

ORDINANCE NO. \_\_\_\_\_

**AMENDED URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AND THE BOARD OF COMMISSIONERS OF THE SONOMA COUNTY COMMUNITY DEVELOPMENT COMMISSION ESTABLISHING AN AFFIRMATIVE DEFENSE TO EVICTION ARISING FROM INCOME LOSS OR SUBSTANTIAL MEDICAL EXPENSES RELATED TO COVID-19**

**URGENCY ORDINANCE: 4/5 VOTE REQUIRED**

The Board of Supervisors of the County of Sonoma, State of California, and the Board of Commissioners, Sonoma County Community Development Commission ordain as follows:

Section I. This Ordinance shall be known as the COVID-19 Eviction Defense Ordinance.

Section II. Emergency Findings. This urgency ordinance is adopted pursuant to California Government Code sections 25123(d) and 25131 and shall take effect immediately upon approval by at least a four-fifths vote of the Board of Supervisors and Board of Commissioners. The Board of Supervisors finds this Ordinance is necessary for the immediate preservation of the public, peace, health and safety, based upon the following facts:

1. On March 2, 2020, the Health Officer for the County of Sonoma issued a Declaration of Local Health Emergency (“Public Health Emergency”), declaring that the potential introduction of the new corona virus named SARS – COV-2 and the disease it causes which has been named Corona Virus Disease 2019 (“COVID-19”) in Sonoma County is a threat to the public health within the County of Sonoma.
2. On March 2, 2020, the Director of Emergency Services proclaimed a Local Emergency, ratified by the Board of Supervisors on March 4, 2020 (“Local Emergency”), pursuant to California Government Code section 8630 and the Sonoma County Code section 10.5, that conditions of extreme peril warrant and necessitate the proclamation of a Local Emergency to enable the County of Sonoma and other local government entities to adequately plan, prepare and preposition resources to be able to effectively respond to the threat posed by COVID-19, and to warn Sonoma County residents and visitors of the threat posed by COVID-19 and to enable them sufficient time to plan and prepare.
3. On March 4, 2020, Governor Gavin Newsom declared the existence of a state of emergency in California pursuant to the California Emergency Services Act and reported that as of that date, there were more than 94,000 cases of COVID-19

worldwide, resulting in more than 3,000 deaths, with 129 confirmed cases of COVID-19 in the U.S., including 53 in California.

4. The legislative bodies of a number of Sonoma County municipalities have also declared local states of emergency in response to COVID-19 pursuant to Section 8630 of the Government Code and other applicable law.
5. On March 18, 2020, the Health Officer issued an order requiring County residents to shelter in place through April 7, 2020, in order to slow community transmission of COVID-19, subject to exceptions for the provision and receipt of essential services, until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
6. On March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20, which directs all residents of California to stay home or at their place of residence to protect the public health of all Californians.
7. On March 31, 2020, the Health Officer extended the Shelter in Place Order through May 3, 2020.
8. On May 1, 2020, the Health Officer again extended the Shelter in Place Order beyond May 3, 2020, and instructed the Order to continue until it is extended, rescinded, superseded, or amended in writing by the Health Officer or the State Health officer. Numerous, subsequent Orders were issued by the Health Officer.
9. Most recently, on July 13, 2020, the State of California issued new restrictions for Sonoma County and counties statewide in an effort to slow the recent rapid spread of COVID-19 statewide.
10. All Sonoma County School Districts have suspended in-person classes as part of ongoing efforts to mitigate the spread of COVID-19. These changes will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home.
11. The COVID-19 pandemic and associated public health orders are expected to result in the closure of many local businesses until at least April 7, 2020, and result in extreme restrictions on other local businesses until then, and possibly thereafter.

12. 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 Sonoma County residents.
13. The County of Sonoma and many of the cities within the County have declared a Homeless State of Emergency due the number of residents who are living in unsheltered or unstable circumstances.
14. The County of Sonoma and the cities within the County are also experiencing a housing affordability crisis, which is driving homelessness and displacement of residents.
15. 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.
16. Many seniors and vulnerable populations reside in mobile home parks throughout Sonoma County, and the sudden displacement of these residents due to their inability to pay rent as a result of COVID-19 would be injurious to the health and safety of the community.
17. 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. That Order has been extended multiple times, most recently, to September 30, 2020.
18. 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.
19. Housing displacement and evictions occurring during the Public Health and Local Emergency would hinder individuals from complying with state and local directives to shelter in place, and would lead to increase spread of COVID-19, overburdening our healthcare system, and potentially resulting in loss of life.

20. It is essential that this Ordinance become immediately effective to stave the further movement of people by temporarily prohibiting evictions, for the duration of the Public Health and Local Emergencies, any extensions thereof and for 60 days thereafter, for any residential tenant who can demonstrate that they are being evicted for the failure to pay rent, and that such failure is a result of the COVID-19 pandemic or any local, state, or federal government response to the pandemic.

Section III. Evictions Arising From Substantial Income Loss or Medical Expenses Related to the COVID-19 Pandemic.

1. Purpose.

This Ordinance is authorized by California Governor's Executive Order N-28-20 and prohibits evictions for the duration of the County of Sonoma's Public Health and Local Emergencies, and for 60 days thereafter, for any Tenant who can demonstrate that they have received a notice of eviction for failure to pay rent, and that such failure results from 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 COVID-19 pandemic.

This Ordinance also provides that evidence demonstrating the Tenant's inability to pay rent shall be shared with the Owner for the sole and limited purpose of supporting an Owner's claim for mortgage relief due to 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 COVID-19 pandemic.

This Ordinance further provides that an Owner is prohibited from charging late fees for unpaid rent, and that an Owner is prohibited using unpaid late fees as a reason for eviction of Tenant, if such failure to pay rent is related to a substantial loss of income or substantial out-of-pocket medical expenses resulting from the 2020 novel coronavirus pandemic or any local, state, or federal government response to the COVID-19 pandemic.

Finally, this Ordinance also directs the Sonoma County Housing Authority to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the Housing Authority.

In adopting this Ordinance in the exercise of their emergency powers granted them by the California Emergency Services Act, it is the intention of the Board of Supervisors and Board of Commissioners to establish an affirmative defense against residential evictions that applies uniformly throughout the County of Sonoma, to both unincorporated and incorporated areas. However, in the event individual cities or towns deem it necessary or advisable to take separate action to adopt their own eviction moratoria within their jurisdictions, the Board of Supervisors and Board of Commissioners urge those cities and towns to enact measures that will, to the greatest extent practicable, be consistent with this Ordinance.

2. Definitions.

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this section.

(A) “Mobilehome” means those structures defined in California Civil Code Section 798, *et. seq.*, and other forms of vehicles designed or used for human habitation, including camping trailers, recreational vehicles, motorhomes, slide-in campers, or travel trailers, that occupy a site in a mobilehome park as defined in Civil Code sections 798.4 and 798.6.

(B) “Mobilehome Park” means any manufactured home park as defined in Civil Code sections 798.4 and 798.6

(C) “Owner” means any person, acting as principal or through an agent, providing Residential Real Property for rent, and includes a predecessor in interest to the Owner.

(D) “Ordinance” means this COVID-19 Eviction Defense Ordinance.

(E) “Residential Real Property” means any dwelling, Mobilehome, or unit that is intended or used for human habitation in Sonoma County.

(F) “Tenancy” means the lawful occupation of Residential Real Property, including in mobilehomes and mobilehome parks and includes a lease or sublease.

(G) “Tenant” means a residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of Residential Real Property.

3. Term.

This Ordinance shall take effect immediately upon adoption and shall remain in effect until its authorizing Executive Order, any amendments thereto, or other related state authorizing action expire, unless terminated earlier by the Board of Supervisors.

4. Prohibition on Evictions Stemming from COVID-19 Pandemic Losses.

(A) While this Ordinance remains in effect, Owners are prohibited from terminating a Tenancy for failure to pay rent if the Tenant demonstrates in accordance with this Ordinance that the failure to pay rent results from a substantial loss of income or substantial out-of-pocket medical expenses associated with the COVID-19 pandemic or any local, state, or federal government response to the COVID-19 pandemic.

(B) While this Ordinance remains in effect, Owners are prohibited from charging late fees for unpaid rent, and Owners are prohibited using unpaid late fees as a reason for eviction of Tenant, if the Tenant demonstrates in accordance with this Ordinance that the failure to pay rent results from a substantial loss of income or substantial out-of-pocket medical expenses associated with

the COVID-19 pandemic or any local, state, or federal government response to the COVID-19 pandemic.

(C) To invoke the protection of this Ordinance, a Tenant must demonstrate through documentation or other objectively verifiable means:

(1) 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 COVID-19 pandemic; or

(2) Substantial out-of-pocket medical expenses that resulted from the COVID-19 pandemic.

(D) To invoke the protection of this Ordinance, a Tenant must also share documentation of substantial loss of income or substantial out-of-pocket medical expenses that resulted from the COVID-19 pandemic with the Owner for the sole and limited purpose of supporting the Owner's claim for mortgage relief due to 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.

(E) The prohibition against terminating Tenancies in this Ordinance shall also apply to an Owner's action that constitutes constructive eviction (such as terminating a Tenant's utilities) under California law.

(F) An Owner's failure to comply with this Ordinance shall render any notice of termination of a Tenancy void. This Ordinance may be asserted as an affirmative defense by any Tenant residing in Sonoma County against an unlawful detainer action brought by any Owner in violation of this Ordinance.

(G) Terminations of Tenancies that are required to comply with an order issued by a government agency or court requiring that the Residential Real Property be vacated are excepted from the prohibition in this Ordinance.

(H) An Owner's failure to comply with this Ordinance does not constitute a criminal offense but will allow for an aggrieved Tenant to institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages (including damages for mental or emotional distress as specified below), and whatever other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of this Ordinance. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court. The remedy available under this section shall be in addition to any other existing remedies which may be available to the tenant under local, state or federal law.

(I) Nothing in this ordinance shall relieve a Tenant of the obligation to pay rent, nor restrict an Owner's ability to recover rent due.

(J) This Ordinance shall be liberally construed to provide the broadest possible protection for tenants in the County.

5. Payback Period

A tenant who demonstrated loss of income or out-of-pocket medical expenses as required under Section 4(C) of this Ordinance shall pay all past due rent no later than sixty (60) days after the Public Health Emergency and Local Emergency Orders are no longer in effect, unless the Owner agrees to a longer payback period.

6. Public Housing Authorities.

The Sonoma County Public Housing Authority shall extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the Housing Authority.

Section IV. 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 V. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors and the Board of Commissioners hereby declare that they would have passed this Ordinance and every 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, unconstitutional, or otherwise unenforceable.

Section VI. This Ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage by a four-fifths (4/5) or greater vote. A fair and accurate summary of this Ordinance shall be published once before the expiration of fifteen (15) days after said passage.