

ORDINANCE 1254

**AN URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS, COUNTY OF INYO, STATE OF CALIFORNIA, ADDING CHAPTER 7.74 TO THE INYO COUNTY CODE TO PROHIBIT EVICTIONS ARISING FROM INCOME LOSS OR SUBSTANTIAL MEDICAL EXPENSES RELATED TO THE CORONAVIRUS PANDEMIC**

WHEREAS, states of emergency have recently been proclaimed at the local, state, and federal government levels related to the COVID-19 pandemic; and

WHEREAS, due to the COVID-19 pandemic, various school districts within Inyo County have suspended in-person classes through at least April 1, 2020; and

WHEREAS, on March 16, 2020, the Inyo County Public Health Officer declared a local health emergency due to the COVID-19 pandemic. The Board of Supervisors ratified that declaration on March 17, 2020; and

WHEREAS, on March 17, 2020, pursuant to Government Code section 8630, the Inyo County Board of Supervisors proclaimed a local emergency due to the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, which 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

WHEREAS, on March 19, 2020, Governor Gavin Newsom issued Executive Order No. N-33-20, also known as the “Stay at Home Order,” that directs all Californians to stay at home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 20, 2020, Inyo County issued a press release strongly discouraging recreational travel to the County due to the COVID-19 pandemic; and

WHEREAS, on March 27, 2020, Governor Gavin Newsom issued Executive Order No. N-37-20, which extended the deadline for any residential tenant to respond to an unlawful detainer lawsuit by 60 days, effectively prohibiting residential evictions until May 26, 2020; and

WHEREAS, in announcing Executive Order No. N-37-20, Governor Newsom made clear that the order was not intended to prohibit or nullify any eviction moratorium ordinances passed by local jurisdictions pursuant to Executive Order N-28-20 that provided additional or enhanced protections to tenants; and

WHEREAS, the COVID-19 pandemic and associated public health and executive orders are expected to result in the closure of many local businesses until these orders are lifted and to cause hardships on local businesses for the foreseeable future. These hardships will be particularly acute in Inyo County given that a large part of Inyo County's economy is based on recreational travel and tourism; and

WHEREAS, the 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 County residents; and

WHEREAS, Inyo County is also experiencing a housing affordability crisis, which is driving homelessness and displacement of residents, even before the COVID-19 pandemic; and

WHEREAS, data collected by the California Department of Housing and Community Development's 2018 Community Development Block Grant Notice of Funding Availability ("NOFA") found that approximately 41% of renters in the unincorporated areas of Inyo County are overpaying for their housing—meaning that they are paying more than 30% of their income for housing. This same NOFA also found that the rental vacancy rate for Inyo County is a mere 3.9%; and

WHEREAS, without local protection, eviction notices for failure to pay rent are likely to surge as residents and businesses are unable to earn income due to the COVID-19 pandemic, or are forced to pay substantial medical expenses associated with the COVID-19 pandemic; and

WHEREAS, the Board of Supervisors has determined that it is appropriate to temporarily prohibit evictions, through May 31, 2020, for any tenant or occupant of residential or commercial property 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; and

WHEREAS, the Board has determined that urgent action must be taken to protect the health, safety, and welfare of tenants in the unincorporated area of Inyo County; and

WHEREAS, in adopting this urgency ordinance, the County is taking action pursuant to Executive Order N-28-20 consistent with its authority under Government Code Sections 8630.

NOW THEREFORE the Board of Supervisors of Inyo County hereby ordains as follows:

SECTION ONE. INYO COUNTY CODE AMENDED.

The Inyo County Code is hereby amended to include a new chapter, numbered as Chapter 7.74, and entitled “Temporary Prohibition on Certain Evictions Due to the COVID-19 Pandemic.” The contents and subsections of Chapter 7.74 are attached hereto as Exhibit A.

**SECTION TWO. SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase of this Ordinance 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. The Board hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION THREE. CEQA COMPLIANCE.**

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 FOUR. DECLARATION OF URGENCY.**

Government Code section 25123(d) provides that County ordinances may take immediate effect if they are necessary for the preservation of the public peace, health, or safety.

The Board of Supervisors of the County of Inyo hereby finds that the problems that this Ordinance seeks to remedy constitute an immediate threat to public peace, health, and safety. The COVID-19 pandemic has caused unprecedented disruptions around the globe, within the United States, and within Inyo County. In order to “flatten the curve” and prevent a surge of COVID-19 infections that would quickly overwhelm the American healthcare system, federal, state, and local governments have ordered almost 20% of Americans—including all residents of Inyo County—to stay at home, to close nonessential businesses, and to practice social distancing. These orders, while necessary to preserve public health, have caused an unprecedented and rapid contraction of the American economy.

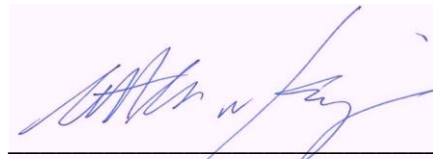
This contraction has a direct impact on Inyo County residents, many of whom find themselves suddenly facing a substantial loss of income and/or substantial out-of-pocket medical expenses, unable to pay rent, and on the brink of being evicted. While a mass displacement of tenants would constitute a crisis even without the COVID-19 pandemic, the existence of a pandemic makes the prospect of the mass displacement of tenants particularly dangerous. County residents cannot comply with orders to stay home and limit their movements if they do

not have a home. Additionally, given the limited and expensive rental market in Inyo County, it is unlikely that an evicted tenant could find an alternative, less expensive residence.

Given that most “stay at home” orders and business closures happened in March 2020, it is reasonably foreseeable that tenants will begin to struggle to pay rent for the month of April 2020. Thus, it is necessary to immediately enact this ordinance to ensure that the COVID-19-related eviction moratorium is in place on or before April 1, 2020.


**PASSED AND ADOPTED** this 31<sup>st</sup> day of March, 2020, by the following vote:

AYES: -5- Supervisors Griffiths, Kingsley, Pucci, Tillemans, Totheroh  
NOES: -0-  
ABSTAIN: -0-  
ABSENT: -0-



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MATT KINGSLEY, Chairperson  
Inyo County Board of Supervisors

ATTEST: Clint Quilter  
Clerk of the Board

By:   
\_\_\_\_\_  
Darcy Ellis, Assistant  
Assistant Clerk of the Board

# EXHIBIT A

**Inyo County Code Chapter 7.74**  
**Temporary Prohibition on Certain Evictions Due to the COVID-19 Pandemic**

**7.74.010 Findings and Purpose.**

This chapter prohibits evictions through May 31, 2020, for any tenant of commercial or residential property who can demonstrate that they have received a notice of eviction for failure to pay rent and that such failure to pay rent is related to a substantial loss of income or substantial out-of-pocket medical expenses resulting from the COVID-19 pandemic or any local, state, or federal government response to the pandemic.

**7.74.020 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.

**7.74.030 Prohibition on evictions stemming from the COVID-19 pandemic.**

- (A) Through May 31, 2020, the owner of residential or commercial real property in the unincorporated areas of Inyo County shall not attempt to terminate a residential or commercial tenancy for failure to pay rent.
- (B) In order for this section to apply, a tenant of residential or commercial property must
  - (1) Demonstrate through documentation or other objectively verifiable means:
    - i. 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
    - ii. Substantial out-of-pocket medical expenses related to the pandemic.
  - (2) Notify the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some

payment of rent because of an inability to pay the full amount due for the reasons stated in subsection (B)(1)(i) or (B)(1)(ii).

- (3) Retain verifiable documentation of an inability to pay the full amount due for the reasons stated in subsection (B)(1)(i) or (B)(1)(ii) and present such documentation to the landlord no later than the date that any back-due rent must be paid.
- (C) 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.
  - (D) Terminations of tenancy that are required to comply with an order issued by a government agency or court requiring that the real property be vacated are exempted from this prohibition.
  - (E) Financial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to implements 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 the COVID-19 pandemic.
  - (F) Nothing in this ordinance shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rental payments after May 31, 2020. A tenant must pay any rent that was unpaid or delayed for reasons stated in this Chapter as soon as possible, but in no event later than 120 days after May 31, 2020. For 120 days after May 31, 2020, a landlord may not charge or collect penalties or late fees for rent that is delayed for the reasons stated in this Chapter.
  - (G) This ordinance shall be liberally construed to provide the broadest possible protection for tenants in the unincorporated areas of the County.

#### **7.74.040 Enforcement.**

- (A) The remedies provided by this section are cumulative and in addition to any other remedies available at law or in equity.
- (B) Each day during which a landlord violates this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Inyo County Code and state or federal law. Additionally, any violation shall be subject to injunctive relief, disgorgement to the county of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, restitution, and any other relief or remedy available at law or in equity. The county, including the Office of the District Attorney and the Office of the County Counsel, may pursue any and all remedies and actions available and applicable under state and local laws, including but not limited

to, intervening in any civil matters in which this Chapter could provide an affirmative defense that has not been asserted by the Defendant.

- (C) The County Administrative Officer, the County Counsel, and all other County officers and department heads are authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this ordinance.

**7.74.050 Interpretation.**

It is the intent of the Inyo County Board of Supervisors that this Chapter be more protective than but still consistent with the state-wide eviction moratorium imposed by Governor Gavin Newsom in Executive Order No. N-37-20; provided, however, that if any provision of this Chapter cannot be applied in a manner consistent with Executive Order No. N-37-20, the Executive Order shall govern.