

ORDINANCE NO. 2020-123

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GONZALES ENACTING A TEMPORARY PROHIBITION ON COVID-19 PANDEMIC RELATED COMMERCIAL EVICTIONS

WHEREAS, California Government Code Sections 36934 and 36937 expressly authorize the City Council to enact urgency ordinances that take effect immediately upon adoption for the immediate preservation of public peace, health, safety and welfare. Such urgency ordinances must contain a statement of facts constituting the urgency and must be passed by a four-fifths vote of the City Council; and

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

WHEREAS, based on these same facts and circumstances, City Manager Rene Mendez, acting as the Director of Emergency Services, declared the existence of a local emergency in the City by Proclamation on March 16, 2020, and this Proclamation was subsequently ratified by the City Council by Resolution 2020-13 on March 19, 2020; and

WHEREAS, in light of the COVID-19 pandemic and his state of emergency proclamation, on March 16, 2020, the Governor issued Executive Order 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, a copy of Executive Order N-28-20 is attached hereto as Exhibit 1; and

WHEREAS, on March 24, 2020, the Monterey County Board of Supervisors adopted an Urgency Ordinance imposing a temporary moratorium on evictions for residential and commercial properties in the unincorporated portions of Monterey County; and

WHEREAS, on March 27, 2020, the Governor issued Executive Order N-37-20 imposing substantial restrictions on residential evictions through May 31, 2020; and

WHEREAS, a copy of Executive Order N-37-20 is attached hereto as Exhibit 2; and

WHEREAS, the City Council desires to maintain economic infrastructure in the City so that essential businesses may remain open and continue operations uninterrupted in support of residents who are sheltering in place, and so that all businesses have the ability to recover from the impacts of the COVID-19 virus and continue to provide employment and generate tax revenue and so that economic recovery is possible after the local emergency is over, all of which is in the interest of public peace, health, safety and welfare; and

WHEREAS, evictions of commercial tenants present an immediate threat to the public peace, health and safety, as described in Government Code Section 25123(d) in that they will

undermine the intent and goals of the City Council set forth in the preceding recital, and serve as an impediment to economic recovery after the City's local emergency is over; and

WHEREAS, it is therefore necessary and appropriate for the City of Gonzales to exercise its Constitutionally granted police powers and the statutory authority referenced above to adopt an urgency ordinance to address the immediate threat to the public peace, health and safety that COVID-19 pandemic related commercial evictions will create; and

WHEREAS, adoption of this urgency ordinance does not require review under the California Environmental Quality Act ("CEQA") based on the fact that this ordinance is not a project within the meaning of Sections 153778 and 15060(c)(2) of state CEQA Guidelines, because adoption of the involved regulations has no potential for resulting in either a direct or indirect physical change to the environment.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GONZALES AS FOLLOWS:

Section 1. The provisions of California Governor Gavin Newsom's Executive Orders N-28-20 and N-37-20, including their recitals, are incorporated herein as if fully set forth.

Section 2. The above recitals are true and correct to the best of the Council's knowledge and are incorporated herein by reference as findings.

Section 3. Findings and Purpose.

In order to address an immediate threat to the public peace, health and safety, this ordinance temporarily prohibits commercial evictions throughout the City of Gonzales related to the existence of the COVID-19 pandemic emergency.

Section 4. Applicability.

This ordinance applies from April 6, 2020, through May 21, 2020, in the City of Gonzales, unless otherwise terminated or extended.

Section 5. Prohibition.

Pursuant to the general police power of the City of Gonzales to protect the health, safety and welfare of its citizens, the authority of any landlord to commence evictions on any commercial property within the City of Gonzales for the following reasons is hereby temporarily suspended from April 6, 2020 through May 21, 2020:

- a. The basis of the eviction is non-payment of rent, or a foreclosure, arising out of a substantial decrease in business income (including but not limited to, a substantial decrease in business income caused by employee layoffs or a reduction in the number of compensable employee 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 business income or the out-of-pocket medical expenses described in subparagraph (a) was caused by the COVID-19 pandemic, or by any local, county, 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.

Section 6. Other Provisions.

- a. Financial institutions holding commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, on commercial properties within the City of Gonzales 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 business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, county, state, or federal government response to COVID-19.
- b. This ordinance shall be liberally construed to provide the broadest possible protection for licensed commercial businesses in the City of Gonzales.
- c. The City Manager, City Attorney, and all other City 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 City Council 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 if adopted by at least a four-fifths vote, and shall be applicable as of April 6, 2020, the date of adoption hereof. This is based on the City Council's 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, safety, and welfare and that it is necessary to prevent the City of Gonzales from suffering potentially irreversible displacement of commercial tenants resulting from evictions related to the COVID-19 pandemic emergency.

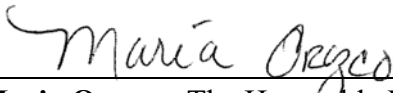
PASSED AND ADOPTED by at least a four-fifths vote at a regular meeting of the Gonzales City Council held on the 6th day of April, 2020, by the following vote:

AYES: **COUNCIL MEMBERS:** Mayor Pro Tem Scott Funk, Liz Silva, Lorraine Worthy, Paul Miller, and Mayor Maria Orozco

NOES: **COUNCIL MEMBERS:** None


ABSTAIN: **COUNCIL MEMBERS:** None

ABSENT: **COUNCIL MEMBERS:** None



Maria Orozco, The Honorable Mayor

ATTEST:



Mary Villegas, Deputy City Clerk