

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER 10-50 - COVID-19 EVICTION DEFENSE ORDINANCE TO THE SANTA ROSA CITY CODE ESTABLISHING AN AFFIRMATIVE DEFENSE TO RESIDENTIAL EVICTIONS ARISING FROM INCOME LOSS OR SUBSTANTIAL MEDICAL EXPENSES RELATED TO COVID-19

WHEREAS, on March 24, 2020, the Board of Supervisors of the County of Sonoma adopted an urgency ordinance, Ordinance No. 6301, establishing an affirmative defense to residential evictions arising out of income loss or substantial out-of-pocket medical expenses related to COVID-19; and

WHEREAS, Ordinance No. 6301 was adopted by the Board of Supervisors in the exercise of its emergency powers under the California Emergency Services Act and was expressly intended to apply uniformly throughout the County of Sonoma, in both unincorporated and incorporated areas; and

WHEREAS, although Ordinance No. 6301 stated its intent to apply uniformly throughout the County of Sonoma, it authorized individual cities or towns within Sonoma County to take separate action with respect to residential evictions if those cities or towns deemed it necessary or advisable; and

WHEREAS, the Council of the City of Santa Rosa was informed of the provisions of Ordinance No. 6301, found its application within the City of Santa Rosa to be necessary and appropriate and took no further action; and

WHEREAS, on February 9, 2021, through the adoption of Sonoma County Ordinance No. 6337, the Board of Supervisors of the County of Sonoma amended Ordinance No. 6301 to expand its tenant protections; and

WHEREAS, the amendments set forth in Ordinance No. 6337 prohibit all residential evictions for the duration of the local health emergency except (a) when necessary due to violence, threats of violence or threats to the health or safety of another, (b) when sought for the purpose of immediately removing the unit from the rental market, or (c) when based on non-payment of rent unrelated to financial hardships resulting from COVID-19; and

WHEREAS, Ordinance No. 6337 was intended to apply uniformly throughout the County, in both unincorporated and incorporated areas, absent alternative action by individual cities and towns as those cities or town may deem necessary or advisable; and

WHEREAS, the City Council has determined that, while the provisions of the County's original Ordinance No. 6301 remain necessary and appropriate within the City's jurisdiction, the provisions of Sonoma County Ordinance No. 6337 are not necessary nor appropriate for application within the City's jurisdiction; and

WHEREAS, the City Council therefore adopts this City Ordinance to continue operation of the original provisions of Sonoma County Ordinance No. 6301 within the boundaries of the City of Santa Rosa, without amendment.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Emergency Findings. This urgency ordinance is adopted pursuant to Section 8 of the Santa Rosa City Charter and California Government Code section 36937(b). It shall take effect immediately upon approval by at least a four-fifths vote of the Council of the City of Santa Rosa. The Council finds this Ordinance is necessary for the immediate preservation of the public, peace, health and safety, based upon the following facts:

1. In early March 2020, the appearance of the novel coronavirus, COVID-19, created conditions of extreme peril in Sonoma County, warranting and necessitating the proclamation of a local emergency to enable the County of Sonoma, the City of Santa Rosa and other local and regional government entities to adequately plan, prepare and preposition resources to be able to effectively respond to the emerging threat posed by COVID-19, and to warn City of Santa Rosa residents and visitors of that threat.

2. On March 2, 2020, the Sonoma County Director of Emergency Services issued a Proclamation of Local Emergency in Sonoma County and the Sonoma County Health Officer issued a Declaration of Local Health Emergency, due to the appearance of the novel coronavirus, COVID-19, within Sonoma County (together the “Public Health and Local Emergencies”).

3. On March 2, 2020, following the declaration of the Public Health and Local emergencies by the Sonoma County Health Officer and the County of Sonoma Director of Emergency Services, the City Manager, acting in his capacity as Director of Emergency Services, issued a Proclamation of Existence of a Local Emergency within the City of Santa Rosa; and

4. On March 3, 2020, by Resolution RES-2020-035, the City Council ratified the Proclamation of the Existence of a Local Emergency issued by the Director of Emergency Services; and

5. 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.

6. On March 18, 2020, the Sonoma County 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.

7. On March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20, which directed all residents of California to stay home or at their place of residence to protect the public health of all Californians.

8. All Sonoma County School Districts suspended in-person classes as part of ongoing efforts to mitigate the spread of COVID-19. These changes caused 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 were unlikely to be paid for time off. The inability to work due to school closures has economically strained those families who cannot afford to take off time from work to stay at home.

9. The COVID-19 pandemic and associated public health orders resulted in the closure of many local businesses for many months, some for more than a year, and resulted in extreme restrictions on other local businesses, often for lengthy and continuing periods of time. Many local businesses closed permanently.

10. The COVID-19 pandemic and associated public health orders resulted and continue 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 the pandemic itself resulted and continues to result in substantial medical expenses for certain Sonoma County residents.

11. The City of Santa Rosa has declared a Homeless State of Emergency due the number of residents who are living in unsheltered or unstable circumstances.

12. The City of Santa Rosa is experiencing a housing affordability crisis, which is exacerbating homelessness and displacement of residents.

13. Many of the City'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.

14. 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 Executive Order continues in effect.

15. Without local protection, eviction notices for failure to pay rent are likely to surge as residents continue to be unable to earn income or unable to pay rent due to the impacts of COVID-19 pandemic, or are forced to continue to pay substantial medical expenses associated with the COVID-19 pandemic.

16. Housing displacement and evictions occurring during the Public Health and Local Emergencies pose a critical threat to the physical and mental health and safety of those displaced, as well as to the public health and well-being of the entire community.

17. It is essential that this Ordinance become immediately effective to stave the further displacement 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 2. Chapter 10-50 - COVID-19 Eviction Defense Ordinance is added to the Santa Rosa City Code to read as follows:

“1. Purpose.

This Ordinance 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.

2. Definitions.

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

(A) “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.

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

(C) “Public Health and Local Emergencies” mean collectively, the Proclamation of Local Emergency in Sonoma County issued by the Sonoma County Director of Emergency Services on March 2, 2020, and the Declaration of Local Health Emergency issued by the Sonoma County Health Officer on March 2, 2020, due to the appearance of the novel coronavirus, COVID-19, within Sonoma County, and any extensions thereof.

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

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

(F) “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 sixty (60) days after the Public Health Emergency and Local Emergency Orders are no longer in effect, unless a shorter time is required by state law.

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) 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.

(C) 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.

(D) 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.

(E) 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 City of Santa Rosa against an unlawful detainer action brought by any Owner in violation of this Ordinance.

(F) 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.

(G) 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.

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

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

5. Payback Period.

Unless otherwise limited by state law, the prohibition against terminating Tenancies in this Ordinance shall continue to apply for sixty (60) days after the Public Health Emergency and Local Emergency Orders are no longer in effect so as to permit Tenants time to pay Owners all unpaid rent.”

Section 5. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

///

///

Section 7. Effective Date. This ordinance shall take effect immediately upon its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this ____ day of _____, 2021.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney