

FILED

SEP 07 2021

BY *Reyeta Ramirez*
DEPUTY CLERK OF THE BOARD

ORDINANCE NO. 1539

**AN ORDINANCE OF THE YOLO COUNTY BOARD OF SUPERVISORS
AMENDING THE COVID-19 EVICTION MORATORIUM URGENCY ORDINANCE
ADOPTED ON APRIL 21, 2020**

The Board of Supervisors of the County of Yolo hereby ordains as follows:

Section 1. Executive orders adopted in connection with the COVID-19 pandemic authorized the adoption of a local ordinance restricting the eviction of commercial and residential tenants. The Board of Supervisors adopted such an ordinance on an urgency basis on April 21, 2020 (“Eviction Moratorium Ordinance”), and such ordinance remains in effect. The purpose of this Ordinance is to adopt certain changes to the Eviction Moratorium Ordinance, shown in track changes format in **Attachment 1** hereto, to conform the Eviction Moratorium Ordinance to state law. This Ordinance also includes additional changes to the Eviction Moratorium Ordinance to revise its scope.

Section 2. Section III.1-5 of the Eviction Moratorium Ordinance shall be revised as shown in **Attachment 1**. Such changes shall take effect on the effective date of this Ordinance, as set forth in Section 5, below.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have adopted this Ordinance and each section, sentence, clause or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 4. Conflicting Enactments. To the extent that there is any conflict between the provisions of this Ordinance and the provisions of any other County Code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

Section 5. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after its passage, and prior to expiration of fifteen (15) days after its passage thereof, shall be published by title and summary only in the Davis Enterprise together with the names of members of the Board of Supervisors voting for and against the same.

Introduced at a Board of Supervisors regular meeting held on July 27, 2021, and subsequently approved following a second reading on August 31, 2021, by the following vote:

AYES: Barajas, Villegas, Saylor, Sandy, Provenza.

NOES: None.

ABSENT: None.

ABSTENTION: None.

[Signature]

Jim Provenza, Chair
Yolo County Board of Supervisors

Approved as to Form:

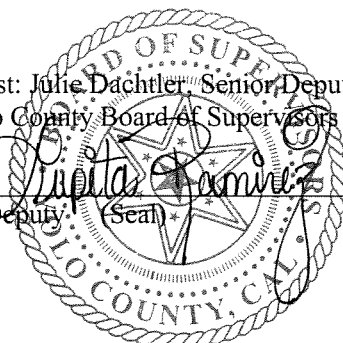
By: *[Signature]*

Philip J. Pogledich, County Counsel

Attest: Julie Dachtler, Senior Deputy Clerk
Yolo County Board of Supervisors

By: *[Signature]*

Deputy (Seal)



ORDINANCE NO. _____

AN UNCODIFIED URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO, STATE OF CALIFORNIA ESTABLISHING A MORATORIUM ON RESIDENTIAL AND COMMERCIAL EVICTIONS AND PROVIDING AN AFFIRMATIVE DEFENSE TO EVICTION ARISING FROM IMPACTS RELATED TO COVID-19

URGENCY ORDINANCE: 4/5 VOTE REQUIRED

The Board of Supervisors of the County of Yolo, State of California, ordain as follows:

SECTION I. TITLE.

This uncodified Ordinance shall be known as the COVID-19 Eviction Prevention Ordinance.

SECTION II. EMERGENCY FINDINGS.

This Ordinance is adopted pursuant to California Government Code sections 25123(d) and 25131 and shall take effect immediately upon approval by at least a four-fifths vote of the Board of Supervisors. The Board of Supervisors finds this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare based upon the following facts:

1. 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
2. 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
3. On March 6, 2020, the Health Officer of the County of Yolo determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in the County, and proclaimed a Local Health Emergency ("Public Health Emergency") as a result. The Board of Supervisors ratified this proclamation and

a corresponding March 6, 2020 declaration of a Local State of Emergency (“Local Emergency”) by the Emergency Services Director on March 9, 2020; and

4. 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, 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
5. On March 18, 2020, the Yolo County Public Health Officer adopted an order directing individuals to shelter in their place of residence and further restricting non-essential activities in response to the COVID-19 outbreak (“local shelter-in-place order”); and
6. On March 19, 2020, the Governor issued Executive Order N-33-20, which directs all residents of California to stay home or at their place of residence to further protect the public health of all Californians; and
7. All Yolo County School Districts have suspended in-person classes as part of ongoing efforts to mitigate the spread of COVID-19. These changes will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home; and
8. The COVID-19 pandemic and associated public health orders are expected to result in the closure of many local businesses, and result in extreme restrictions on other local businesses; and
9. 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 Yolo County residents; and
10. The County of Yolo and the cities within the County are also experiencing a homelessness and housing affordability crisis, which is driving homelessness and displacement of residents; and

11. Many of the County's renters, including an estimated 3,100 renter households in the unincorporated area, are Rent-burdened and about half are categorized as low, very low, and extremely low income households, which leaves less money for families to spend on other necessities like food, healthcare, transportation, and education; and
12. Many seniors and vulnerable populations reside in mobile home parks throughout Yolo County, and the sudden displacement of these residents due to their inability to pay Rent as a result of COVID-19 would be injurious to the health and safety of the community; and
13. 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
14. On March 27, 2020, the Governor issued Executive Order N-37-20, extending certain eviction protections statewide for residential Tenants; and
15. On April 1, 2020, the County extended its local shelter-in-place order through May 1, 2020; and
16. As of 5:00 p.m. on April 13, 2020, there are 101 confirmed cases of infection and 4 deaths from COVID-19 within the County; and
17. Without local protection, eviction notices are likely to surge as a result of residents and businesses complying with the State and/or local shelter-in-place orders and 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
18. As a result of the local shelter-in-place order, many potential customers of commercial Tenants in the unincorporated area of the County are unable to patronize the Tenants' businesses; and
19. The eviction of commercial Tenants results in the loss of local, family owned businesses, the loss of jobs for employees, and negative impacts to surrounding businesses, potentially leading to urban decay; and
20. A surge in evictions, whether residential or commercial would increase the overall economic stress of the community and its residents, which further compounds the resident's and the community's health and vulnerability to COVID-19; and

21. Displacement and evictions occurring during the Public Health and Local Emergency would hinder individuals from complying with state and local directives to shelter in place, and would lead to increased spread of COVID-19, overburdening our healthcare system, and potentially resulting in loss of life; and
22. It is essential that this Ordinance become immediately effective to reduce the displacement and further movement of people by temporarily prohibiting evictions for the duration of the Public Health and Local Emergencies (including any extensions thereof) and for 180 days after each is terminated, for any residential or commercial Tenant who can demonstrate that they are being evicted due to circumstances that, among other things, arise from compliance with any state or local shelter-in-place order or the failure to pay Rent, when such 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.

SECTION III. EVICTIONS ARISING FROM SUBSTANTIAL INCOME LOSS OR MEDICAL EXPENSES RELATED TO THE COVID-19 PANDEMIC

1. Purpose; Findings.

This Ordinance prohibits evictions for the duration of the County of Yolo's Public Health and Local Emergencies, and for 180 days thereafter, for any Tenant who can demonstrate that they have received a notice of eviction as a result of actions taken in good faith to comply with a state and/or local shelter-in-place order or failure to pay Rent due to a substantial loss of income or substantial out-of-pocket medical expenses resulting from the COVID-19 pandemic or any local, state, or federal government response to the COVID-19 pandemic. Nothing in this Ordinance relieves the Tenant of liability for unpaid or delayed Rent and Tenants must continue to pay any portion of the Rent that the Tenant is able to pay.

This Ordinance also provides that evidence demonstrating the Tenant's inability to pay Rent shall be shared with the Owner for the sole and limited purpose of supporting an Owner's claim for mortgage relief due to substantial loss of income resulting from the COVID-19 pandemic or any local, state, or federal government response to the COVID-19 pandemic.

Finally, this Ordinance also directs the Yolo County Housing Authority to 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.

In adopting this Ordinance in the exercise of their emergency powers granted them in California Government Code sections 25123(d) and 25131 and by the California Emergency Services Act, it is the intention of the Board of Supervisors to establish an affirmative defense against residential and commercial evictions throughout the unincorporated areas of the County. Further, in adopting certain revisions to this Ordinance on August 31, 2021, the Board finds that such changes are necessary and appropriate to conform this Ordinance to state law and, in the case of provisions relating “no fault” terminations of tenancies, this Ordinance provides additional tenant protections that are not prohibited by the Tenant Protection Act of 2019.

2. Definitions.

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

- (A) “Commercial Real Property” means any real property that is used for business, income-producing purposes, or any purpose other than for residential use;
- (B) “Mobilehome” means those structures defined in California Civil Code Section 798, *et. seq.*, and other forms of vehicles designed or used for human habitation, including camping trailers, recreational vehicles, motorhomes, slide-in campers, or travel trailers, that occupy a site in a Mobilehome park as defined in Civil Code sections 798.4 and 798.6.
- (C) “Mobilehome Park” means any manufactured home park as defined in Civil Code sections 798.4 and 798.6.
- (D) “Owner” means any natural person, partnership, corporate or fictitious entity, acting as a lessor or sublessor, whether as a principal or through an agent, who receives or is entitled to receive Rent in exchange for the use or occupancy of any Residential or Commercial Real Property, and includes a predecessor in interest;
- (E) “Ordinance” means this COVID-19 Eviction Prevention Ordinance.
- (F) “Premises” refers to any commercial or residential real property subject to this Ordinance.
- (G) “Rent” means the financial obligation or monetary payment a Tenant owes an Owner for the occupancy or use of Commercial or Residential Real Property whether by written or oral agreement;

- (HF) “Residential Real Property” means any dwelling, Mobilehome, or unit that is intended or used for human habitation in Yolo County, excluding campgrounds or recreational vehicle parks where overnight stays are limited by park regulation to a duration of no more than 30 days.
- (IG) “Tenancy” means the lawful occupation of Residential or Commercial Real Property, including in Mobilehomes and Mobilehome parks and includes a lease or sublease.
- (HJ) “Tenant” means a residential or commercial Tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of Residential or Commercial Real Property.

3. Term.

This Ordinance shall take effect immediately upon adoption and shall remain in effect until one hundred eighty (180) days after the Public Health and Local Emergency Orders are no longer in effect or until this Ordinance is repealed or modified by the Board of Supervisors, whichever occurs first. To the extent state law (including any executive order adopted by the Governor) requires an earlier termination of some or all provisions of this Ordinance, state law shall govern.

4. Prohibition on Evictions Stemming from COVID-19 Pandemic Impacts and Losses.

- (A) While this Ordinance remains in effect, Owners are prohibited from terminating a Tenancy for failure to pay Rent or for certain violations of a lease terms described Section 4(D)(2) of this Ordinance, below. Notwithstanding anything to the contrary herein, due to the expiration of state authority for local eviction protections for Commercial Real Property tenancies in Executive Order 03-21 on June 30, 2021, the eviction protections of this Ordinance do not apply to commercial tenancies after June 30, 2021.
- (B) While this Ordinance remains in effect, for residential properties subject to the Tenant Protection Act of 2019, Owners shall not terminate a Tenancy for a no-fault eviction if the Tenant has properly asserted the protections of this Ordinance for non-payment of rent or lease term violations, or comparable provisions of state law, except in accordance with the requirements set forth in Section 4(I), below.
- (1) For purposes of this Ordinance, “no-fault eviction” refers to any eviction for a “no-fault just cause” reason set forth in California Civil Code section 1946.2 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 sections 1161(1) or 1161(5).~~

- (C) Nothing in Sections 4(A) or 4(B), above, shall preclude an Owner from evicting a Tenant when it is immediately necessary due to the existence of a public health or safety concern. For the purposes of this exception, a public health or safety concern shall include the destruction of property, or violent or disruptive behavior of Tenants, but does not include the presence of individuals who have been infected by or exposed to COVID-19.
- (D) To invoke the protection of this Ordinance, a Tenant must demonstrate through documentation or other objectively verifiable means, that they are experiencing one or more of the following:
 - (1) A substantial loss of income from COVID-19 related causes, including without limitation (a) job loss; (b) layoff; (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 due to a suspected or confirmed case of COVID-19 or to care for a dependent child or a family member with a suspected or confirmed case of COVID-19; (g) the need to miss work to care for a dependent child due to a school or child-care facility closure; or (h) compliance with a state or local order or directive to stay home, self-quarantine, or avoid congregating with others during the Public Health and Local Emergencies; or
 - (2) Compliance with a lease term would prevent compliance with a state or local order or directive to stay home, self-quarantine, or avoid congregating with others during the Public Health and Local Emergencies; or
 - (3) Substantial out-of-pocket medical expenses that resulted from the COVID-19 pandemic.
 - (4) For the purposes of this Ordinance, documentation or other objectively verifiable means shall include, but not be limited to: termination notices, payroll checks, pay stubs, bank statements, signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, medical bills, a doctor's note excusing Tenant from work due to a suspected or confirmed case of COVID-19 or to care for a dependent child or family member suspected or confirmed to be infected by COVID-19, letters or notifications from schools or child-care facilities in which the tenant has a dependent child enrolled regarding COVID-19 related closures, documentation showing a loss of revenue or need to

temporarily shut down business in compliance with a local or state order.

- (E) As to any partial or full non-payment of rent, subsequent to the adoption of this Ordinance and provided that Tenant is knowledgeable of the rights and duties it creates and, further, that Tenant is capable in all respects of notifying Owner of the inability to pay all or a portion of Rent that is owing, Tenant must notify the Owner of such inability in writing before the day Rent is due, or within a reasonable amount of time thereafter, not to exceed seven (7) days. Tenant may, but is not required to provide such notice on the sample "notice of delay of rent payment" approved and available through the County.
- (F) The Owner may utilize the documents and/or evidence produced by the Tenant in Section 4.D, above, for the sole and limited purpose of supporting a claim for mortgage relief, due to substantial loss of income or substantial out-of-pocket medical expenses resulting from the COVID-19 pandemic or any local, state, or federal government response to the pandemic.
- (G) The prohibition against terminating Tenancies in this Ordinance shall also apply to an Owner's action that constitutes constructive eviction (such as terminating a Tenant's utilities).
- (H) Any notice of termination served on a Tenant while this Ordinance is in effect, must contain the reason for the termination of Tenancy. Any notice of termination served on a Tenant must also include a "notice of Tenant's rights" under this Ordinance as well as a notice of emergency rental assistance programs, consistent with the sample notice of Tenant's rights approved and available through the County. An Owner's failure to comply with the notice requirements of this Ordinance shall render any notice of termination of a Tenancy void. Notwithstanding the foregoing, however, nothing in this Ordinance precludes an Owner from providing notice in compliance with this Ordinance to remedy any prior notice defects.
- (I) As to any evictions occurring during the term of the Public Health and Local Emergencies this Ordinance, this Ordinance may be asserted as an affirmative defense by any Tenant residing in the unincorporated area of Yolo County against an unlawful detainer action brought by an Owner. This provision shall survive the termination or expiration of this Ordinance. The following additional limitations apply to no-fault evictions if a Tenant has properly invoked the protections of this Ordinance for the non-payment of rent, or comparable provisions of state law:

(1) If the Owner is withdrawing the Premises from the rental market, the Owner must be in contract to sell the Premises to a third party intending to occupy it as their primary residence.

(2) If the Owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents intend to occupy the Premises, their occupancy must commence no later than 30 days after the Tenancy terminates pursuant to a 30- or 60-day notice delivered in accordance with state law and thereafter continue for at least one year.

(H) Any no-fault eviction subject to the terms of this Ordinance must be undertaken in good faith. The Owner must allege and prove compliance with all applicable requirements in this Ordinance in any related unlawful detainer action. In the event of any conflict between state law governing no-fault evictions and the provisions of this Ordinance, the provision affording greater rights to a Tenant shall prevail.

(J) An Owner's failure to comply with this Ordinance does not constitute a criminal offense but will allow for an aggrieved Tenant to institute a civil proceeding for damages, injunctive relief, and any other remedies available under local, state or federal law.

(K) Nothing in this Ordinance shall relieve a Tenant of the obligation to pay Rent, nor restrict an Owner's ability to recover Rent due.

(L) This Ordinance shall be liberally construed to provide the broadest possible protection for Tenants in the County.

5. Liability for Rent and Payback Period

While this Ordinance remains in effect, Tenants shall pay any portion of the Rent that the Tenant is able to pay. Nothing in this Ordinance shall relieve the Tenant of liability for the unpaid or delayed Rent, which the Owner may seek when allowed by state law or after the Public Health and Local Emergency Orders are no longer in effect, whichever is earlier. The Tenant must pay all Rents owing within one hundred eighty (180) days of May 1, 2022, as required by state law. If state law is revised to allow additional time for repayment after adoption of the amended version of this Ordinance on August 31, 2021, such changes shall automatically apply to tenants protected by this Ordinance without any further action of the Board of Supervisors. Unless otherwise agreed the expiration of the Public Health and Local Emergency. ~~The exact terms of the repayment plan are to be agreed upon by the Owner and Tenant. If no agreement is reached between the Owner and Tenant, the total of all the delayed payments shall be repaid in six (6) equal payments to be paid in thirty (30) day intervals beginning the day after the expiration of the Local Emergency or the date that state law requires repayment to commence. An Owner may not charge or collect a late fee for Rent that is delayed for the reasons stated in this Ordinance. The prohibition against terminating tenancies in this Ordinance shall continue to apply for one hundred and eighty (180) days after the Public Health and Local~~

~~Emergency Orders are no longer in effect to permit Tenants to pay Owners all unpaid Rent.~~

6. Public Housing Authorities.

The Yolo County Public Housing Authority shall, to the extent possible, 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. The County encourages affected households receiving income based Rent or rental assistance to seek appropriate reductions in Tenant Rent due to lost income.

7. Financial Institutions and Foreclosures.

Financial institutions in the County holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to 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.

SECTION IV. CEQA.

Adoption of 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 V. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declare that they would have passed this Ordinance and every section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid, unconstitutional, or otherwise unenforceable.

SECTION VI. EFFECTIVE DATE AND PUBLICATION.

This Ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage by a four-fifths (4/5) or greater vote. A fair and accurate summary of this Ordinance shall be published once before the expiration of fifteen (15) days after said passage.