

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, RENEWING AND EXTENDING THE TEMPORARY PROHIBITION ON COVID-19 PANDEMIC RELATED EVICTIONS SET FORTH IN ORDINANCE NO. 5325

County Counsel Summary

This urgency ordinance renews and extends the prohibition on evictions within the unincorporated area when related to the economic consequences to a tenant of the COVID-19 pandemic, adopted by the Board of Supervisors on March 24, 2020, in Ordinance No. 5325; it does not relieve the tenant from any obligation to pay rent. This ordinance is effective immediately and renews the prohibition in Ordinance No. 5325 retroactive to August 1, 2020, and extends the prohibition until the earlier of September 30, 2020 or the adoption of state legislation.

WHEREAS, on March 4, 2020, Governor Newsome issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic; and

WHEREAS, in light of the COVID-19 pandemic and his state of emergency proclamation, on March 16, 2020, the Governor issued Executive Order No. N-28-20 suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions; and

WHEREAS, in light of the Governor's executive order, the Board of Supervisors adopted Ordinance No. 5325 on March 24, 2020, prohibiting evictions in the unincorporated area as allowed in the Governor's executive order; and,

WHEREAS, on March 27, 2020, the Governor issued Executive Order No. 37-20, which directed that the time to hear unlawful detainer actions in the superior court was tolled for a period of 60 days on the condition that the tenant provide specific information about the inability to pay rent; and,

WHEREAS, the Governor's executive order expired on May 31, 2020; however, the Chief Justice of the California Supreme Court had issued a directive that the superior courts in California were to refrain from issuing summonses in unlawful detainer and foreclosure actions unless it could be demonstrated that a public health and safety issue was presented; and,

WHEREAS, Ordinance No. 5325 was extended to and including July 31, 2020, by Ordinance No. 5331, adopted on May 19, 2020; and

WHEREAS, the Governor of the State of California, by Executive Order No. N-71-20, extended the ability of cities and counties to prohibit evictions related to the COVID-19 pandemic through September 30, 2020; and,

WHEREAS, the Chief Justice of the California Supreme Court has indicated that the authority of the superior courts to refrain from issuing summonses in unlawful detainer and foreclosure actions will expire on September 1, 2020; and,

WHEREAS, while legislation is currently pending in Sacramento that would place a statewide moratorium on evictions caused by the impact of the COVID pandemic, it is unknown at this time if or when the state legislature will act; and,

WHEREAS, such evictions continue to present an immediate threat to the public peace, health and safety, as described in Government Code section 25123 (d) in that they will cause the displacement of residents and contribute to an increase in the homeless population in Monterey County; and,

WHEREAS, it is therefore necessary and appropriate for the Board of Supervisors to renew and further extend the prohibitions set forth in Ordinance No. 5325; NOW, THEREFORE,

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The provisions of the Governor's executive order, including its recitals, are incorporated herein as if fully set forth, and the recitals and findings in Ordinance No. 5325 are incorporated herein as if fully set forth.

SECTION 2. The above recitals, the recitals in the Governor's declaration, and the recitals and findings in Ordinance No. 5325 remain true and correct.

SECTION 3. Findings and purpose.

In order to address an immediate threat to the public peace, health and safety, this ordinance renews and extends the temporary prohibition on evictions throughout the unincorporated area of the County, related to the existence of the COVID-19 pandemic emergency, set forth in Ordinance No. 5325.

SECTION 4. Applicability.

Upon its effective date, this ordinance applies retroactively in the unincorporated area of the County of Monterey from August 1, 2020, through the earlier of September 30, 2020, or the adoption of state legislation that, in the opinion of County Counsel, preempts, supersedes, supplants or otherwise makes unnecessary this ordinance.

SECTION 5. Prohibition.

The provisions of Section 5 of Ordinance No. 5325 are amended to read:

Pursuant to the general police power of the County to protect the health, safety and welfare of its citizens, the authority of any landlord to commence evictions on any residential or

commercial property within the unincorporated area for the following reasons is hereby suspended from March 24, 2020, through the earlier of September 30, 2020, or the adoption of state legislation that, in the opinion of County Counsel, preempts, supersedes, supplants or otherwise makes unnecessary this ordinance:

- a. The basis of the eviction is non-payment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses; and
- b. The decrease in household or business income or the out-of-pocket medical expenses describe in subparagraph (a) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

Nothing in this resolution shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due, and is subject to the following conditions:

- a. Prior to the effective date of this ordinance, the tenant paid rent due to the landlord pursuant to an agreement.
- b. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:
 - (i) The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;
 - (ii) The tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or
 - (iii) The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.
- c. The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time upon payment of back-due rent.

SECTION 6. Other Provisions.

- a. Except as specifically amended, all other provisions of Ordinance No. 5325 remain in effect.

- b. This ordinance shall be liberally construed to provide the broadest possible protection for the citizens of the County.
- c. The County Administrative Officer, the County Counsel, and all other County officers and department heads, are authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this ordinance.

SECTION 7. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 8. 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, and that it is necessary to prevent the County of Monterey from suffering potentially irreversible displacement of tenants resulting from evictions related to the COVID-19 pandemic emergency.

PASSED AND ADOPTED this ____ day of August, 2020, by the following vote:

AYES:

NOES:

ABSENT:

Christopher M. Lopez, Chair,
Monterey County Board of Supervisors

A T T E S T :

VALERIE RALPH
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

LESLIE J. GIRARD
County Counsel