

ORDINANCE NO. _____

AN URGENCY ORDINANCE PROHIBITING RENTAL HOUSING PRICE GOUGING
AND UNLAWFUL EVICTIONS IN THE UNINCORPORATED AREAS OF THE
COUNTY OF LAKE DURING A STATE OF EMERGENCY

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-20, wherein it was noted that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency due to the coronavirus; and

WHEREAS, Penal Code Section 396, subdivision (e) provides that upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that proclamation or declaration, and for a period of 30 days following that proclamation or declaration, or any period the proclamation or declaration is extended by the applicable authority, it is unlawful for any person, business, or other entity, to increase the rental price, advertised, offered, or charged for housing, to an existing or prospective tenant, by more than 10 percent unless the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent to be increased greater than 10 percent or that an increase was contractually agreed to by the tenant prior to the proclamation or declaration; and

WHEREAS, Penal Code Section 396 further provides in subdivision (f) that it is unlawful for a person, business, or other entity to evict any residential tenant of residential housing, upon such a proclamation or declaration as described hereinabove and for a period of 30 days following that proclamation or declaration, or any period during which said proclamation or declaration is extended and then to rent or offer to rent to another person at a rental price greater than the evicted tenant could be charged under this section. It shall not be a violation of this subdivision for a person, business, or other entity to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency or for an owner to evict a tenant for any lawful reason; and

WHEREAS, a violation of Penal Code Section 396 is subject to criminal prosecution that may result in up to one year in County jail, a fine of up to ten thousand

dollars (\$10,000), or both, as well as civil penalties of up to five thousand dollars (\$5,000) per violation, injunctive relief, and mandatory restitution; and

WHEREAS, nothing in Penal Code Section 396 preempts a local ordinance prohibiting the same or similar conduct and imposing a more severe penalty for the same conduct prohibited by Penal Code Section 396; and

WHEREAS, Government Code Section 25123 expressly authorizes the Board of Supervisors to adopt, by four-fifths (4/5) vote, an ordinance for the immediate preservation of the public peace, health, or safety, with a declaration of the facts constituting the urgency; and

WHEREAS, Government Code Section 25131 expressly authorizes the Board of Supervisors to adopt such an urgency ordinance immediately upon its introduction.

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

Section 1. The Board adopts the above-stated recitals as true and correct.

Section 2. This Board finds that in addition to the health crisis caused by the existence of COVID-19, this health crisis may significantly impact the ability of County residents to maintain employment and to pay for their existing housing. Adequate, affordable housing presents an issue of public health and safety in Lake County and residents should not be in danger of being displaced because their landlords see an opportunity to financially benefit.

Section 3. The purpose of this ordinance is to impose a more severe penalty than that provided in Penal Code section 396.

Section 4. Until the State of Emergency is terminated, it shall be unlawful for any person, business, or other entity, to rent or lease a dwelling unit in the unincorporated areas of the County of Lake for more than the average retail price, unless such person can prove that the excess is directly attributable to additional costs resulting from the labor or materials used to provide the service. In such instances, only the actual cost increase may be added to the average retail price.

Section 5. Until the State of Emergency is terminated, it shall be unlawful in the unincorporated areas of the County of Lake for any person, business, or other entity to evict any residential tenant of residential housing rent or offer to rent to another person at a rental price greater than the evicted tenant could be charged pursuant to Penal Code section 396. It shall not be a violation of this section for a person, business, or other entity to continue an eviction process that was lawfully begun prior to the proclamation or declaration of emergency.

Section 6. For purposes of this ordinance, "average retail price" shall be the rental price for the dwelling unit during the thirty-day period immediately preceding the State of Emergency.

Section 7. Penalties. A violation of this ordinance is a misdemeanor punishable by a fine of not more than twenty thousand dollars (\$20,000.).

Section 8. It can be seen with certainty that there is no possibility that this Ordinance may have a significant effect on the environment.

Section 9. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section 10. This Ordinance shall take effect immediately upon its adoption, and within fifteen (15) days after adoption of the ordinance, it shall be published at least once in a newspaper of general circulation printed and published in the County of Lake.

The Foregoing Ordinance was passed and adopted by the following vote on the ____ day of _____, 2020.

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Chair Board of Supervisors

ATTEST: Carol J. Huchingson
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

ANITA L. GRANT

By: _____

Deputy

By: _____