

ORDINANCE NO. 2020-493

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUADALUPE, CALIFORNIA,
TO TEMPORARILY PROHIBIT EVICTIONS ARISING FROM LOSS OF INCOME OR SUBSTANTIAL
MEDICAL EXPENSES RELATED TO THE COVID-19-CORONAVIRUS PANDEMIC, UNTIL
SEPTEMBER 30, 2020, OR UNTIL THE CITY OF GUADALUPE'S LOCAL EMERGENCY
PROCLAMATION IS TERMINATED, WHICHEVER IS EARLIER**

The City Council of the City of Guadalupe, State of California, does ordain as follows:

SECTION 1. Emergency Findings. The City Council hereby finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following declaration of facts constituting the urgency:

1. Section 8558(c) of the Government Code defines a "Local Emergency" as: "the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat"; and
2. 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
3. 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 COVID19 a global pandemic; 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 at least until the end of March, 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 12, 2020, the County of Santa Barbara Director of Emergency Services proclaimed the existence of a local emergency due to COVID-19. The County Health Officer issued a Health Order to mandate the cancellation or postponement of nonessential gatherings of

250 or more people, and small gatherings shall include six (6) foot distancing between participants, particularly those at high risk for severe illness of COVID-19; and

6. On March 15, 2020, Governor Gavin Newsom issued new restrictions in California, including home isolation for everyone over 65 or those with chronic diseases, prohibiting visitors to nursing homes with the exception of end-of-life circumstances, and the closure of bars, wineries, night clubs and brew pubs. Restaurants were to reduce their occupancy by half to permit social distancing, but only two days later, on March 17, 2020, Governor Newsom directed further that restaurants should immediately transition from on-site dining to delivery and take-out services only.
12. On March 16, 2020, Governor Newsom issued Executive Order N-28-20 stating that local jurisdictions may “determine that additional measures to promote housing security and stability are necessary to protect public health or to mitigate the economic impacts of COVID-19”; and
13. Executive Order N-28-20 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” subject to certain limitations; and Executive Order N-28-20 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. Executive Order N-28-20 requested that “[f]inancial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors 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.”
16. On March 19, 2020, at 12:00 p.m., the City’s Director of Emergency Services and City Administrator, Todd Bodem, issued a Proclamation Declaring Existence of a Local Emergency in the City of Guadalupe as a result of COVID-19; and
17. On March 19, 2020, Governor Newsom issued a state-wide order to all California residents to stay at home or their place of residence except as needed to maintain continuity of operations of 16 federally identified critical infrastructure sectors. This order permits individuals to go to grocery stores, pharmacies, banks, and other businesses that are “essential” but will require the closure of numerous businesses; and
18. On March 24, 2020, the City Council of the City of Guadalupe adopted Resolution No. 2020-21 ratifying the Proclamation Declaring Existence of a Local Emergency in the City of

Guadalupe issued by the City Administrator/Director of Emergency Services on March 19, 2020; and

19. On March 27, 2020, Governor Newsom issued Executive Order N-37-20 expanding on Executive Order N-28-20 (issued on March 16, 2020) which authorized local jurisdictions to impose limits on evictions, by prohibiting enforcement of evictions by law enforcement or courts through May 31, 2020, and requiring tenants to declare in writing, no more than seven days after the rent comes due, that the tenant cannot pay all or part of their rent due to COVID-19.
20. On April 5, 2010, to provide clarity to select businesses in the County of Santa Barbara regarding Governor Gavin Newsom's March 19, 2020 "stay well at home" executive order, the Santa Barbara County Health Officer issued a Health Officer Order effective April 5, 2020 until May 4, 2020, the following businesses were ordered to close without exception;
 - a. Bars and nightclubs that do not serve food;
 - b. Movie theaters, live performance venues, bowling alleys, and arcades;
 - c. Gyms, and fitness centers, and aquatic centers;
 - d. Wineries, breweries, and tap rooms that provide tastings;
 - e. Trophy shops or trophy businesses;
 - f. Tattoo parlors, tattoo businesses, tattoo artists, and body art facilities;
 - g. Barbers, hair salons, and hairstylists;
 - h. Campgrounds and RV parks, public and private. Only those who certify that the RV is their primary residence may be permitted to stay in the RV park;
 - i. Nail salons, manicurists, and pedicurists to close except for medical necessity e.g. medical treatment for diabetes;
 - j. Day spas and massage parlors, except as required for prescribed medical treatment.
18. On April 5, 2020, the City Council adopted an urgency ordinance to temporarily prohibit evictions and reiterate the Governor's requests to public housing authorities and financial institutions through June 30, 2020, or until the City's local emergency proclamation is terminated, whichever is earlier, for any tenant (residential or commercial) who could demonstrate that they are being evicted for the failure to pay rent, and that such failure is a direct impact of the COVID-19 pandemic. The urgency ordinance did not relieve a tenant's obligation to pay rent or restrict a landlord's ability to recover rent due; and
19. At that time, COVID-19 pandemic and associated public health orders were expected to result in the continued closure of many local businesses until at least May 4, 2020, and result in extreme restrictions on other local businesses, and as it happened, restrictions on most of these businesses were not relaxed in Santa Barbara County until May 21, 2020; and

20. On May 29, 2020, Governor Newsom extended eviction moratorium authority when he issued Executive Order N-66-20 which allowed local governments to extend prohibitions on landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts until July 28, 2020.
21. After many restrictions on businesses were relaxed on May 21, 2020, COVID-19 cases in Santa Barbara (as well as California as a whole) began to increase, and as a result, on July 13, 2020, Governor Newsom ordered the closures of indoor businesses statewide, including:
- Dine-in restaurants (indoor)
 - Wineries and tasting rooms (indoor)
 - Movie theaters (indoors)
 - Family entertainment centers (indoors)
 - Zoos and museums (indoors)
 - Cardrooms (indoors)
 - Brewpubs, breweries, bars and pubs (indoor and outdoor).
- In addition, the 30 counties on the COVID-19 monitoring list must were also required to close gyms, churches, offices for non-critical sectors, hair salons, and indoor malls.
22. The Governor's July 13, 2020 order along with other 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 residents of the City of Guadalupe; and
23. On June 30, 2020, Governor Newsom issued Executive Order N-7-20 extending the authority of local governments to extend prohibitions on landlords from evicting tenants for nonpayment of rent and prohibits enforcement of evictions by law enforcement or courts until September 30, 2020.
24. The City Council has determined that it is appropriate to again temporarily prohibit evictions and reiterate the Governor's requests to public housing authorities and financial institutions through September 30, 2020, or until the City's local emergency proclamation is terminated, whichever is earlier, for any tenant (residential or commercial) who can demonstrate that they are being evicted for the failure to pay rent, and that such failure is a direct impact of the COVID-19 pandemic. This urgency ordinance does not relieve a tenant's obligation to pay rent or restrict a landlord's ability to recover rent due; and
25. For the immediate preservation of the public peace, health or safety, these conditions warrant and necessitate that the City adopt this urgency ordinance to protect the health, safety, and welfare of tenants in the City of Guadalupe.

SECTION 2. Urgency Ordinance. By the City Council making the findings of fact set forth above, which constitute an emergency for the immediate preservation of the public health, welfare and safety, the City Council declares that this ordinance is an urgency measure and therefore, this ordinance takes effect immediately upon its adoption upon a 4/5 vote of the City Council pursuant to Government Code Sections 36937(b) and 36934:

I. Definitions.

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

(A) "Commercial real property" means any real property that is used for business or income-producing purposes.

(B) "Owner" means any person, acting as principal or through an agent, providing residential or commercial real property for rent, and includes a predecessor in interest to the owner.

(C) "Residential real property" means any dwelling or unit that is intended or used for human habitation.

(D) "Tenancy" means the lawful occupation of residential or commercial real property and includes a lease or sublease.

(E) "Tenant" means a person or entity lawfully occupying residential or commercial real property and includes a lease or sublease.

II. Prohibition on evictions stemming from coronavirus pandemic losses.

(A) Through September 30, 2020, or until the City of Guadalupe's Declaration of the Existence of a Local Emergency proclamation is terminated, whichever is earlier, the owner of residential or commercial real property shall not terminate a tenancy for failure to pay rent if the tenant demonstrates, as provided in II.(C) below, that the failure to pay rent is directly related to a substantial loss of income or substantial out-of-pocket medical expenses associated with the coronavirus pandemic or any local, state, or federal government response to the pandemic.

(B) Any rent a tenant is unable to pay through September 30, 2020, or until the City of Guadalupe's Declaration of the Existence of a Local Emergency proclamation is terminated, whichever is earlier, shall not be forgiven and the tenant shall remain obligated to pay it; however, the tenant shall have six (6) months after September 30, 2020, or until the City of Guadalupe's Declaration of the Existence of a Local Emergency proclamation is terminated, whichever is earlier, to pay the unpaid rent in full. If tenant has failed to pay any unpaid rent in full by this date and any other rent that may be due, then the landlord may commence eviction procedures if otherwise allowed by

applicable laws.

(C) In order for this section to apply, a tenant must provide written notice to the owner within 30 days from the date the rent was due and demonstrate through documentation or other objectively verifiable means:

(1) Substantial loss of income from (a) job loss; (b) layoffs; (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 to care for a home-bound school-age child or a family member infected with coronavirus; or (g) other similarly-caused loss of income that resulted from the pandemic; or

(2) substantial out-of-pocket medical expenses related to the pandemic.

(D) This prohibition shall also apply to an owner's action that constitutes constructive eviction under California law. An owner's failure to comply with this ordinance shall render any notice of termination of tenancy void. This section may be asserted as an affirmative defense in an unlawful detainer action. Terminations that are required to comply with an order issued by a government agency or court requiring that the real property be vacated are excepted from this prohibition. An owner's failure to comply with this ordinance does not constitute a criminal offense but will subject an owner to civil fines and penalties as set forth in this Code.

(E) No interest, penalties, or late fees shall be imposed on a tenant for unpaid rent authorized to be deferred pursuant to this ordinance for six (6) months from September 30, 2020, or until the City of Guadalupe's Declaration of the Existence of a Local Emergency proclamation is terminated, whichever is earlier, and a landlord shall not provide a negative reference for a tenant for nonpayment of rent authorized to be deferred pursuant to this ordinance.

(F) Nothing in this ordinance shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.

(G) This ordinance shall be liberally construed to provide the broadest possible protection for tenants in the City of Guadalupe.

SECTION 3. California Environmental Quality Act. This ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15269(c) (specific action to mitigate an emergency), Section 15061(b)(3) (no possibility the activity may have a significant effect on the environment), and Section 15378(b)(5) (the administrative activity is not a project because it will not result in any direct or indirect physical changes in the environment.)

SECTION 4. Severability. If any part or provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the Chapter, including the application of that part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 5 Effective Date. This urgency ordinance shall take effect and be in full force immediately upon adoption by at least a four-fifths vote of the City Council pursuant to Government Code Section 25123 and shall remain in effect and operative until September 30, 2020, or until the City of Guadalupe declaration of the existence of a local emergency proclamation is terminated, whichever is earlier.


SECTION 6. Publication. Before the expiration of 15 days after passage of this urgency ordinance, a summary of it shall be posted in three public places in the City of Guadalupe together with the names of the members of the City Council voting for and against the same in compliance with Government Code Section 36933.

PASSED AND ADOPTED at a regular meeting of the City Council held on the 11th day of August 2020, by the following roll call vote:

MOTION: TONY RAMIREZ / LILIANA CARDENAS

AYES:	4	Councilmembers:	Ramirez, Cardenas, Julian, Costa Jr.
NOES:	0		
ABSENT:	1	Councilmembers:	Rubalcaba
ABSTAIN:	0		

ATTEST:

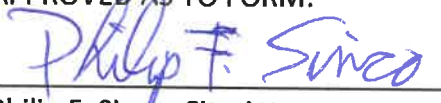


Joice Earleen Raguz, City Clerk



Ariston Julian, Mayor

APPROVED AS TO FORM:



Philip F. Sinco, City Attorney