



# EVICTIION LIMITATIONS

GOVERNOR'S EXECUTIVE ORDER

COUNTY EVICTION DEFENSE ORDINANCE

City Council Meeting  
March 31, 2020

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# Preliminary Steps

- Preliminary Agenda was published on March 19, 2020.
- On March 24, 2020, County adopted the COVID-19 Eviction Defense Ordinance.
- City's Early Council Agenda Policy precludes discussion of items not included on the Preliminary Agenda unless Council finds good cause.
- Requires super-majority vote.

# Preliminary Steps

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

# General Framework

- On March 16<sup>th</sup>, the Governor issued an Executive Order authorizing local governments to regulate residential evictions arising out of the coronavirus pandemic.
- On March 24<sup>th</sup>, County of Sonoma adopted the COVID-19 Eviction Defense Ordinance.
- Ordinance provides temporary relief for tenants who can demonstrate that their inability to pay rent is due to the impacts of the coronavirus pandemic.

# General Framework

- On March 27<sup>th</sup>, Governor issued an Executive Order establishing a statewide temporary moratorium on residential evictions related to the pandemic.
- This item is to provide a report to Council regarding the provisions and operation of both the County Ordinance and the two Executive Orders.

# General Framework

- Preemption?
- Executive Order appears to leave room for local regulation of residential evictions.
- Local regulations must not be inconsistent.
- Independent regulations, both effective?
- Most restrictive applies?

# Initial Steps

- Governor issued Executive Order N-28-20 on March 16, 2020.
- Suspended state law restrictions on the power of local governments to limit residential or commercial evictions when the basis for the eviction is nonpayment of rent arising out of a substantial decrease in income or substantial medical expenses caused by the COVID-19 pandemic or by any local, state or federal government response to COVID-19.

# Initial Steps

- The Order itself did not limit evictions.
- Left action to the discretion of local governments.
- In effect through May 31, 2020, and may be extended.



# Local Responses

- In response to the Executive Order, more than fifty jurisdictions adopted regulations to protect tenants from evictions due to the tenant's inability to pay rent as a result of COVID-19.
- Regulations varied from jurisdiction to jurisdiction.
- Many jurisdictions took no action.

# New Executive Order

- Governor issued Executive Order N-37-20 on March 27, 2020.
- “Builds on previous executive order authorizing local governments to halt evictions for renters impacted by the pandemic.”
- Prohibits evictions of residential tenants affected by COVID-19 through May 31, 2020.

# Executive Order - Key Provisions

- Eligibility for tenant protections:
  - Prior to Executive Order, tenant has paid rent under an agreement with the landlord.
  - Tenant notifies landlord before rent is due or within 7 days after rent is due, that tenant is unable to pay due to reasons related to COVID-19.
  - Tenant retains verifiable documentation of inability to pay.

# Executive Order - Key Provisions

- Unable to pay rent due to COVID-19, including:
  - Tenant was sick with suspected or confirmed case of COVID-19.
  - Caring for a household or family member with suspected or confirmed case of COVID-19.
  - Lay-off, loss of hours or other income reduction resulting from COVID-19, State of Emergency or related governmental response.
  - Caring for child whose school was closed due to COVID-19.

# Executive Order - Key Provisions

- Extends, by 60 days, tenant's time to respond to the initiation of an eviction action.
- Prohibits enforcement of any writ to evict a residential tenant for nonpayment of rent.
- Tenant must satisfy the above requirements.
- Does not relieve tenant of obligation to pay unpaid rent.
- Applies state-wide.

# County Ordinance

- Pre-dated Governor's new Executive Order.
- Provides different procedures and remedies for residential tenants facing possible eviction.
- Parallel standards for eligibility for protection.
- Likely can coexist with Executive Order.

# County Ordinance

- On March 24, 2020, the Sonoma County Board of Supervisors unanimously adopted the COVID-19 Eviction Defense Ordinance.
- Ordinance provides temporary relief for tenants who can demonstrate that their inability to pay rent is due to the impacts of the coronavirus pandemic.
- Urgency ordinance, and effective immediately.
- Applies in incorporated and unincorporated areas.

# Ordinance – Key Provisions

- Eviction for failure to pay rent is prohibited if:
  - Tenant demonstrates, through documentation or other objectively verifiable means, that:
  - The failure to pay rent results from:
    - A substantial loss of income; or
    - Substantial out-of-pocket medical expenses; or
    - Associated with the COVID-19 pandemic; or
    - Associated with any local, state, or federal government response to the COVID-19 pandemic.



# Ordinance – Key Provisions

- The substantial loss of income may be from:
  - Job loss
  - Layoffs
  - A reduction in the number of compensable hours of work
  - A store, restaurant, office or business closure
  - A substantial decrease in business income caused by a reduction in open hours or consumer demand
  - The need to miss work to care for a home-bound school-age child or a family member infected with coronavirus
  - Other similarly-caused loss of income that resulted from the COVID-19 pandemic.

# Ordinance – Key Provisions

- The tenant must share the documentation with the landlord for the purpose of supporting the landlord's claim for mortgage relief.
- The Ordinance itself does not create a path for mortgage relief, as mortgage relief is outside the authority of local government.
- The prohibition against evictions also applies to a landlord's action that constitutes constructive eviction.

# Ordinance – Key Provisions

- Remedies in the event of violation:
  - Notice of eviction is void.
  - Tenant may use ordinance as affirmative defense against unlawful detainer action.
  - Tenant may file civil action against landlord for injunctive relief and/or damages. Treble damages may be awarded.
  - Damages may include damages for mental or emotional distress.

# Ordinance - Key Provisions

- The Ordinance does not relieve the tenant of the obligation to pay rent, nor does it restrict a landlord's ability to recover rent due.
- The Ordinance provides a sixty-day period after the termination of the local Public Health Emergency for payment of all unpaid rent.
- Applies to all residential rental property, including mobile homes.

# Ordinance – Key Provisions

- Currently in effect throughout the County, in both incorporated and unincorporated areas.
- No enforcement action or implementation required by the cities.
- Does not preclude additional or alternative action by cities, but consistency is urged.

QUESTIONS?