

RESOLUTION NO. 2020 - ____

**BOARD OF SUPERVISORS, COUNTY OF SOLANO, STATE OF CALIFORNIA
EMERGENCY REGULATION OF SOLANO COUNTY ESTABLISHING A COUNTYWIDE MORATORIUM
ON EVICTION FOR NON-PAYMENT OF RENT BY RESIDENTIAL/COMMERCIAL TENANTS DURING
THE COVID-19 LOCAL EMERGENCY**

SECTION 1. FINDINGS.

The Board of Supervisors of the County of Solano (the "Board") hereby makes the following findings in support of the immediate adoption and application of this Emergency Regulation (the "Emergency Regulation"):

WHEREAS, on February 27, 2020, Solano County declared a local health emergency ("Local Emergency") throughout Solano County related to the novel coronavirus ("COVID-19"); and

WHEREAS, on March 3, 2020, the Solano County Board of Supervisors ratified and extended this declaration of a local health emergency; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State Emergency due to the spread of COVID-19, and

WHEREAS, Governor Newsom's March 4, 2020 Proclamation of State Emergency waived the requirement in Section 8630 of the California Government Code that the County's declared Local Emergency be reviewed at least once every 60 days until terminated by the Solano County Director of Emergency Services; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20, which grants cities and counties broad authority to enact temporary moratoria on residential and commercial evictions based on a non-payment of rent caused by the COVID-19 pandemic or the federal, state and/or local response to the COVID-19 pandemic; and

WHEREAS, on March 18, 2020, the Solano County Health Officer issued an order that, among other things, prohibited all professional, social, and community gatherings that do not allow for participants to maintain six feet of distance apart occurring outside a single household or living unit ("Shelter-at-Home Order"); and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N33-20, which, among other things, directs all California residents to immediately heed current State public health directives and shelter in their homes, with certain exceptions; and

WHEREAS, on March 30, 2020, the Solano County Health Officer issued a subsequent order that, among other things, extended the March 18th Shelter at Home Order through April 30, 2020 (and a copy of the Shelter at Home Order is attached as Exhibit A to this Emergency Regulation); and

WHEREAS, Section 8634 of the Government Code provides that during a local emergency, the governing body of a political subdivision of the State "may promulgate orders and regulations necessary to provide for the protection of life and property," and that section requires that such orders "shall be in writing and shall be given widespread publicity and notice;" and

WHEREAS, the California Attorney General has opined that when a county has declared a local emergency within its jurisdictional boundaries in an area that includes both unincorporated and incorporated territory, the county may adopt emergency rules and regulations pursuant to Section 8634 of the Government Code that will be effective in both unincorporated and incorporated areas. 62 Ops. Cal. Atty. Gen. 701 (1979); and

WHEREAS, the County of Solano, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserve quality of life for residents throughout the County; and

WHEREAS, as a result of the State of Emergency and the subsequent prohibitions on large gatherings and the issuance of Shelter-at-Home Orders, both locally and state-wide, many County residential tenants have experienced sudden and substantial income loss due to business and school closures, layoffs or reductions in work hours and extraordinary out-of-pocket medical expenses, making it challenging for them to pay rent on time and thus, more likely to face the prospect of eviction; and

WHEREAS, housing instability threatens the public peace, health and safety as eviction from one's home can lead to homelessness, loss of community, stress and anxiety caused by the experience of displacement, interruption of the education of any children in the home, increased incidence of families moving into overcrowded conditions creating greater risk for the spread of COVID-19, as well as increased difficulty in complying with the Health Officer's Shelter-at-Home Order and a corresponding increased risk to public health and safety; and

WHEREAS, it is also necessary to recognize both the measures local property owners have voluntarily taken to protect tenants during this State of Emergency and the economic impacts to those property owners as a result of COVID-19 and a temporary moratorium on evictions; and

WHEREAS, the Board finds that this Emergency Regulation is reasonably related to the protection of life throughout the entire jurisdictional boundaries of the County, given the County-wide nature of the proclaimed State of Emergency; and

WHEREAS, in adopting this Emergency Regulation, the County is taking action pursuant to Executive Order N-28-20 consistent with its authority under Government Code Sections 8630 and 8634 and Chapter 7 of the Solano County Code; and

NOW, THEREFORE, the Board of Supervisors of the County of Solano, State of California, orders as follows:

SECTION 1. JURISDICTION

Pursuant to the County's police powers during a local emergency as set forth in Government Code Sections 8630 and 8634, and Chapter 7 of the Solano County Code, this Emergency Regulation shall apply throughout the entire geographic boundary of the County, including all incorporated cities and unincorporated areas. However, if an incorporated city in Solano County has enacted its own eviction moratorium, the city's moratorium applies within the boundaries of that city, except to the extent this Emergency Regulation provides stronger protections to tenants, in which case the stronger protections of this Emergency Regulation applies.

SECTION 2. LATE FEE MORATORIUM

Notwithstanding any lease or rental agreement provision to the contrary, no late fees or penalties may be imposed for rent that became due during the State of Emergency and for a period of 90 days after the Emergency has been lifted if the rent was late or unpaid for reasons resulting from the COVID-19 pandemic.

Any notice demanding late fees for rent that became due during the Local Emergency shall include the following statement in bold underlined 12-point font: "**You are not required to pay late fees for rent that became due during the State of Emergency declared by the Governor in response to the COVID-19 pandemic if the rent was late for reasons related to the pandemic.**"

SECTION 3. NO EVICTION FOR NONPAYMENT OF RENT THAT BECAME DUE DURING THE LOCAL EMERGENCY

A lessor of a residential (including mobile homes) or commercial property shall not commence an action for unlawful detainer under California Code of Civil Procedure section 1161(2) on the basis of rent which became due during the State of Emergency declared by the Governor and for a period of 90 days afterward if the lessee or tenant was unable to pay such rent because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus pandemic. In any action for unlawful detainer filed under California Code of Civil Procedure section 1161(2), it shall be a defense that the unpaid rent became due during the State of Emergency declared by the Governor and was unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the COVID-19 pandemic.

No lessor shall decline to renew a tenancy because of unpaid rent or late fees that arose during the State of Emergency declared by the Governor and for a period of 90 days after without allowing the lessee or tenant an opportunity to propose a reasonable payment plan. A payment plan is presumptively reasonable if (A) the lessee or tenant would make future rental payments in full as they come due, (B) any arrearage on the lessee's or tenant's account would be paid in full within twelve (12) months of the agreement, and (C) the lessee or tenant has, or there is good cause to believe the lessee or tenant will have, the means to make the required payments according to schedule.

Any notice served on a lessee or tenant demanding rent that became due during the State of Emergency declared by the Governor and for a period of 90 days after the Emergency has been lifted shall include the following statement in bold underlined 12- point type: "**You cannot not be evicted for rent that you owed during the State of Emergency declared by the Governor if you became unable to pay your rent due to the COVID-19 pandemic. You must still pay this rent, and you are encouraged to work with your landlord to establish a reasonable payment plan for any rent you were not able to pay due the COVID-19 pandemic.**" Nothing in this subsection shall relieve the lessee or tenant of liability for the unpaid rent or limit the lessor's rights to collect such rent short of an action for unlawful detainer.

SECTION 4. LOSS IN INCOME DURING THE STATE OF EMERGENCY PRESUMED TO BE DUE TO COVID-19 PANDEMIC

Any substantial reduction in household income by a tenant or lessee during the State of Emergency declared by the Governor shall be presumed to be caused by the COVID-19 pandemic. This includes, but is not limited to, where, as a result of the COVID-19 pandemic, the tenant or lessee suffered a loss of employment or a reduction in hours, or was unable to work because their children were out of school, or was unable to work because they were sick with COVID-19 or caring for a household or family member who was sick with COVID-19, or they were complying with a recommendation from a government agency to self-quarantine, or they incurred substantial out of pocket medical expenses due to COVID-19. A plaintiff in an action for unlawful detainer under Code of Civil Procedure section 1161(2) for rent unpaid during the State of Emergency declared by the Governor and for a period of 90 days afterward bears the burden to show any nonpayment of rent during this period did not result from the COVID-19 pandemic.

SECTION 5. NO RELIEF FROM LIABILITY FOR RENT.

Nothing in this Emergency Regulation shall relieve any residential or commercial lessee or tenant of liability for unpaid rent. Lessors and tenants are encouraged to work with local agencies that make rental assistance available for qualifying lessees and tenants in accordance with California Civil Code section 1947.3.

SECTION 6. RIGHT TO BREAK RESIDENTIAL LEASE WITH CAUSE

For the duration of the State of Emergency declared by the Governor and for a period of 90 days afterward, notwithstanding any lease or rental agreement provision to the contrary, a residential tenant may terminate a lease or rental agreement with 30 days' notice without penalty if the lessee or tenant has cause for termination which is related to the COVID-19 pandemic. Such cause includes, but is not limited to, changes in household income, the need to care for school-aged children, and the need to care for relatives.

SECTION 7. SEVERABILITY

If any provision of this Emergency Regulation is declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent of the Board that such invalid provisions(s) be severed from the remaining provisions of this Emergency Regulation.

SECTION 8. CEQA

Adoption of this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly).

SECTION 9. NO MANDATORY DUTY

Nothing in this Emergency Regulation is intended to create a mandatory duty on the part of the County, County employees, or any incorporated city within Solano County, to protect persons or property from a violation of the provisions of this Emergency Regulation.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on April 28, 2020 by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

EXCUSED: Supervisors _____

ERIN HANNIGAN, Chairwoman
Solano County Board of Supervisors

ATTEST:
BIRGITTA E. CORSELLO, Clerk
Solano County Board of Supervisors

By: _____
Jeanette Neiger, Chief Deputy Clerk