

ORDINANCE NO. 5099

AN URGENCY ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING CHAPTER 44 OF THE SANTA BARBARA COUNTY CODE TO ADD SECTIONS 44-5 TO 44-11 PURSUANT TO GOVERNMENT CODE SECTIONS 25123 AND 25131 AND CALIFORNIA GOVERNOR NEWSOM'S EXECUTIVE ORDER N-28-20, TO TEMPORARILY PROHIBIT AND SUSPEND EVICTIONS ARISING FROM LOSS OF INCOME OR SUBSTANTIAL MEDICAL EXPENSES RELATED TO COVID-19, CORONAVIRUS PANDEMIC, UNTIL MAY 31, 2020 OR UNTIL THE SANTA BARBARA COUNTY LOCAL HEALTH EMERGENCY PROCLAMATION IS TERMINATED, WHICHEVER IS EARLIER. THIS URGENCY ORDINANCE DOES NOT RELIEVE A TENANT'S OBLIGATIONS TO PAY RENT OR RESTRICT A LANDLORD'S ABILITY TO RECOVER RENT DUE.

The Board of Supervisors of the County of Santa Barbara hereby ordains as follows:

SECTION 1. Emergency Findings. This urgency ordinance is adopted pursuant to California Government Code Sections 25123(d) and 25131 and shall take effect immediately upon its approval by at least a four-fifths vote of the Board of Supervisors. The Board of Supervisors finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following declaration of facts constituting the urgency:

1. Chapter 12, Sec. 12-5(a) of the Santa Barbara County Code, empowers the County of Santa Barbara, Director of Emergency Services, to proclaim a local emergency if the Board of Supervisors is not in session; and
2. Section 8558(c) of the Government Code defines a "Local Emergency" as: "the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat"; and
3. A novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan City, Hubei Province, China in December 2019. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and in some cases death. The Centers for Disease Control and Prevention considers the virus to be a very serious public health threat; and

4. On March 4, 2020, Governor Newsom declared a state of emergency for conditions caused by COVID-19; and on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and
5. On March 11, 2020, Governor Newsom and California Public Health state officials recommended that non-essential gatherings should be postponed or cancelled across the state at least until the end of March, in order to implement social distancing guidelines intended to protect all individuals, particularly those who are at higher risk for severe illness for COVID-19; and
6. As of March 12, 2020 there were 198 confirmed COVID-19 cases in California of which 24 cases are from repatriation flights and 4 deaths; and
7. On March 12, 2020, the Health Officer of the County of Santa Barbara determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in the County of Santa Barbara, and has proclaimed a Local Health Emergency as a result. The Board of Supervisors ratified this proclamation on March 17, 2020; and
8. On March 12, 2020, the Director of Emergency Services proclaimed a local emergency related to COVID-19 pursuant to Government Code section 8550 et. seq. and Chapter 12, Section 12-5(a) of the Santa Barbara County Code. The Board of Supervisors ratified this proclamation on March 17, 2020; and
9. The COVID-19 pandemic and associated public health orders are expected to result in the closure of many local businesses until at least April 7, 2020, and result in extreme restrictions on other local businesses until then, and possibly thereafter; and
10. 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
11. The County of Santa Barbara is already experiencing a humanitarian crisis of homelessness and is one of the least affordable communities in the world; and
12. The County of Santa Barbara is also experiencing a housing affordability crisis, which is driving homelessness and displacement of residents; and

13. On March 16, 2020, Governor Newsom issued Executive Order N-28-20 stating that local jurisdictions may “determine that additional measures to promote housing security and stability are necessary to protect public health or to mitigate the economic impacts of COVID-19”; and
14. Executive Order N-28-20 suspended “[a]ny provision of 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” subject to certain limitations; and Executive Order N-28-20 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
15. Executive Order N-28-20 requested that all public housing authorities “extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the housing authority”; and
16. Executive Order N-28-20 requested that “[f]inancial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.”
17. Without local protection, eviction notices for failure to pay rent, missed deadlines for critical eligibility requirements for public housing programs, and foreclosures are likely to surge as residents and businesses are unable to earn income due to the pandemic, or are forced to pay substantial medical expenses associated with the pandemic; and
18. The Board has determined that it is appropriate to temporarily prohibit evictions and reiterate the Governor’s requests to public housing authorities and financial institutions through May 31, 2020, or until the Santa Barbara County local health emergency proclamation is terminated, whichever is earlier, 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. This urgency ordinance does not relieve a tenant’s obligation to pay rent or restrict a landlord’s ability to recover rent due, and respects the discretion of public housing authorities and financial institutions to act in the public’s best interest; and

19. For the immediate preservation of the public peace, health or safety, these conditions warrant and necessitate that the County adopt this urgency ordinance to protect the health, safety, and welfare of tenants in the unincorporated area of Santa Barbara County.

SECTION 2. Chapter 44 of the Santa Barbara County Code is hereby amended to add sections 44-5 through 44-11 inclusive, which read as follows:

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

Sections:

44-5 Purpose.

44-6 Definitions.

44-7 Prohibition on evictions stemming from coronavirus pandemic losses.

44-8 Severability.

44-9 Publication.

44-10 Effective date.

44-11 California Environmental Quality Act.

Section 44-5 Purpose.

This chapter prohibits evictions through May 31, 2020, or until the Santa Barbara County local health emergency proclamation is terminated, whichever is earlier, 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. This urgency ordinance does not relieve a tenant's obligation to pay rent or restrict a landlord's ability to recover rent due.

Section 44-6 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.

(E) “Tenant” means a person or entity lawfully occupying residential or commercial real property and includes a lease or sublease.

Section 44-7 Prohibition on evictions stemming from coronavirus pandemic losses.

(A) Through May 31, 2020, or until the Santa Barbara County local health emergency proclamation is terminated, whichever is earlier, 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 provide written notice to the owner and 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.

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

Section 44-8 Severability. If any provision of this urgency ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this urgency ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this urgency ordinance are severable. The Board of Supervisors hereby

declares that it would have adopted this urgency ordinance irrespective of the invalidity of any particular portion thereof.

Section 44-9 Publication. Before the expiration of 15 days after passage of this urgency ordinance, a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the *Santa Barbara News-Press*, a newspaper of general circulation published in the County of Santa Barbara in compliance with Government Code Section 25124.

Section 44-10 Effective Date. This urgency ordinance, section 44-5 through 44-11, shall take effect and be in full force immediately upon adoption by at least a four-fifths vote of the Board of Supervisors pursuant to Government Code Section 25123 and shall remain in effect and operative until May 31, 2020, or until the Santa Barbara County local health emergency proclamation is terminated, whichever is earlier. County Code section 44-4 shall not apply to section 44-5 through 44-11.

Section 44-11 California Environmental Quality Act. This ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15269(c) (specific action to mitigate an emergency), Section 15061(b)(3) (no possibility the activity may have a significant effect on the environment), and Section 15378(b)(5) (the administrative activity is not a project because it will not result in any direct or indirect physical changes in the environment.)

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this the 24th day of March, 2020, by the following vote:

AYES: Supervisors Williams, Hart, Hartmann, Adam and Lavagnino

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



GREGG HART, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By Shirley de la Guerra
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By Michael C. Ghizzoni
Deputy County Counsel