

URGENCY ORDINANCE NO. 1696

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN FERNANDO, CALIFORNIA, AFFIRMING EFFECTIVE AS OF JUNE 1, 2020 THE APPLICATION OF THE EVICTION MORATORIUM OF THE COUNTY OF LOS ANGELES TO THE CITY OF SAN FERNANDO RELATING TO THE NON-PAYMENT OF RENT DUE TO COVID-19 PANDEMIC AND ITS RELATED EFFECTS AND EXTENDING RENT FREEZE PROTECTIONS TO THE SAN FERNANDO TENANTS

WHEREAS, in late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China. On January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the likely source of the illness; and

WHEREAS, on January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom 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 a broader spread of COVID-19; and

WHEREAS, on March 11, 2020, WHO publicly characterized COVID-19 as a pandemic; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20 which 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 ... including, but not limited to, any such provision of Civil Code Sections 1940 et seq.” to the extent such provisions would otherwise restrict such exercise; and

WHEREAS, on March 16, 2020, the County of Los Angeles (the “County”) ordered the closure of all gyms, bars, and ordered all restaurants to close their sit-in areas and offer take-out or delivery services only; and

WHEREAS, on March 19, 2020, the County issued a Mandatory Stay at Home Order, ordering the closure of all non-essential businesses until April 19, 2020; and

WHEREAS, on March 19, 2020, the Chair of the County Board of Supervisors issued an Executive Order establishing a temporary moratorium which was later ratified by the County Board of Supervisors on March 31, 2020, on residential and commercial evictions in the unincorporated areas of the County in response to the COVID-19 pandemic; and

WHEREAS, on March 27, 2020, Governor Newsom issued Executive Order N-37-20 (“Executive Order N-37-20”) which prevents evictions for a period of 60 days of “a tenant from a residence or dwelling unit for nonpayment of rent” who satisfies requirements set forth in said order; and

WHEREAS, on April 8, 2020, the City of San Fernando (the “City”) adopted Urgency Ordinance No. 1693 enacting a temporary moratorium on evictions due to the nonpayment of rent for residential tenants and commercial tenants; and

WHEREAS, on April 14, 2020, the County Board of Supervisors expanded the County’s anti-eviction moratorium to include all jurisdictions countywide except those jurisdictions that have adopted their own moratoria; and

WHEREAS, on May 12, 2020, the County Board of Supervisors further modified its countywide eviction moratorium to, among other things, extend the same to June 30, 2020; and

WHEREAS, the moratorium established under Executive Order N-28-20 expired on May 31, 2020 and does not appear to have been extended by subsequent Executive Orders of the Governor; and

WHEREAS, in order to avoid confusion between the City COVID-19 Eviction Moratorium Ordinance and County’s eviction moratorium, the City desires to repeal its Urgency Ordinance No. 1693.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN FERNANDO, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals above are true and correct and incorporated herein by reference. For purposes of this Ordinance, the term “County Eviction Moratorium” shall mean the eviction moratorium first approved by the County Board of Supervisors’ March 19, 2020 Executive Order establishing a temporary moratorium which was later ratified by the County Board of Supervisors on March 31, 2020, as the same was subsequently modified and expanded by action of the County Board of Supervisors on April 14, 2020 and on May 12, 2020, and as the same may be further modified by subsequent action of the County Board of Supervisors.

SECTION 2. Effective Date. This Urgency Ordinance shall be effective as of 12:00AM on June 1, 2020. Urgency Ordinance No. 1693 shall have no application to tenants whose rent becomes past due and remains unpaid as of the effective date of this Urgency Ordinance.

SECTION 3. Findings and Application.

- A. The purpose of this Ordinance is to repeal the COVID-19 Eviction Moratorium Ordinance in order to avoid confusion between the COVID-19 Eviction Moratorium Ordinance and the County Eviction Moratorium, which shall apply to the City from the Effective Date of this Ordinance. It is also stressed that the underlying objective of this Ordinance and the City’s prior eviction moratorium ordinances is to prevent tenants from becoming homeless

as a result of adverse economic impacts brought on by the COVID-19 crisis. A surge in homelessness attributable to evictions would only exacerbate the spread of COVID-19 as evicted tenants would be forced out into the streets and would further strain City resources already strained by efforts to respond to the pandemic. This Ordinance is therefore adopted as an Urgency Ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its introduction and shall become effective at 12:00AM on May 6, 2020 upon its adoption by a minimum of 4/5 vote of the City Council. This Urgency Ordinance is created pursuant to the City's general police powers to protect the health, safety, and welfare of its residents and exists in addition to any rights and obligations under state and federal law.

- B. It is the intent of the City Council that effective 12:00AM on June 1, 2020 all of the protections, rights and responsibilities set forth in the County Eviction Moratorium, as the same may be further amended by the County of Los Angeles shall apply to all residential and commercial tenants in the City of San Fernando to the extent afforded under the County Eviction Moratorium and for the duration of the County Eviction Moratorium as the same may be modified, amended or extended by the County of Los Angeles.
- C. **Local Rent Increase Moratorium.** The protections set forth in this paragraph C are in addition to those afforded tenants in the City of San Fernando under the County Eviction Ordinance. It is acknowledged that rent increase protections set forth under the County Eviction Ordinance do not extend to tenants in incorporated cities. Accordingly, the City Council intends that similar type protections be afforded to San Fernando tenants under the terms and conditions set forth under this paragraph C commencing as of 12:00AM on June 1, 2020 and ending upon the same date the rent increase protections afforded tenants in unincorporated areas of the County of Los Angeles end under the County Eviction Moratorium, unless earlier terminated by the City Council. The terms of the City's local rent increase moratorium as follows:
1. During the term of the repayment period, no landlord shall collect rent increases provided in, or proposed for, a lease or rental agreement if a tenant demonstrates that the tenant is unable to pay the increased rent due to financial impacts related to COVID-19. This ordinance does not regulate initial rent at which any residential unit or property is offered at the outset of any new tenancy. This moratorium on rent increases shall not apply (a) if the unit or property is subject to rent limits under California Civil Code §1947.12; (b) if the unit or property is exempt from rent control under California Civil Code, Chapter 2.7 (commencing with Section 1954.50); or (c) if the unit or property is otherwise exempt from local rent control under state law.
 2. A landlord who knows that a tenant cannot pay some or all of the increased rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure §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 tenant's inability to pay increased rent within the meaning of

this ordinance if the tenant, within the longer of the applicable period of notice provided under California Civil Code §827 or 30 days, notifies the landlord in writing of lost income and inability to pay the proposed rent increase due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this ordinance, "in writing" includes e-mail or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by e-mail 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.

3. For purposes of this paragraph C "financial impacts related to COVID-19" include, but are not limited to, tenant lost household 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) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses related to COVID-19; or (5) child care needs arising from school closures related to COVID-19.
4. The provisions of this paragraph C grant an added a defense in the event that an unlawful detainer action is commenced in violation of this paragraph C.
5. Nothing in this paragraph C shall relieve the tenant of liability for payment of the increased rent, which the landlord may seek after expiration of the local emergency, and the tenant must repay within the same period of time for afforded tenants for the repayment of back rent under the County Eviction Moratorium. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this paragraph C.

SECTION 4. Environmental. This Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. (Cal. Code Regs., tit.14, § 15378, subd. (a).) Further, this Ordinance is exempt from CEQA as there is no possibility that it or its implementation would have a significant negative effect on the environment. (Cal. Code Regs., tit.14, § 15061, subd. (b)(3).)

SECTION 5. Inconsistent Provisions. Any provision of the San Fernando Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

SECTION 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect

the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

SECTION 7. Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent. To the extent the provisions of the San Fernando Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as it read prior to the adoption of this Ordinance, those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 8. Publication and Effective Date. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within fifteen (15) days after its adoption. This Ordinance is enacted pursuant to the authority conferred upon the City Council by Government Code Sections 36934 and 36937 and shall be in full force and effect upon its adoption by a four-fifths (4/5) vote of the City Council. The City Clerk shall cause this Urgency Ordinance to be published once in a newspaper of general circulation within fifteen (15) days after its adoption. The City Clerk shall post a copy of this Ordinance on the City's internet homepage and the City shall endeavor to notify landlord and tenant groups, the County of Los Angeles and other interested parties of this Ordinance.

PASSED, APPROVED AND ADOPTED by the City Council of the City of San Fernando at the regular meeting of this 15th day of June 2020.

Joel Fajardo

Joel Fajardo
Mayor of the City of San Fernando

ATTEST:

Julia Fritz

Julia Fritz
City Clerk of the City of San Fernando

ORD. NO. 1696

CERTIFICATION

I, City Clerk of the City of San Fernando, California, do hereby certify that the foregoing is a full, true, and correct copy of Urgency Ordinance No. 1696 which was regularly introduced and adopted by the City Council of the City of San Fernando, California, at a regular meeting thereof held on the 15th day of June, 2020, by the following vote of the City Council:

AYES: Fajardo, Ballin, Gonzales, Mendoza – 4

NAYS: None

ABSENT: None

ABSTAINED: Pacheco – 1

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Fernando, California, this 22nd day of June, 2020.



Julia Fritz, City Clerk