ORDINANCE NO. 2020-25

AN URGENCY ORDINANCE AUTHORIZING A TEMPORARY PROHIBITION ON CERTAIN EVICTIONS OF RESIDENTIAL TENANTS IN CONTRA COSTA COUNTY IMPACTED BY THE COVID-19 PANDEMIC AND AUTHORIZING A MORATORIUM ON CERTAIN RESIDENTIAL RENT INCREASES

The Contra Costa County Board of Supervisors ordains as follows:

Section 1. Findings.

A. On January 30, 2020, the World Health Organization declared the outbreak of a novel coronavirus that causes the disease named coronavirus disease 2019 ("COVID-19"), a public health emergency of international concern.

B. On January 31, 2020, as the result of confirmed cases of COVID-19, the U.S. Secretary of Health and Human Services declared a public health emergency nationwide.

C. On March 3, 2020, Contra Costa Health Services announced the first case of local transmission of the virus causing COVID-19 in Contra Costa County.

D. On March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Gov. Code § 8550 et seq.. As of July 1, 2020, there were more than 2.7 million cases of COVID-19 in the United States, resulting in more than 128,000 deaths, with 3,248 confirmed cases of COVID-19 in Contra Costa County, resulting in 77 deaths.

E. On March 10, 2020, the Board of Supervisors found that due to the introduction of COVID-19 in the County, conditions of disaster or extreme peril to the safety of persons and property had arisen, commencing on March 3, 2020. Based on these conditions, pursuant to Government Code section 8630, the Board adopted Resolution No. 2020/92, proclaiming the existence of a local emergency throughout the County.

F. The legislative bodies of a number of cities in Contra Costa County also adopted local emergency proclamations due to COVID-19 pursuant to Government Code section 8630.

G. On March 16, 2020, the County Health Officer issued an order requiring County residents to shelter at their places of residence in order to slow community transmission of COVID-19, subject to exceptions for the provision and receipt of essential services while complying with social distancing requirements to the maximum extent possible. The County Health Officer extended the order on March 31, 2020, and on April 29, 2020.

H. On May 18, 2020, the County Health Officer extended the shelter-in-place order, continuing restrictions on many activity, travel, and business functions but allowing a limited number of additional businesses to resume operating. On June 2, June 5, and June 16, 2020, the County Health Officer issued orders allowing additional businesses to resume operating. On July 11, 2020, in response to an increase in community transmission and illness caused by the virus that causes COVID-19, the County Health

Officer issued an order amending the June 16, 2020, order, increasing the restrictions on certain business and activities presenting a high risk for disease transmission.

I. On August 26, 2020, September 4, 2020, and September 14, 2020, the County Health Officer issued orders allowing a limited number of additional businesses to resume operating.

J. On March 16, 2020, the Governor issued Executive Order N-28-20, which authorized local jurisdictions to suspend the evictions of residential and commercial tenants for the non-payment of rent if the non-payment was a result of the COVID-19 pandemic.

K. On June 30, 2020, the Governor issued Executive Order N-71-20, which extended the authority of local jurisdictions to suspend the evictions of residential and commercial tenants for the non-payment of rent if the non-payment was a result of the COVID-19 pandemic through September 30, 2020.

L. On April 6, 2020, the Judicial Council of California adopted Emergency Rule 1, effectively suspending action on or entry of default in eviction cases, and suspending judicial foreclosures, except where necessary to protect public health and safety.

M. On April 21, 2020, the Board of Supervisors adopted Ordinance No. 2020-14, an urgency ordinance temporarily prohibiting evictions of residential and commercial real property tenants in the County impacted by the COVID-19 pandemic and establishing a moratorium on certain rent increases.

N. On May 26, 2020, the Board of Supervisors adopted Ordinance No. 2020-16, an urgency ordinance continuing and modifying a temporary prohibition on evictions of tenants in Contra Costa County impacted by the COVID-19 pandemic, and continuing and modifying a residential rent increase moratorium.

O. On July 14, 2020, the Board of Supervisors adopted Ordinance No. 2020-20, an urgency ordinance continuing a temporary prohibition on evictions of residential and certain commercial real property tenants in Contra Costa County impacted by the COVID-19 pandemic, and continuing a moratorium on certain residential rent increases.

P. The Judicial Council voted on August 14, 2020, to terminate the eviction protections in its Emergency Rule 1. This rule terminated September 1, 2020.

Q. On August 31, 2020, the Governor signed Assembly Bill 3088, the COVID-19 Tenant Relief Act of 2020 (the Act), which went into effect immediately. The Act extends eviction protections for residential tenants, including mobilehome tenants, who are experiencing a financial hardship related to COVID-19.

R. The Act prohibits residential tenants from being evicted for failure to pay rent because of a COVID-19-related hardship occurring between March 1 and August 31, 2020, as long as the tenant provides the landlord with a written declaration of hardship. Residential tenants who experience a new COVID-19-related hardship between September 1, 2020,

and January 31, 2021, are also protected from eviction through this date as long as they pay 25 percent of the rent due by January 31, 2021.

S. The COVID-19 pandemic and associated state and local public health orders are resulting in a loss of income to a widespread portion of the local population that depend on wages or business income, hindering their ability to pay rent and leaving them vulnerable to eviction, and in higher medical expenses for certain Contra Costa County residents.

T. Contra Costa County and the cities within the County are also experiencing a housing affordability crisis, which is driving homelessness and displacement of residents.

U. Many of the County's renters are rent-burdened, paying over 30 percent of their income on rent, and some renters are severely rent-burdened, paying over 50 percent of their income on rent, which leaves less money for families to spend on other necessities like food, healthcare, transportation, and education.

V. Housing displacement due to rent increases and evictions occurring during the local emergency would hinder individuals from complying with state and local public health orders and would lead to increased spread of COVID-19, overburdening the healthcare delivery system and potentially resulting in greater loss of life.

W. There is an urgent need for the County to continue a temporary prohibition on certain residential evictions and continue a temporary moratorium on certain residential rent increases to protect the health, safety, and welfare of its residents in light of the emergency declared regarding the COVID-19 pandemic.

X. The Act authorizes local jurisdictions to amend existing urgency ordinances to continue prohibitions on certain types of residential evictions, including no-fault evictions. Without local protections in addition to statewide eviction protection for residential renters, eviction notices are likely to increase in light of the COVID-19 pandemic.

Y. This urgency ordinance prohibits a landlord from terminating a residential tenancy for a no-fault reason; prohibits a landlord from terminating a residential tenancy on the basis that a tenant allowed an unauthorized occupant to live in the dwelling unit, if the occupant is the tenant's immediate family member living in the dwelling unit as a result of the COVID-19 pandemic; and prohibits a landlord from increasing rent on a residential real property. These prohibitions and the specified exceptions last through January 31, 2021.

Z. The Board finds, pursuant to Civil Code sections 1946.2 and 1179.05(b), that: the just cause for termination of a residential tenancy under this urgency ordinance is consistent with Civil Code section 1946.2; this urgency ordinance, by prohibiting a landlord from terminating a residential tenancy on the basis that a tenant allowed an unauthorized occupant to live in the dwelling unit if the occupant is the tenant's immediate family member living in the dwelling unit as a result of the COVID-19 pandemic, provides additional tenant protections that are not prohibited by any other provision of law; and this urgency ordinance is more protective than the provisions of Civil Code section 1946.2.

Section 2. Definitions. For purposes of this ordinance, the following words and phrases have the following meanings:

(a) "Immediate family" means a person's spouse, domestic partner, children, grandchildren, parents, or grandparents.

(b) "Landlord" has the meaning set forth in Code of Civil Procedure Section 1179.02(e).

(c) "No fault cause for eviction" means any eviction for which the notice of termination of tenancy is not based on an alleged fault of the tenant.

(d) "Rent" means the financial obligation or monetary payment a tenant owes a landlord for the occupancy or use of residential real property whether by written or oral agreement.

(e) "Residential real property" includes a mobilehome park and a mobilehome park space or lot.

(f) "Tenancy" means the lawful occupancy of residential real property by agreement on a month-to-month basis or for a fixed term in excess of 30 days.

(g) "Tenant" has the meaning set forth in Code of Civil Procedure Section 1179.02(h).

Section 3. Prohibitions on Certain Residential Evictions.

(a) Through January 31, 2021, a landlord shall not terminate a tenancy for any no fault cause for eviction.

(b) Through January 31, 2021, a landlord shall not terminate a tenancy on the basis of a tenant allowing an unauthorized occupant to live in the dwelling unit, if the occupant is a member of the tenant's immediate family living in the dwelling unit as a result of the COVID-19 pandemic.

(c) Notwithstanding the foregoing, nothing in this section limits a landlord's ability to terminate a tenancy for any of the following reasons:

(1) The termination is necessary to protect the landlord's health or safety or any other tenant's health or safety.

(2) The termination is necessary where the owner or a member of the landlord's immediate family intends to occupy the residential real property.

(3) The termination is to remove the residential real property from the rental market, but only when authorized by Government Code section 7060 et seq.

(d) To the extent state law is more protective of a residential tenancy than this section, those state law provisions shall apply to the residential tenancy. Nothing in this section shall be

construed to supersede any applicable requirements in Civil Code section 1946.2 pertaining to relocation assistance or rent waiver.

Section 4. Moratorium on Residential Rent Increases.

(a) A landlord may not increase rent on a residential real property through January 31, 2021.

(b) A residential real property that is exempt from the rent limits imposed by Civil Code section 1947.12 or Civil Code section 1954.50 et seq. is exempt from this section.

(c) This section does not apply to a residential real property where one or more scheduled rent increases occur pursuant to a written rental agreement that was entered into before March 16, 2020.

(d) This section does not apply when a unit becomes vacant and the landlord sets the initial rent for a new tenancy.

Section 5. Remedies.

(a) The provisions of this ordinance may be asserted as an affirmative defense in an unlawful detainer action.

(b) If a landlord attempts to recover possession or recovers possession of residential real property in violation of this ordinance, retaliates against a tenant for the exercise of any rights under this ordinance, or attempts to prevent a tenant from acquiring any rights under this ordinance, the tenant may institute a civil proceeding for injunctive relief, money damages of not more than three times actual damages (including damages for mental or emotional distress), and whatever other relief a court deems appropriate. If damages are awarded for mental or emotional distress, the award shall only be trebled if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of the provisions of this ordinance. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court.

Section 6. Supersedes. This ordinance supersedes Ordinance No. 2020-20. This ordinance retroactively applies to eviction notices, and unlawful detainer actions based on those notices, served or filed on or after September 1, 2020, except to the extent a tenant has surrendered possession of its premises, or an unlawful detainer lawsuit was finally adjudicated before March 16, 2020. Ordinance No. 2020-14 applies to eviction notices, and unlawful detainer actions based on those notices, served or filed between March 16, 2020, and May 25, 2020. Ordinance No. 2020-16 applies to eviction notices, and unlawful detainer actions based on those notices, served or filed between May 26, 2020, and July 13, 2020. Ordinance No. 2020-20 applies to eviction notices for residential real property, and unlawful detainer actions based on those notices, served or filed between July 14, 2020, and August 31, 2020. Ordinance No. 2020-20 applies to eviction notices for commercial real property (as defined in Ordinance No. 2020-20), and unlawful detainer actions based on those notices, served or filed between July 14, 2020, and September 30, 2020. The grace period for past due rent owed by commercial real property (as defined in Ordinance No. 2020-20) extends through January 31, 2021.

Section 7. Applicability. Government Code section 8634 authorizes the Board of Supervisors to promulgate countywide orders and regulations necessary to provide for the protection of life and property during a local emergency. Pursuant to Government Code section 8634, the regulations in this ordinance shall apply to cities within Contra Costa County and unincorporated Contra Costa County. To the extent that the governing body of a city enacts an ordinance or adopts a regulation that governs the subject matter of this ordinance, that city ordinance or regulation shall supersede this ordinance within that jurisdiction.

Section 8. Severability. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other ordinance provisions or clauses or applications thereof that can be implemented without the invalid provision or clause or application, and to this end the provisions and clauses are declared to be severable. The Board of Supervisors hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional, or otherwise unenforceable.

Section 9. Declaration of Urgency. This ordinance is hereby declared to be an urgency ordinance necessary for the immediate preservation of the public peace, health, and safety of the County. The facts constituting the urgency of this ordinance's adoption are set forth in Section 1.

Section 10. Effective Date. This ordinance becomes effective immediately upon passage by four-fifths vote of the Board of Supervisors. This ordinance shall expire and be repealed as of January 31, 2021, unless shortened or extended by the Board of Supervisors based on the existence of a local emergency.

Section 11. Publication. Within 15 days after passage, this ordinance shall be published once with the names of the supervisors voting for and against it in the East Bay Times, a newspaper published in this County.

PASSED ON September 22, 2020, by the following vote:

AYES: John Gioia, Candace Andersen, Diane Burgis, Karen Mitchoff, Federal Glover
NOES: None
ABSENT: None
ABSTAIN: None

Board Chair Candace Andersen

ATTEST: DAVID J. TWA,
Clerk of the Board of Supervisors
and County Administrator

By: Deputy Clerk June McHuen

[SEAL]

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