

ORDINANCE NO. 194

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SCOTTS VALLEY TO ENACT A TEMPORARY MORATORIUM ON
EVICTIONS DUE TO NON-PAYMENT OF RENT FOR RESIDENTIAL AND
COMMERCIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM
INCOME OR BUSINESS LOSSES RESULTING FROM THE
NOVEL CORONAVIRUS (COVID-19)**

WHEREAS, the Centers for Disease Control and Prevention (CDC) considers the novel coronavirus (COVID-19) to be a very serious public health threat with outcomes ranging from mild sickness to severe illness and death; and

WHEREAS, COVID-19 is easily transmissible from person to person and has spread globally to over 187 countries, infected more than 292,000, and killed more than 12,700 individuals as of March 22, 2020, per the World Health Organization; and

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services Secretary Alex Azar declared a public emergency for COVID-19 beginning on January 27, 2020; and

WHEREAS, in February 2020, Santa Cruz County Public Health Services Agency acknowledged the spread of Coronavirus in surrounding Bay Area counties with close connections to the resident and visitor populations in the County ("County") and continued to monitor for community spread of COVID-19; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency in the State of California due to the number of confirmed cases of COVID-19 in the State; and

WHEREAS, on March 4, 2020, the Health Officer of the County declared a local health emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in the County;

WHEREAS, on March 10, 2020, the Santa Cruz County Board of Supervisors ratified the order of the Health Officer of Santa Cruz County and declared a local health emergency throughout the County; and

WHEREAS, on March 18, 2020, the Scotts Valley City Council passed a resolution declaring that as of March 15th, 2020, a local health emergency exists in the City of Scotts Valley ("City"); and

WHEREAS, on March 16, 2020, the Health Officer of the County issued an order requiring all individuals living in the County to shelter at their place of residence and directing all

businesses and governmental agencies to cease all non-essential operations at physical locations in the County. Additionally, the County Superintendent of Schools and all district superintendents in the County have closed schools through April 10, 2020, which will cause children to have to remain at home, leading to many parents to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families that cannot afford to take time off from work to stay at home; and

WHEREAS, 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 and take other measures if the non-payment is a result of the COVID-19 pandemic; and

WHEREAS, on March 22, 2020, President Donald Trump Declared a Major Disaster in the State of California related to the COVID-19 pandemic; and

WHEREAS, the COVID-19 pandemic and associated public health orders are expected 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. The County is already experiencing a homelessness crisis as one of the least affordable communities in the world, creating a housing affordability crisis, which is driving homelessness and displacement of residents. Many of the County's residents 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; and

WHEREAS, the COVID-19 pandemic and associated public health orders are expected to result in the closure of many local businesses until at least April 7, 2020, and result in extreme restrictions on other local businesses until then, and possibly thereafter, which may result in layoffs and increased unemployment; and

WHEREAS, this ordinance is a temporary moratorium intended to promote stability and fairness within the rental market in the City during the COVID-19 pandemic and to prevent avoidable homelessness thereby serving the public peace, health, safety and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes; and

WHEREAS, displacement through eviction destabilizes the living situation of tenants and impacts the health of City residents by uprooting children from schools, disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City; and

WHEREAS, displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing; and

WHEREAS, during the COVID-19 pandemic, affected tenants who have lost income due to impacts on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted; and

WHEREAS, without local protection, eviction notices for failure to pay rent are likely to surge as residents and businesses are unable to earn income due to the COVID-19 pandemic, or are forced to pay substantial medical expenses associated with COVID-19; and

WHEREAS, the City Council has determined it is appropriate to temporarily prohibit evictions through May 31, 2020, for any residential or commercial tenant who can demonstrate that they are being evicted for non-payment of rent, and that such failure is a direct impact of COVID-19.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Scotts Valley as follows:

SECTION 1. MORATORIUM ON EVICTIONS.

A. **Purpose.** This Ordinance prohibits evictions through May 31, 2020, the expiration date in Governor Newsom’s Executive Order N-28-20, for any tenant who can demonstrate that they received a notice of eviction for failure to pay rent, and that such failure is related to a substantial loss of income or substantial out-of-pocket medical expenses resulting from the COVID-19 pandemic and any local, state or federal government response to the pandemic.

B. Definitions.

1. “Commercial real property” means any real property that is used for business or income producing purposes.
2. “Owner” means any person, acting as a principal or through an agent, providing Residential or Commercial real property for rent, and includes a predecessor in interest to the owner.
3. “Residential real property” means any dwelling or unit that is intended or used for human habitation.
4. “Tenancy” means the lawful occupation of Residential or Commercial real property and includes a lease or sublease.

C. Prohibitions on Evictions Stemming from COVID-19 Losses.

1. Through May 31, 2020, the expiration date in Governor Newsom's Executive Order N-28-20, the Owner of Residential or Commercial real property shall not terminate a tenancy for failure to pay rent if the tenant demonstrates that the failure to pay rent is directly related to substantial loss of income or the substantial out-of-pocket medical expenses associated with the COVID-19 pandemic or any local, state or federal government response to the pandemic.
2. In order for this section to apply, a tenant must demonstrate through documentation or other objectively verifiable means:
 - a. 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-aged child or family member infected with the coronavirus; or (g) other similarly caused loss of income that resulted from COVID-19; or
 - b. Substantial out-of-pocket medical expenses related to COVID-19.
3. This prohibition shall also apply to an Owner's action that constitutes construction eviction under California law.
4. An Owner's failure to comply with this ordinance shall render any notice of termination of tenancy void. This section may be asserted as an affirmative defense in an unlawful detainer action. Terminations that are required to comply with an order issued by a government agency or court requiring that the real property be vacated are excepted from this prohibition. An Owner's failure to comply with this ordinance does not constitute a criminal offense but will subject an Owner to administrative and civil fines and penalties as set forth in Title 4 of the Scotts Valley Municipal Code.
5. Nothing in this ordinance shall relieve a tenant of the obligation to pay rent or other monies owed, nor restrict a landlord's ability to recover rent or amounts due.
6. This ordinance shall be liberally construed to provide the broadest possible protection for tenants in the City.
7. Nothing herein shall prohibit evictions for reasons other than those specified in Paragraph 2 above.

- D. **Tenant Obligations.** To qualify for the protections afforded under Subdivision C above, a tenant must do the following:

1. Notify the landlord in writing before rent is due that the tenant has a covered reason for delayed or reduced payment. For purposes of this Ordinance, “in writing” includes email or text communications to a landlord or the landlord’s representative with who the tenant has previously corresponded by email or text; and
2. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed or reduced payment. Any financial information provided to the landlord shall be held in confidence, and only used for evaluating a tenant’s claim; and
3. Pay all that portion of rent that the tenant is able to pay.
4. Tenants who were afforded eviction protection under this section shall have up to one hundred twenty days (120) days after the termination of this ordinance to pay their landlord all unpaid rent.

SECTION 2. SEVERABILITY, If any section, subsection, sentence, clause, phrase, portion of the application thereof, to any person or circumstance of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision of such ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 3. REPEALS AND CONFLICTING ORDINANCES. All other ordinances of the City of Scotts Valley or provisions of the Scotts Valley Municipal Code which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4. CEQA COMPLIANCE. The City Council finds and determines that the enactment of this Ordinance is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 (“CEQA Guidelines”), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Lastly, CEQA Guidelines Section 15378 (b) (4) specifically states that the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project as ‘not a project.’

SECTION 5. EFFECTIVE DATE AND TERMINATION. The City Council of the City of Scotts Valley hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health and safety. The directives from health officials to contain the spread of COVID-19 have resulted in the loss of business, furloughs, loss of wages and lack of work for employees.

This emergency measure is warranted to protect tenants who are unable to pay rent due to wage losses caused by the effects of COVID-19. Because of this urgency, this ordinance shall be in force and take effect immediately in accordance with Government Code section 36937. It shall remain in effect until May 31, 2020, the expiration date in Governor Newsom's Executive Order N-28-20.

This Ordinance was passed for final adoption as an emergency ordinance this 24th day of March, 2020, at a duly held special meeting of the City Council of the City of Scotts Valley by the following votes:

AYES: DILLES, JOHNSON, LIND, REED, TIMM

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

DocuSigned by:
Approved: Randy Johnson
Randy Johnson, Mayor

DocuSigned by:
Attest: Tracy A Ferrara
Tracy A. Ferrara, City Clerk