ORDINANCE NO. 3614 C.S.

URGENCY ORDINANCE TO TEMPORARILY PROHIBIT RESIDENTIAL AND COMMERCIAL EVICTIONS RELATED TO COVID-19

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN as follows:

SECTION 1:

WHEREAS on March 4, 2020 California Governor Gavin Newsom proclaimed a State of Emergency (Emergency Proclamation) related to the outbreak of a respiratory illness due to a novel coronavirus (COVID-19) which has become a worldwide pandemic;

WHEREAS on March 16, 2020 California Governor Gavin Newsom issued Executive Order N-28-20, temporarily suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions;

WHEREAS in a poll conducted from October 31, 2019 to November 7, 2019 by Fairbank, Maslin, Maulin, Metz & Associates, 76% of Monterey residents ranked the cost of housing as a very serious problem facing the City;

WHEREAS 64.2% of residential units in the City are occupied by renters and the percentage of renter households reporting housing problems such as cost-burden and substandard housing conditions is 51.8% (Monterey County Analysis of Impediments to Fair Housing Choice (2019), pp. 56, 57);

WHEREAS, as of March 25, 2020, the County of Monterey has had no less than 24 confirmed cases of COVID-19 (including one death) and its further spread is likely;

WHEREAS on March 17, 2020, the Health Officer of the County of Monterey directed all individuals living in the County to shelter in their place of residence to slow the transmission of COVID-19;

WHEREAS the City Council is committed to protecting the quality of life of City residents and in minimizing the further spread of COVID-19;

WHEREAS City Charter section 4.4 and Government Code section 36937 authorize an urgency ordinance to take effect immediately if the ordinance is for the immediate preservation of the public peace, health, or safety, containing a declaration of the facts constituting the urgency and if the ordinance is passed by a four-fifths (4/5) vote of the Council;

WHEREAS, an urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety, as failure to adopt this urgency ordinance would result in the displacement and severe economic hardship of those affected by COVID-19, with consequential health, safety, and economic effects of those directly affected and those not directly affected by COVID-19, including but not limited to the spread of COVID-19 and social and economic disturbance; and
WHEREAS, the City of Monterey Planning Office determined the project is exempt from the California Environmental Quality Act (CEQA) Guidelines 15061(b)(3) because there is no possibility that the implementation of this ordinance may have significant effects on the environment. This ordinance will apply tenant protections to existing residential and commercial units for a limited period of time. This is solely an administrative process resulting in no physical changes to the environment. Furthermore, the project does not qualify for any of the exceptions to the categorical exemptions found at CEQA Guidelines Section 15300.2.

Exception a - Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies. The proposed ordinance is temporary and applies to existing residential and commercial units. There is no physical change to the environment.

Exception b - Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant. The proposed ordinance will not result in a cumulative impact as the ordinance is temporary and there is no physical change to the environment.

Exception c - Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. No significant impact is anticipated as the ordinance is temporary and applicable to existing residential unit only. There is no physical change to the environment.

Exception d - Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified Environmental Impact Report (EIR). There is no physical change to the environment. The ordinance does not enable activity on the City’s officially designated state scenic highways.

Exception e - Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code. There is no physical change to the environment. The ordinance provides temporary protections to residential and commercial tenants.

Exception f - Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The ordinance provides temporary protections to residential and commercial tenants. As a result, no substantial adverse change is anticipated. There is no physical change to the environment, therefore, no impacts to archaeological or historical resources will occur.
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTEREY that it hereby declares, determines, and orders as follows:

SECTION 2: The recitals set forth above are incorporated herein as if fully set forth, are true and correct, and are adopted as findings of the City Council. Further, the provisions of Governor Gavin Newsom’s Emergency Proclamation and Executive Order N-28-20, including its recitals, are incorporated herein as if fully set forth, are true and correct, and are adopted as findings of the City Council.

SECTION 3: Pursuant to Executive Order N-28-20 and to the general police power of the City to protect the health, safety, and welfare of its citizens, the authority of any landlord to commence an eviction on any tenant of a residential or commercial property within the City of Monterey for the following reasons is hereby suspended through May 31, 2020, unless this ordinance is otherwise terminated or extended, when:

a. The basis for the eviction is nonpayment of rent arising out of a substantial decrease in household or business income (including but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable 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 household or business income or the out-of-pocket medical expenses described in subparagraph (a) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant’s claim. Such information shall be filed under seal if utilized in an eviction action in the Monterey County Superior Court.

SECTION 4:

a. A tenant shall provide documentation to the owner within a reasonable time supporting the existence of the conditions relating to COVID-19 stated in the previous section for the inability to pay full rent due.

b. For any period for which rent is payable commencing after enactment of this ordinance, the tenant shall use reasonable efforts to notify the owner in writing before the day rent is due that the tenant is unable to pay rent for that period due to the conditions relating to COVID-19.

c. Nothing herein shall relieve a tenant of the obligation to pay rent, nor restrict an owner’s ability to recover rent due. Tenant shall, at all times, pay all rental amounts that it is reasonably able to pay notwithstanding the existence of the conditions relating to COVID-19 stated in the previous section. All rental amounts not paid by reason of such conditions shall be paid no later than 120 calendar days from May 31, 2020, or from the date that the Health Officer of the County of Monterey terminates its March 17, 2020 order that all non-essential persons shelter in their place of residence, whichever date is later.

SECTION 5: An owner’s failure to comply with any requirement of this ordinance is an affirmative defense in an unlawful detainer or other action brought by the owner to recover
possession of the rental until. An owner’s failure to comply with this ordinance does not constitute a criminal offense.

SECTION 6. Severability. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 8. This ordinance shall be effective immediately upon adoption.

SECTION 9: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 25th day of March 2020 by the following vote:

AYES: 5 COUNCILMEMBERS: Albert, Haffa, Smith, Williamson, Roberson
NOES: 0 COUNCILMEMBERS: None
ABSENT: 0 COUNCILMEMBERS: None
ABSTAIN: 0 COUNCILMEMBERS: None

APPROVED:

ATTEST:

Mayor of said City

City Clerk thereof