

URGENCY ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODLAND ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NON-PAYMENT OF RENT FOR COMMERCIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM BUSINESS INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19) AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

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 on March 10, 2020, the Yolo County Board of Supervisors ratified a local and public health emergency, and on March 13, 2020, the President of the United States declared a state of national emergency; and

WHEREAS, on March 17, 2020, the City Council proclaimed the existence of a local emergency; and

WHEREAS, on March 18, 2020, pursuant to the authority granted under Health and Safety Code sections 101040, 101085 and 120175, the Health Officer of Yolo County issued an order directing individuals to shelter in place of residence and restricting non-essential activities in response to the COVID-19 pandemic, which ordered all individuals living in Yolo County to shelter in their place of residence, and ordered all businesses, with the exception of “Essential Businesses,” as defined in the order, to cease all activities except for minimum basic operations (the “County Shelter In Place Order”); and

WHEREAS, on March 19, 2020, the Governor of the State of California issued Executive Order N-33-20, which ordered all individuals living in the State of California to stay home except as needed to maintain continuity of operations of federal critical infrastructure sectors (the “State Shelter In Place Order” and, together with the County Shelter In Place Order, the “Shelter In Place Orders”); and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, which suspended any 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 on the basis of nonpayment of rent arising out of a substantial decrease in household or business income or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic or by governmental response to COVID-19; and

WHEREAS, as a result of the Shelter In Place Orders, many businesses in the City have been forced to close entirely, and as a result are generating little or no revenue to pay ongoing expenses, and even many of those businesses deemed “Essential Businesses” are experiencing severe decreases in revenue as a result of the Shelter In Place Orders, as residents are only patronizing businesses for essential needs, and restaurants are limited to providing take-out and delivery orders; and

WHEREAS, the decreases in business income that result from the Shelter In Place Orders are especially challenging for small businesses, which are the predominant businesses in the City of Woodland, as they frequently do not have sufficient reserves built up to cover overhead for a significant period of time with little or no incoming revenue; and

WHEREAS, business closures resulting from evictions of commercial tenants during the current emergency would worsen the current economic crisis by creating financial instability for business owners and employees, reducing the available jobs for City residents once the Shelter In Place Orders are lifted, and creating a reduction in local revenue and services as new businesses are sought to fill the commercial vacancies; and

WHEREAS, such impacts would have a significant negative effect on public health, safety and welfare, as business closures would reduce the availability of local goods and services, would reduce jobs and economic opportunities for local residents, and would reduce local tax revenues used to provide essential services to the community; and

WHEREAS, providing a temporary moratorium on evictions for commercial tenants is additionally of benefit to the public health in that it will reduce one source of economic pressure, and businesses will be less likely to provide services in violation of the Shelter In Place Orders; and

WHEREAS, this Ordinance is temporary in nature and only intended to promote stability and fairness within the commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable business closures that could occur due to COVID-19 and the Shelter In Place Orders, thereby serving the public peace, health, safety, and public welfare; and

WHEREAS, the City Council desires to temporarily prohibit evictions due to non-payment of rent for commercial tenants where the failure to pay rent results from business income loss resulting from COVID-19 or the governmental response to COVID-19; and

WHEREAS, this Ordinance is adopted pursuant to the City's police powers and powers afforded to the City in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and Chapter 13.52 of the Woodland Municipal Code to protect the peace, health, and safety of the public; and

WHEREAS, the City Council of the City of Woodland finds that this Ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City and finds such urgency to approve this ordinance immediately based on the facts described

herein, and detailed in the staff report. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of life and property.

NOW, THEREFORE, the City Council of the City of Woodland does hereby ordain as follows:

Section 1. Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.

A. Notwithstanding anything to the contrary in the City of Woodland’s Municipal Code, during the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a commercial tenant for nonpayment of rent if the commercial tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19.

B. A landlord who knows that a commercial tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure section 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. A landlord knows of a commercial tenant’s inability to pay rent within the meaning of this Ordinance if the commercial tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost business income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this ordinance, “in writing” includes email or text communications to a landlord or the landlord’s representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant’s claim.

C. For purposes of this Ordinance “financial impacts related to COVID-19” include, but are not limited to, tenant lost business 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) compliance with recommendations from a government health authority to cease or reduce tenant’s business activities, including but not limited to the County and State Shelter In Place Orders; (3) extraordinary out-of-pocket medical expenses; or (4) reducing business activities due to child care needs arising from school closures related to COVID-19.

D. This Ordinance applies to non-payment eviction notices and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed.

E. Violation of this Ordinance shall be punishable as set forth in Section 1.08.070 of the Woodland Municipal Code. In addition, this Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance.

F. Nothing in this Ordinance shall relieve the commercial tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency, and the commercial tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance;

nor may a landlord seek rent that is delayed for the reasons stated in this Ordinance through the eviction process.

G. No other legal remedies available to landlord are affected by this Ordinance.

H. This Ordinance shall remain in effect for sixty days, unless extended, and the Director of Emergency Services may extend the Ordinance during the term of the local emergency. Notwithstanding and in order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of this Ordinance in the event that the President of the United States, Congress, Governor of the State of California or California State Legislature adopts an order or legislation that similarly prohibits evictions for failure to pay rent by individuals impacted by the COVID-19 crisis.

Section 2. Severability

If any section, subsection, sentence, clause, phrase or word of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

Section 3. Environmental Review.

The City Council finds that adoption and implementation of this Ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA Guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the Ordinance will be to maintain the status quo. No new development will result from the proposed action. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this Ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Woodland, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

Section 4. Urgency Declaration; Effective Date

The City Council finds and declares that the adoption and implementation of this Ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above as the City and public would suffer potentially irreversible displacement of commercial tenants resulting from evictions for failure to pay rent during the COVID-19 crisis. 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 business displacement, to protect against unnecessary loss of jobs, economic opportunities, local goods and services and local revenues following the lifting of the Shelter In Place Orders, and to encourage compliance with State and local social distancing directives. Under Government Code Section 8634 and Woodland Chapter 13.52, this Ordinance is necessary to provide for the protection of life and property for the reasons set out herein. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this

Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

Section 5. Certification

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Woodland at a special meeting of the City Council held on the 31st day of March, 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Rich Lansburgh, Mayor

ATTEST:

APPROVED AS TO FORM:

Ana B. Gonzalez, City Clerk

Kara K. Ueda, City Attorney