVIRUS (COVID-19)

In late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China. On January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the likely source of the illness; and

On January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

On March 4, 2020, California Governor Gavin Newsom 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 a broader spread of COVID-19. The proclamation comes as the number of positive California cases rises and following one official COVID-19 death; and

On March 12, 2020, the County of San Joaquin (“County”) declared a public health emergency and the County has confirmed that there are now nine (9) confirmed cases of COVID -19 within the County; and

On March 12, 2020, due to an escalating increase in the number of cases in San Joaquin County, under Stockton Municipal Code section 2.82.060, City Manager Harry Black signed a Proclamation of the Existence of a Local Emergency, which determines the legal, operational, and recovery resources available for the City to respond to the COVID-19 public health emergency; and

On March 13, 2020, the County issued guidance for mass gatherings, which encourages the postponement or cancellation of gatherings of 250 people or more and recommends that all non-essential smaller gatherings be cancelled or postponed. These recommendations may be interpreted to also recommend that persons at higher risk of severe illness should stay home and away from crowded social gatherings of people as much as possible such as parades, conferences, sporting events, and concerts where large numbers of people are within arm’s length of one another; and

On March 16, 2020, the Counties of Alameda, Contra Costa, San Francisco, Marin, San Mateo, and Santa Clara (“Bay Area Counties”) have issued orders for their residents to “shelter at home” for the three weeks following March 17, 2020, which will limit social and business activities to only those that are essential; and

The “shelter at home” orders of the Bay Area Counties will have a significant impact

on the many City of Stockton residents that work in those counties who will be forced to reduce their working hours and therefore will suffer economic hardships; and

Both large and small events across the County and the Bay Area Counties are being cancelled or postponed due to the orders and recommendations at all levels of government to cancel public gatherings amid concerns over spread of the virus. These cancellations and postponements cause loss in revenue for the event, as well as surrounding local businesses who rely on such events to bring in patrons to their businesses; and

Due to the cancellation of conferences and other large-attendance events, there has been a significant loss of business opportunities that will impact City of Stockton residents that work locally and in the Bay Area Counties; and

The effects of COVID-19 on the global economy and supply chains are impacting many companies that employ Stockton residents; and

Some companies are having their employees work remotely or from home in order to prevent exposure in the workplace. With more businesses moving toward working from home, less of the workforce will be patronizing restaurants and other retail establishments that employ hourly workers, which is expected to lead to hourly cutbacks and potentially termination; and

Displacement through eviction destabilizes the living situation of tenants and impacts the health of Stockton residents by uprooting children from schools, disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City; and

Displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing; and

During the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment are at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted; and

The Ordinances are temporary and not a general ordinance to be codified pursuant to Section 509 of the City Charter; and

Pursuant to Section 508 of the City Charter, the Urgency Ordinance must be declared by the Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety, containing a statement of the facts constituting such urgency and adopted by a 2/3 vote of the members of the City Council; and

The Ordinances are a temporary moratorium intended to promote stability and fairness within the residential rental market in the City during the COVID-19 pandemic

outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON AS FOLLOWS:

SECTION 1. Title

This Ordinance shall be known as the “COVID-19 Eviction Moratorium Ordinance.”

SECTION 2. Policy and Purposes Declaration

The purposes of this Ordinance are to promote housing stability during the COVID-19 pandemic and to prevent avoidable homelessness. This Ordinance is necessary for the immediate preservation of the public peace, health, or safety because the COVID-19 pandemic has the potential for destabilizing the residential rental market for all the reasons described herein. It is intended to enable tenants in the City whose employment and income have been affected by the COVID-19 pandemic to be temporarily exempt from eviction for non-payment of rent and to reduce the risk that these events will lead to anxiety, stress, and potential homelessness for the affected City residents and their communities thereby serving the public peace, health, safety, and public welfare. The temporary moratorium on evictions for non-payment imposed by this Ordinance is created pursuant to the City's general police powers to protect the health, safety, and welfare of its residents and exists in addition to any rights and obligations under state and federal law.

SECTION 3. Termination Date

This Ordinance shall remain in effect for a period of two (2) months after its effective date and thereafter is repealed unless extended by Ordinance.

SECTION 4. Definitions

“Affected Tenant” shall mean a Tenant or Tenant Household, Mobilehome Resident, or Mobilehome Owner, whose is over the age of 65, has a compromised immune system, heart disease, diabetes, or other serious and chronic medical condition that affects the respiratory system, or has, as a result of COVID-19 pandemic, or declaration of the County Public Health Officer, or other local, State or Federal Authority, suffered a substantial loss in income through their employment as a result of any of the following: 1) job loss; 2) a reduction of compensated hours of work; 3) employer’s business closure; 4) missing work due to a minor child’s school closure; or 5) other similarly-caused reason resulting in a loss of income due to COVID-19 and who is unable to pay rent as a result thereof and has provided their Landlord with documentation or other objectively verifiable proof of the same.

“Landlord” means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Rental Unit, Mobilehome or Mobilehome lot, and the

agent, representative, or successor of any of the foregoing.

“Mobilehome” means a structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit, to be used with or without a foundation system.

"Mobilehome Park" means any area or tract of land where two or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate mobilehomes used for human habitation for permanent, as opposed to transient, occupancy.

“Mobilehome Owner” means a person who owns a Mobilehome and rents or leases the Mobilehome Park lot on which the Mobilehome is located.

“Mobilehome Resident” means a person who rents a mobilehome from a Mobilehome Owner.

“Rental Unit” means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, and which household pays rent for the use and occupancy for periods in excess of seven days whether or not the residential use is a conforming use permitted under the Stockton Municipal Code.

“Tenant” means a residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of a Rental Unit.

“Tenant Household” means one or more Tenant(s) who occupy any individual Rental Unit, including each dependent of any Tenant whose primary residence is the Rental Unit.

SECTION 5. Scope

This Ordinance applies to Affected Tenants and Landlords of Affected Tenants.

SECTION 6. Moratorium on Certain Terminations of Tenancies

During the term of this Ordinance, a Landlord may not terminate the tenancy of an Affected Tenant unless the Landlord can demonstrate that the termination is for a cause other than the non-payment of rent.

SECTION 7. Affirmative Defense to Eviction; Penalties and Remedies

A. Affirmative Defense. Each Landlord that seeks to terminate a tenancy of an Affected Tenant must comply with this Ordinance. Non-compliance with any applicable component of this Ordinance shall constitute an affirmative defense for an Affected Tenant against any unlawful detainer action under California Code of Civil Procedure section 1161, as amended. Nothing herein is intended to reduce or otherwise alter any person’s obligation

to pay rent as per the applicable rental agreement.

To assert this defense, an Affected Tenant shall have provided their Landlord with written documentation or other objectively verifiable information establishing that the Affected Tenant has, as a result of the novel coronavirus (COVID-19) pandemic or declaration of County Public Health Officer, or other State or Federal Authority, suffered substantial loss of income caused by any of the following: 1) job loss; 2) a reduction of compensated hours of work; 3) work closure; 4) missing work due to a minor child's school closure; or 5) other similarly-caused reason resulting in a loss of income due to COVID-19. The following documents shall create a rebuttable presumption that the Affected Tenant has met the documentation requirement set forth above, however, they are not the exclusive form of documentation demonstrating impacts to income due to COVID-19:

1. Letter from employer citing COVID-19 as a reason for reduced work hours or termination;
2. Employer paycheck stubs;
3. Notification from a school declaring a school closure related to COVID-19;
4. California Drivers License or other documentation of date of birth (if over 65);
5. A letter or other document provided by a physician that documents an applicable medical condition.

B. Civil Remedies.

Any Landlord that fail(s) to comply with this Ordinance may be subject to civil proceedings for displacement of Affected Tenant(s) initiated by the City or the Affected Tenant Household for actual and exemplary damages.

Whoever is found to have violated this Ordinance shall be subject to appropriate injunctive relief and shall be liable for damages, costs, and reasonable attorneys' fees.

Treble damages shall be awarded for a Landlord's willful failure to comply with the obligations established under this Ordinance.

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Nothing herein shall be deemed to interfere with the right of a Landlord to file an action against a Tenant or non-Tenant third party for the damage done to said Landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

SECTION 8. URGENCY FINDINGS AND EFFECTIVE DATE

The City Council of the City of Stockton hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency measure, which finding is based upon the facts stated in the recitals above, and in the staff report that accompanies this matter, as well any oral and written testimony at the March 17, 2020 City Council meeting.

This ordinance shall take effect immediately after its passage.

ADOPTED: _____

EFFECTIVE: _____

MICHAEL D. TUBBS
Mayor of the City of Stockton

ATTEST:

ELIZA R. GARZA, CMC
City Clerk of the City of Stockton