

# COVID-19

# Eviction Defense Ordinance

City Council Meeting  
June 8, 2021

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# Background

- Follow-up from study session
- Council direction to return with City Ordinance
- Proposed Ordinance to preserve existing protections against eviction for failure to pay rent due to financial impacts of COVID-19
- Maintain operation of County's original COVID-19 Eviction Defense Ordinance within Santa Rosa

# Existing Eviction Protections

- Federal CDC Order
- State Statutes
- County Ordinance

# Federal Eviction Protections

- ❑ Order issued by the Center for Disease Control and Prevention
- ❑ Temporary halt to residential evictions to prevent the further spread of COVID-19
- ❑ Order originally adopted September 4, 2020
- ❑ Extended twice, most recently to June 30, 2021

# Federal Eviction Protections

- ❑ Does not relieve tenant of obligation to pay rent
- ❑ Does not preclude the charging of late fees, penalties or interest
- ❑ Protections apply only for the duration of the CDC Order (currently through June 30, 2021)

# Eligibility

- ❑ Income no more than \$99,000 (\$198,000 if filing jointly) in 2020
- ❑ Used best efforts to obtain all available government assistance for rent or housing
- ❑ Unable to pay the full rent due to:
  - Substantial loss of household income
  - Extraordinary out-of-pocket medical expenses

## Eligibility (con't)

- ❑ Using best efforts to make timely partial payments as close to the full payment as possible
- ❑ No other housing options -- Eviction would likely render the individual homeless or into congregate or shared living setting
- ❑ Each adult tenant must sign declaration of eligibility under penalty of perjury



# Exceptions

- ❑ Order does not preclude evictions based on:
  - Criminal activity
  - Threatening the health or safety of other residents
  - Damage or risk of damage to property
  - Violation of building or health and safety codes
  - Violation of contract obligation, other than payment of rent



# Exceptions

- ❑ Order does not apply in any state or local area with a moratorium on residential evictions that provides the same or greater level of public health protection

# State Protections

## AB 3088 / SB 91 / AB 81

- ❑ COVID-19 Tenant Relief Act of 2020
- ❑ Signed into law on August 31, 2020 (AB 3088), amended January 29, 2021 (SB 91), amended February 23, 2021 (AB 81)
- ❑ Prohibits residential evictions for nonpayment of rent due to financial hardship caused by the COVID pandemic
- ❑ Does not relieve the tenant of the obligation to pay rent, but provides additional time to pay

# AB 3088 / SB 91 / AB 81

- Phase 1: If unpaid rent accrued during first six months of pandemic, the unpaid rent is converted to consumer debt and cannot ever be used as a basis for eviction
- Phase 2: If unpaid rent accrued after the first six months of pandemic, that unpaid rent is converted to consumer debt (and cannot ever be used as a basis for eviction) ONLY IF:
  - Tenant submits declaration that failure to pay rent was due to financial hardship due to COVID-19
  - Tenant pays 25% of rent due by June 30, 2021

# AB 3088 / SB 91 / AB 81

- ❑ Authorizes landlords to seek recovery of unpaid rents (consumer debt) through Small Claims Court, beginning August 1, 2021
- ❑ Allows eviction for causes allowable under law, other than non-payment of rent due to the impacts of COVID-19
- ❑ Expressly allows for additional local eviction protections

# SB 91 – Additional Financial Provisions

- Establishes State Rental Assistance Program
  - \$2.6 billion in rental assistance
  - Aid to income-qualified tenants most at risk (tenants at or below 80% of AMI)
  - Aid to landlords – Property owners who agree to waive 20% of unpaid rent will be eligible for reimbursement of remaining 80% of rent owed between April 1, 2020 and March 31, 2021

# AB 1482: State Just Cause Protections

## □ Key Exemptions:

- Units built within last 15 years
  - Single family residence, unless owned by a corporation
  - Duplex if owner occupies one of the units
  - Owner-occupied units shared with tenant
  - Government sponsored housing, schools, health care facilities or religious facilities
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- All exemptions suspended until July 1, 2021

# AB 1482: State Just Cause Protections

- ❑ At-fault just cause
  - Default in payment of rent
  - Breach of material term of lease
  - Nuisance or waste or unlawful use of unit
  - Criminal activity
  - Unpermitted assignment or sublet
  - Refusal to provide access
  - Failure to vacate / refusal to sign extension



# AB 1482: State Just Cause Protections

- ❑ No-fault just cause
  - Withdrawal of unit from rental market
  - For purpose of demolition or substantial remodel
  - Owner or owner's family intends to occupy unit
  - Required for compliance with local ordinance, court order or other governmental order

# Sonoma County Ordinance No. 6301

- Urgency Ordinance adopted March 24, 2020
- Prohibits residential evictions for failure to pay rent if that failure to pay rent was the result of substantial loss of income or out-of-pocket medical expenses associated with COVID-19
- Does not relieve tenant of obligation to pay rent, but instead allows additional time to make that payment

# Sonoma County Ordinance No. 6301

- Creates an affirmative defense, which may be asserted in the tenant's answer to an unlawful detainer action
- Creates a private right of action for any violation of the ordinance by a landlord:
  - Civil action for injunctive relief and/or damages.
  - Treble damages may be awarded
  - Damages may include damages for mental or emotional distress (but will not be trebled)

# Sonoma County Ordinance No. 6301

- ❑ Ordinance adopted under County's emergency powers.
- ❑ Expressly intended to apply within incorporated and unincorporated areas
- ❑ Does not preclude additional or alternative action by cities, although consistency was urged.
- ❑ City Council received a report on the ordinance on March 31, 2020

# Amendments to County Ordinance

- Urgency Ordinance adopted February 9, 2021, to expand protections of Ordinance 6301
  
- As amended, prohibits all evictions except as follows:
  - When necessary due to violence, threats of violence or imminent threat to the health or safety of another
  
  - When for purposes of removing the unit from the rental market in compliance with state law
  
  - When based upon nonpayment of rent between March 1, 2020 and June 30, 2021, unrelated to financial hardships resulting from COVID-19

# Amendments to County Ordinance

- All other provisions of Ordinance 6301 remain unchanged:
  - Expressly intended to apply in both incorporated and unincorporated areas
  - Self-executing, no further action required by cities
  - Does not, however, preclude additional or alternative action by cities

# Proposed City Ordinance

- ❑ To retain the provisions of County's original Ordinance No. 6301
- ❑ Preserves prohibition on residential evictions for failure to pay rent if failure to pay was the result of substantial loss of income or out-of-pocket medical expenses associated with COVID-19
- ❑ Does not relieve tenant of obligation to pay rent, but instead allows additional time to make that payment



# Proposed City Ordinance

- Preserves affirmative defense, which may be asserted in the tenant's answer to an unlawful detainer action
- Preserves private right of action for any violation of the Ordinance by a landlord:
  - Civil action for injunctive relief and/or damages
  - Treble damages may be awarded
  - Damages may include damages for mental or emotional distress (but will not be trebled, except if willful or reckless disregard of Ordinance)

# Proposed City Ordinance

- ❑ Preserves additional time for repayment of outstanding rent – until 60 days after termination of the local public health emergency
- ❑ Time for repayment, however, may be limited by state law
- ❑ Does not otherwise limit evictions allowable under state law.

# Proposed City Ordinance

- Urgency Ordinance
- By state law, effective date is July 1, 2021

**QUESTIONS?**