



## Legislation Text

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**File #:** 2020-0597, **Version:** 1

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**To:** Board of Supervisors, County of Sonoma and Board of Commissioners, Sonoma County Community Development Commission

**Department or Agency Name(s):** Community Development Commission, Permit Sonoma, County Counsel

**Staff Name and Phone Number:** Barbie Robinson, 565-4777; Tennis Wick, 565-1925; Bruce Goldstein, 565-2421

**Vote Requirement:** Majority

**Supervisory District(s):** All

**Title:**

Housing Stability Measures during the COVID-19 Emergency

**Recommended Action:**

- A) Board of Supervisors: Receive an Analysis and Provide Direction on Housing Stability Measures during the COVID-19 Emergency
- B) Board of Commissioners: Adopt Hardship Forbearance Policy for Affordable Housing Lenders

**Executive Summary:**

Sonoma County residents face compounding economic impacts from COVID-19 and the resulting Health Officer Orders in place to protect public health and safety. There is a high degree of uncertainty regarding future federal, state, and legislative actions related to housing protections for tenants and mortgage holders impacted by the COVID-19 pandemic. This item provides a summary of recent statewide and local actions, identifies some of the possible upcoming measures, highlights areas for continued policy development for your Board's consideration to address threats to Sonoma County housing stability.

Additionally, this item recommends adoption of the proposed Hardship Forbearance Policy as an immediate protective measure for action by the Sonoma County Community Development Commission in support of our affordable housing partners and the development and preservation of housing that is affordable, available, and accessible to the County's low-income and workforce residents.

**Discussion:**

*Eviction and Foreclosure Defense Measures*

On March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, which authorized 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. Without local protection, eviction notices for failure to pay rent are likely to surge as residents are unable to earn income due to the pandemic, or are forced to pay substantial medical expenses associated with virus infection. This Order suspended state law provisions that preempt or restrict a local government's exercise of police power to impose limitations on residential and commercial evictions. That Order was set to expire on May 31, 2020, but has been extended for an additional 60 days to July 29, 2020.

Governor Newsom has also worked to secure support from major and state-chartered banks, credit unions, and servicers to provide major financial relief to protect homeowners. Under this proposal, homeowners may be eligible for relief including a 90-day grace period for mortgage payments, no negative credit impacts resulting from relief, a moratorium from initiating foreclosure sales or evictions, and relief from fees and charges, including late fees, or other fees related to early savings withdrawals.

On March 24, 2020, your Board adopted Resolution 6301 which created an affirmative defense for any residential tenant who can demonstrate that they have received a notice of eviction for failure to pay rent, and that such failure 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 pandemic, for 60 days after the termination of the County of Sonoma's Public Health and Local Emergency Orders. This urgency ordinance also provides that a tenant who utilizes this affirmative defense share that information with the owner of the property to support an owner's claim for any prospective mortgage relief due to impacts resulting from the 2020 novel coronavirus pandemic or any local, state, or federal government response to the pandemic. As part of the approval of the ordinance, the Board directed staff to bring it back for review on June 2, 2020, and on June 2, the Board moved the item to be heard on June 23, 2020.

On March 27, 2020, Governor Newsom issued Executive Order N-37-20, which extended the timeline for tenants to reply to complaints that seek eviction as a remedy, with eligibility requirements (timely notification to their landlord that rent payment will be delayed due to COVID-19 impacts, and verifiable documentation of those impacts). That Order was set to expire on May 31, 2020, and was not extended.

On April 6, 2020, the Judicial Council of California adopted emergency court rules that effectively stop all evictions and foreclosures, other than those necessary to protect public health and safety, for the duration of the COVID-19 emergency and until 90 days after the Governor lifts the state of emergency related to the COVID-19 pandemic, or until they are amended or repealed by the Judicial Council. On June 10, 2020, the Judicial Council was scheduled to vote on ending those emergency rules, but instead suspended the vote in order to facilitate a collaborative approach with the Governor and legislative leaders to decide when appropriate to amend, sunset, or repeal the rules.

These actions are compared in Attachment A.

Should the Board be interested in making any changes to the Ordinance, there are a number of policy options that can be considered that range from repealing the Ordinance to making it stronger. If the Board takes no action, the Ordinance will stay in place for 60 days after the termination of the County of Sonoma's Public Health and Local Emergency Orders. Some policy options include:

- Repeal the Ordinance and rely on Judicial Council emergency rules;
- Amend the ordinance to run concurrently with Executive Order N-28-20;
- Extend the affirmative defense provisions from 90 days to 120 or 180 days after the termination or expiration of Executive Order N-28-20;
- Create repayment provisions allowing tenants a certain time period to repay overdue rent in order to utilize the affirmative defense;
- Characterize all past due rent as consumer debt, allowing a landlord to collect the back rent as any

other consumer debt, but not through the unlawful detainer process;

- Extend the protections to include all evictions, not just those due to losses from COVID-19 impacts;
- Prohibit the charging of late fees or the use of unpaid late fees as a reason for eviction;
- Remove documentation requirements from tenants (i.e. presume COVID-19 related economic impacts);
- Prohibit service of a Notice of Eviction without provision of Notice of Eviction Defense Ordinance;
- Continue advocating for and supporting mortgage relief efforts;
- Support legislative efforts to provide tax credits to landlords for allowing rent to be forgiven;
- Enact a mobilehome rent increase moratorium.

Finally, staff is tracking statewide legislative efforts, and will provide opportunities for your Board to engage in legislative advocacy to support housing stability as they arise.

### *Other Housing Stabilization Measures*

#### *Rental Assistance Program*

The Community Development Commission is currently developing a rental assistance program to provide up to \$1,000 per month for up to three months to vulnerable populations (households at risk of homelessness and earn no more than 30% AMI). The program will be designed to assist those who are at risk of eviction due to COVID-19 related loss of income while ensuring that people with high vulnerability are able to access assistance: people with disabilities, seniors, and families with minor children. The Commission will engage with community partners to ensure outreach, especially to communities of color who are disproportionately impacted by COVID-19, and it is anticipated that the program will serve at least 200 households. This program will return for your Boards' approvals when it is finalized.

#### *Vacation Rentals*

The conflict between use of housing stock for vacation rentals versus use for resident housing remains a pressing issue in our housing market with its inadequate supply. This issue is exacerbated under our current state and local Health Orders that ban nonessential travel where vacation rentals are a draw for out of area travel. The presentation below provides background information and options that the Board could undertake, ranging from additional exclusionary zones to a countywide moratorium.

#### *Background*

In July 2015 Economic and Planning Systems, Inc. (EPS) issued a report entitled "The Impact of Vacation Rentals on Affordable and Workforce Housing in Sonoma County" for the Community Development Commission as part of larger efforts to address homelessness, the inadequate supply of rental housing, and rising rental housing costs. The EPS report found that, between 2000 and 2015, unoccupied units increased at more than 5 times the rate of growth in the total housing supply in Sonoma County. Seasonal, recreational, or occasional use units, which include vacation rentals, comprised the largest share of total unoccupied units in Sonoma County, totaling 44 percent in 2015.

The EPS report concluded that, in 2015, Sonoma County lost housing stock to vacation rental uses at a rate that exceeded construction of new units. The County continues to support and build additional housing units;

however, issuance of vacation rental permits continue to outpace new housing construction. Since 2018, 346 Vacation Rental permits were issued and approximately 453 housing units were permitted. Of the 453 housing units permitted, 180 units are classified as Accessory Dwelling Units, which are excluded from the use as Vacation Rentals. Therefore, the total number of new vacation rental permits continues to exceed the number of primary units approved.

Since the 2015 EPS report, Sonoma County has lost additional housing units to repeated disasters such as the 2017 Sonoma Complex Fires and 2019 Kincade Fire, exacerbating an already dire housing crisis. Now the County faces significant economic uncertainty from the COVID-19 pandemic.

Following are options identified by staff for limiting the impacts of vacation rentals on housing.

1. Moratorium on vacation rentals. A temporary moratorium on vacation rental permits could be adopted as an interim zoning ordinance, based on a 4/5 vote of your Board. The moratorium would have an initial maximum term of 45 days, but could be extended by 4/5 vote of your Board for up to 22 months and 15 days. In order to adopt a moratorium, your Board must adopt legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional permits would result in that threat to public health, safety, or welfare. Developing the findings to justify the necessity of a moratorium can require substantial research and analysis.

Sonoma County Code Chapters 40 and 40A (titled Sonoma Complex Fires Disaster Recovery and Kincade Fire Disaster Recovery, respectively) currently prohibit new vacation rental permits within the footprints of the 2017 Sonoma Complex Fire and the 2018 Kincade Fire, until December 31, 2021. These provisions may be extended for good cause at any time before they expire, if your Board determines that fire recovery conditions require an extension.

Your Board previously adopted a countywide 45-day moratorium on new vacation rental permits in the immediate aftermath of the 2017 wildfires. The moratorium was subsequently amended to exclude the Russian River area and extended for an additional 60 days. It expired in early February 2018.

Impact of developing a vacation rentals moratorium to Permit Sonoma workplan: high.

2. Capping vacation rentals. This option would cap vacation rentals at the number existing as of a date certain or some level below it. With the use of geographic information systems, the cap could apply countywide, by supervisorial district or by subarea, or a combination. When a property changes ownership or a permit is revoked, new permit capacity would be created under the maximum allowed. Justification and creation of cap area boundaries would require substantial research and public outreach. Impact to Permit Sonoma workplan: high.
3. Expanded use of X Combining District (Vacation Rentals Exclusion Zone). Previously, individuals and groups have submitted applications requesting Vacation Rental exclusion zones. Because not all property owners within an area or neighborhood may agree to the new limitation proposed for their properties, these proposals have been problematic, controversial and expensive for applicants. This option requires legislative action to rezone properties to add the X Combining district, and would require extensive public outreach before any exclusion zone could be added, removed, or altered.

Impact to Permit Sonoma workplan: high.

### *Hardship Forbearance Policy*

The Sonoma County Community Development Commission underwrites and services a number of different secured loans to affordable housing development partners using local, state, and federal funding consistent with the Commission's policies and applicable regulations. Recognizing the potential financial impacts to affordable housing projects due to tenants' non-payment of rent from impacts of the COVID-19 pandemic, the Commission proposes to adopt the attached policy to provide accommodations for each project needing relief. The policy sets forth the procedure for borrowers to apply for forbearance relief. If the forbearance request is approved, Commission will temporarily waive late charges and default interest, and will offer the Borrower a 30 day forbearance on the payment of all or a portion of residual receipts, if any. If requested and Commission approves, possible extensions may be granted for up to two (2) additional 30-day periods. The policy also provides that upon approval of the request, the Borrower must agree, in writing, that during the forbearance period it will (i) not evict a tenant based solely on non-payment of rent occurring as a consequence of the COVID-19 emergency; and (ii) use collected rents for no purpose other than the necessary operation and maintenance of the Project / Property or making scheduled payments due to any senior lender or Commission under the terms of the Loan Documents.

### **Prior Board Actions:**

March 24, 2020 Adoption of Urgency Ordinance

### **FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 19-20 Adopted</b>	<b>FY20-21 Projected</b>	<b>FY 21-22 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>			
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>			

### **Narrative Explanation of Fiscal Impacts:**

N/A

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>


**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Attachment A: Housing Protection Measures

Attachment B: Proposed *Hardship Forbearance Policy*

**Related Items “On File” with the Clerk of the Board:**

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