

ORDINANCE NO. 3750
AN URGENCY ORDINANCE OF THE COUNTY OF MARIN TEMPORARILY PROHIBITING
RESIDENTIAL EVICTIONS WITHOUT CAUSE THROUGH SEPTEMBER 30, 2021

The Board of Supervisors ordains as follows:

Section 1: Findings

- A. On March 16, 2020, Six Bay Area Health Officers, including Marin County's Public Health Officer issued a shelter-in-place Order in response to the global COVID-19 pandemic.
- B. On March 19, 2020, in response to the pandemic, Governor Newsom issued Executive Order N-33-20, directing all California residents to stay at their place of residence to protect the public health of all Californians.
- C. On March 24, 2020, , in order to reduce the spread of COVID-19 in the community, the Marin County Board of Supervisors ("the Board") adopted Resolution No. 2020-27, entitled "Barring Evictions in Marin County Due to the Public Health Emergency Arising from COVID-19" ("the Eviction Ban Resolution"), temporarily barring evictions across Marin County in order to reduce the speed of COVID-19.
- D. Governor Newsom issued an executive order on March 27, 2020, banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020 by extending the deadline for a tenant to formally respond to an eviction complaint from 5 days to 60.
- E. The Marin County Public Health Officer issued revised shelter-in-place orders on March 31, May 20, and October 27, 2020, extending restrictions on activities due to the continuing COVID-19 pandemic.
- F. On April 6, 2020, the Judicial Council of California adopted temporary emergency rules, effectively suspending entry of default in eviction cases, and suspending judicial foreclosures, except where necessary to protect public health and safety.
- G. In April through July 2020, the Board adopted a series of resolutions amending and updating the Eviction Ban Resolution and extending its protections for residential tenants through September 30, 2020.
- H. On September 1, 2020, the Governor signed Assembly Bill 3088, the COVID-19 Tenant Relief Act of 2020 ("the Act"), which went into effect immediately. The Act prohibited residential tenants from being evicted for failure to pay rent because of a COVID-19-related hardship occurring between March 1 and August 31, 2020, as long as the tenant provided the landlord with a written declaration of hardship. Residential tenants who experienced a new COVID-19-related hardship between September 1, 2020, and January 31, 2021, were also protected from eviction through this date as long as they pay 25 percent of the rent due by January 31, 2021.

- I. On December 3, 2020, as a result of a surge of COVID-19 cases, the Acting State Public Health Officer issued her Regional Stay at Home Order describing the “unprecedented surge in level of community spread of COVID-19 and re-imposing broad restrictions on activities statewide.
- J. In response to this late-2020 surge, the Legislature adopted Senate Bill 91 (“SB 91”), approved by the Governor on January 29, 2021, extending the protection of AB 3088 through June 30, 2021.
- K. The County of Marin, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserve quality of life for residents throughout the unincorporated area of Marin County.
- L. While Marin County has experienced a reduction in COVID-19 cases since January 2021, many County residential tenants continue to experience sudden and substantial income loss due to business and school closures, layoffs or reductions in work hours and extraordinary medical expenses, making it challenging for them to pay rent on time and thus, more likely to face the prospect of eviction.
- M. All current federal and state evictions bans are scheduled to expire on June 30, 2021. However, housing instability continues to threaten the public peace, health and safety as eviction can lead to homelessness; loss of community; stress and anxiety caused by the experience of displacement; interruption of the education of any children in the home; increased incidence of families moving into overcrowded conditions creating greater risk for the spread of COVID-19.
- N. The Board anticipates that the Legislature will extend the June 20, 2021 expiration of the state-wide moratorium provided by the Act and SB 91, but the Legislature has not yet acted and uncertainty surrounding possible evictions makes it difficult for individuals and families to plan how to keep themselves safely housed and protected from the pandemic.
- O. Without local protection, eviction notices for failure to pay rent are likely to surge as many Marin County residents are unable to earn income due to the pandemic or are forced to pay substantial medical expenses associated with the pandemic.
- P. Substantial federal and state rental assistance funding is available through September 30, 2021, to help mitigate the impacts on property owners of not evicting tenants while COVID-19 cases continue, and while the financial repercussions of the COVID-19 pandemic are still being felt by Marin County renters.
- Q. The County currently has over twenty-two million dollars available for rental assistance and 1,063 applications from renter households waiting for assistance.
- R. If the current June 30, 2021 end to the statewide eviction moratorium stands and a local moratorium is not put in place. Marin County landlords and tenants eligible for rental assistance will lose the opportunity to receive these available funds to help mitigate their personal financial and business losses during the pandemic.

S. Preventing displacement and homelessness due to evictions for non-payment of rent related to the COVID-19 emergency remains essential to protecting the health and safety of Marin County residents.

T. This Ordinance is temporary and not a general ordinance in force required to be codified.

SECTION 2. Declaration of Threat to Public Health, Safety, and Welfare Necessitating Urgency Ordinance

The Board of Supervisors of the County of Marin hereby finds and declares that there is a current and immediate threat to the public health, safety and welfare and a need for the immediate preservation of the public health and safety that warrants this urgency ordinance, based upon the facts, findings, and declarations stated in the findings of this Ordinance, and all oral and written testimony presented at the June 8, 2021 Board of Supervisors meeting.

SECTION 3. Term

This Ordinance shall become effective on June 8, 2021 upon its adoption by a 4/5 vote of the County Board of Supervisors pursuant to the California Government Code and shall remain in effect until September 30, 2021, unless repealed or extended by the County Board of Supervisors.

SECTION 4. Definitions

A. "Declaration of COVID-19-related distress" means the following written statement:

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

Signed under penalty of perjury:

Dated:

- B. "Financial impacts" means a substantial loss of income due to business closure, loss of compensable hours of work or wages, layoffs, missing work, or childcare expenditures due to school closure, medical expenses related to being ill with COVID-19 or caring for a member of the residential tenant's household who is ill with COVID-19, or other similarly- caused reason resulting in a loss of income due to COVID-19. A financial impact is "related to COVID-19" if it was directly or indirectly caused by the COVID-19 pandemic, the proclamation of Local Emergency, the Health Officer's Shelter-in-Place Order, or public health orders or recommended guidance related to COVID-19 from local, state, or federal authorities.
- C. "Landlord" includes owners, lessors, or sublessors (of any level) of residential rental property, and the agent, representative, or successor of any of the foregoing.
- D. "Local Emergency" includes any period of local emergency declared by the County of Marin in response to the COVID-19 pandemic.
- E. "Notice of Termination" means the notice informing a Tenant of the termination of their right to occupy the Residential Unit in accordance with applicable California law, including but not limited to a 3- or 30-day notice to pay or quit.
- F. "Residential unit" is a unit that is occupied by a tenant as their place of residence, including but not limited to apartments, houses, rooms, and residential hotels, in the unincorporated area of Marin County. A unit is considered a residential unit if it is used for residential occupation regardless of its permitting status.
- G. "Tenancy" means the occupancy of residential unit(s).
- H. "Tenant" includes a tenant, subtenant, lessee, sublessee (of any level), or any other person entitled to use or occupancy of residential property, including occupants who are holding over after the expiration of the term of a written or oral lease and current occupant who occupied the property with the current or prior consent of the property's Landlord or a prior owner, in the unincorporated area of Marin County.

SECTION 5. Temporary Moratorium on Evictions in the Unincorporated Area

- A. The ordinance is effective immediately.
- B. No Landlord may lawfully terminate a residential Tenancy as a for cause termination for non-payment of rent pursuant to Marin County Ordinance Code Section 5.100.040 if the residential tenant has provided a Declaration of COVID-19-related financial distress to the Landlord within 15 days after receiving notice demanding payment of rent from the Landlord, that the Tenant is unable to pay rent due to financial impacts related to COVID-19.

- C. For Tenants that provide the declaration of financial impact due to COVID-19 provided in Section B, above, Landlords are prohibited from engaging in any of the following actions for non-payment of rent with respect to a Tenant of a residential unit between July 1, 2021 and September 30, 2021:
- (1) Serving a notice of termination of tenancy;
 - (2) Filing or serving an unlawful detainer lawsuit, ejectment action, or other action to recover possession of a residential unit; or
 - (3) Evicting a Tenant or requiring a Tenant to vacate a residential unit, including by seeking the entry of an eviction judgment or by causing or permitting a writ of possession to be executed, including in the case of judgments entered prior to the date of this ordinance;
- D. Actions to recover an unpaid COVID-19 rental debt, as defined in Section 1179.02 of the Code of Civil Procedure, are governed by SB 91, and nothing in this ordinance shall be construed to supersede or conflict with SB 91.
- E. To the extent state law is more protective of a Tenancy than this section, those state law provisions shall apply to the Tenancy. Nothing in this section shall be construed to supersede any applicable requirements in Civil Code section 1946.2 pertaining to relocation assistance or rent waiver.
- F. The County's just cause ordinance, codified at Marin County Ordinance Code Section 5.100.010 *et seq* ("the Just Cause Ordinance") remains in effect, and to the extent the provisions of this urgency ordinance conflict with the Just Cause Ordinance, the provisions of this urgency ordinance shall govern.

SECTION 6. Affirmative Defense to Eviction

A Landlord's failure to comply with any provision of this Ordinance shall constitute an affirmative defense in any unlawful detainer action based upon nonpayment of rent due to Financial Impacts related to COVID-19.

SECTION 7. Severability

If any provision or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by a final judgment of any court or competent jurisdiction, such invalidity shall not affect other provisions or clauses or application, and to this end, the provisions and clauses of this ordinance are declared to be severable.

SECTION 8. California Environmental Quality Act

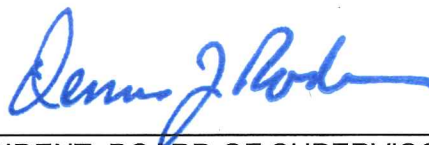
The Board of Supervisors finds that the adoption and implementation of this Ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)(3) in that the Board of Supervisors finds there is no possibility that the implementation of this Article may have significant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

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 8th day of June 2021, by the following vote.

AYES: SUPERVISORS Damon Connolly, Katie Rice, Stephanie Moulton-Peters, Judy Arnold, Dennis Rodoni

NOES: NONE

ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK