



UPDATE:

Sonoma County COVID-19 Eviction Defense Ordinance Amendments

City Council Meeting
February 23, 2021

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Preliminary Steps

- Preliminary Council Agenda was published on February 4, 2021
- On February 9, 2021, County amended its COVID-19 Eviction Defense Ordinance
- Ordinance states that amendments are intended to apply within City of Santa Rosa
- City's Early Council Agenda Policy precludes discussion of items not the Preliminary Agenda unless Council finds good cause.

Preliminary Steps

- Under Early Council Agenda Policy, “good cause” requires a finding that:
 - Exceptional circumstances
 - Outside control of Council
 - Compliance with policy would either:
 - Impose a substantial hardship on City, or
 - Result in prejudice to a private person

Sonoma County Ordinance No. 6301

- Urgency Ordinance adopted March 24, 2020 in response to COVID-19 pandemic
- 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

Judicial Council Order

- On April 6, 2020, California Judicial Council adopted Emergency Order No. 1
- Order imposed statewide moratorium on all eviction proceedings, except as necessary to protect public health and safety
- Moratorium was terminated on September 1, 2020.

AB 3088

- Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 signed into law on August 31, 2020
- 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

- Phase 1: If unpaid rent accrued during the first six months of the 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 during second six months of the pandemic, that unpaid rent is converted to consumer debt 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 January 1, 2021

AB 3088

- Authorizes landlords to seek recovery of unpaid rents (consumer debt) through Small Claims Court, beginning March 1, 2021
- Allows eviction for causes allowable under law, other than non-payment of rent due to the impacts of COVID-19
- Protections against evictions were scheduled to expire as of February 1, 2021

SB 91

- On January 29, 2021, SB 91 was signed into law, extending Phase 2 protections through June 30, 2021:
- Prohibits eviction for nonpayment of rent due to financial hardship cause by the COVID pandemic, provided that:
 - Tenant submits a declaration that failure to pay rent was due to COVID-related financial hardship, and
 - Tenant pays 25% of rent due by June 30, 2021

SB 91

- Small Claims collection actions postponed until August 1, 2021
- Continues to allow for evictions for causes other than nonpayment of rent due to the impacts of COVID, including for:
 - At-fault just cause
 - No-fault just cause
- Expressly allows for additional local eviction protections

SB 91

- Establishes State Rental Assistance Program
 - \$2.6 Billion in federal 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 80% of rent amounts owed between April 1, 2020 and March 31, 2021

Amendments to County Ordinance

- Urgency Ordinance adopted February 9, 2021, amending Ordinance 6301 to add additional protections against eviction

- Findings include that:

“Housing displacement and evictions during Public Health Emergency would hinder individuals from complying with state and local directives to shelter in place, and would lead to increased spread of COVID-19, overburdening our healthcare system, and potentially resulting in loss of life.”

Amendments to County Ordinance

- Prohibits all evictions except as follows:
 - When necessary due to violence, threats of violence or when tenant poses an imminent threat to the health or safety of another
 - When sought for the purposes of immediately 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

QUESTIONS OR COMMENTS?