

**ORDINANCE NO. 1460**

**AN URGENCY ORDINANCE OF THE  
NAPA COUNTY BOARD OF SUPERVISORS  
AMENDING SECTIONS 8.90.030 AND 8.90.050  
OF NAPA COUNTY CODE CHAPTER 8.90  
REGARDING THE TEMPORARY PROHIBITION OF EVICTIONS  
RELATED TO THE IMPACTS OF COVID-19**

The Napa County Board of Supervisors ordains as follows:

**SECTION 1. AUTHORITY.**

This Urgency Ordinance is adopted pursuant to Government Code Section 25123(d), the states of emergency declared by the Governor and the Napa County Executive Officer, the local health emergency declared by the Napa County Health Officer, and the Governor's Executive Orders N-28-20, N-66-20, and N-71-20.

**SECTION 2. EMERGENCY FINDINGS.**

The Board of Supervisors hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health, or safety, based upon the following facts:

A. On March 16, 2020, the Governor issued Executive Order N-28-20 suspending any provision of state law prohibiting local government from exercising its police power to impose substantive limitations on residential evictions, when the basis for the eviction is non-payment of rent, or a foreclosure, arising from a substantial decrease in income or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic. This suspension of state law was extended by the Governor until July 28, 2020, through Executive Order N-66-20 issued on May 29, 2020.

B. On June 23, 2020, the Board of Supervisors approved Urgency Ordinance No. 1457 adding Chapter 8.90 to the Napa County Code to temporarily prohibit residential evictions related to the impacts of COVID-19 through July 28, 2020.

C. The urgent justifications for temporarily prohibiting residential evictions, as set forth in Section 2 of Urgency Ordinance No. 1457, continue to persist in Napa County and are hereby incorporated by reference.

D. On June 30, 2020, the Governor issued Executive Order N-71-20 extending the authority of local agencies to regulate evictions in Executive Order N-28-20 until September 30, 2020.

E. The temporary prohibition of residential evictions will expire on July 28, 2020, unless extended by the Board of Supervisors.

**SECTION 3. AMENDMENT TO SECTION 8.90.030.**

Section 8.90.030 entitled Temporary Prohibition of Evictions is hereby amended to read in full as follows:

**8.90.030 Temporary Prohibition of Evictions.**

- A. Owners of residential real property in the incorporated or unincorporated areas of the County shall not issue a three day notice to pay rent or quit under Code of Civil Procedure Section 1161(2), or otherwise pursue termination of a tenancy for failure to pay rent, after the tenant demonstrates within seven days of the rent due date through documentation or objectively verifiable means that the failure to pay rent is due to a substantial loss of income or substantial out-of-pocket expenses related to the COVID-19 pandemic or any local, state, or federal government response to the pandemic. For the purposes of this Ordinance, adequate documentation of lost income or out-of-pocket medical expenses shall include but is not limited to letters from employers citing COVID-19 pandemic or related government action as the basis for termination of employment or reduced work; employer paycheck stubs; bank statements; letters or notifications from schools or childcare facilities in which the tenant has a dependent enrolled regarding COVID-19 related closures that substantially affected the tenant's income; or a sworn statement by the tenant attesting to the lost income or out-of-pocket medical expenses, including facts sufficient to

demonstrate that loss, and attesting to their inability to gather the documentation described above.

- B. Prohibited action to terminate a tenancy under section 8.90.030(A) includes conduct that constitutes constructive eviction under state law.
- C. An owner issuing a three day notice to pay rent or quit shall include a copy of the language from this Section with the notice.
- D. This chapter may be asserted as an affirmative defense in an unlawful detainer action for failure to pay rent, if the unlawful detainer action was filed on or after March 4, 2020.
- E. The temporary prohibition of evictions imposed by this section shall remain in effect through September 30, 2020, unless extended by the Board of Supervisors.

**SECTION 4. AMENDMENT TO SECTION 8.90.050.**

Section 8.90.050 entitled Obligation to Pay Rent is hereby amended to read in full as follows:

**8.90.050 Obligation to Pay Rent.**

- A. This chapter shall not relieve a tenant of liability for unpaid rent.
- B. A tenant who demonstrates failure to pay rent is related to the COVID-19 pandemic pursuant to section 8.90.030(A) shall pay past-due rent by the extended deadlines set forth in the following table. Any rent that was not due on the first day of the month shall be paid by October 26, 2020, or within 180 days from the date such rent payment was due, whichever occurs last.

| Original Rent Due Date | Extended Rent Due Date |
|------------------------|------------------------|
| March 1, 2020          | October 26, 2020       |
| April 1, 2020          | October 26, 2020       |
| May 1, 2020            | October 26, 2020       |
| June 1, 2020           | November 28, 2020      |
| July 1, 2020           | December 28, 2020      |
| August 1, 2020         | January 28, 2021       |
| September 1, 2020      | February 28, 2021      |

- C. An owner and a tenant may agree in writing to a payment plan for past-due rent, in which case the deadlines for payment in section 8.90.050(B) shall not apply. Such an agreement shall include a provision disclosing the tenant's right to a repayment schedule in accordance with section 8.90.050(B).
- D. It is unlawful for an owner of residential real property in the incorporated or unincorporated areas of the County to issue a three day notice to pay rent or quit under Code of Civil Procedure Section 1161(2), or to otherwise pursue termination of a tenancy for failure to pay rent, if the tenant is making timely payments in accordance with this section.

**SECTION 5. SEVERABILITY.**

It is hereby declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, section, paragraph or sentence of this Ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 6. EFFECTIVE DATE.**

This Urgency Ordinance shall take effect immediately upon its approval by at least four-fifths vote of the Board of Supervisors pursuant to Government Code Section 25123(d).

**SECTION 7. CEQA COMPLIANCE.**

The Board of Supervisors finds that adoption of this Ordinance is not subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2), as an activity which will not result in a direct or reasonably foreseeable indirect physical change in the environment.

**SECTION 8. PUBLICATION.**

Within 15 days after adoption, the full text of this Ordinance shall be published in the Napa Valley Register along with the names of those Supervisors voting for and against the Ordinance, and a certified copy of the full text of this Ordinance shall be posted in the Office of

the Clerk of the Board of Supervisors along with the names of those Supervisors voting for and against the Ordinance.

The foregoing Urgency Ordinance was introduced, read and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on July 28, 2020, by the following four-fifths vote:

AYES: SUPERVISORS WAGENKNECHT, GREGORY, PEDROZA, RAMOS and DILLON  
 NOES: SUPERVISORS NONE  
 ABSTAIN: SUPERVISORS NONE  
 ABSENT: SUPERVISORS NONE

NAPA COUNTY, a political subdivision of the State of California

By:

DIANE DILLON, Chair of the Board of Supervisors

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| <p>APPROVED AS TO FORM<br/>Office of County Counsel</p> <p>By: <u>Thomas C. Zeleny</u><br/>Chief Deputy County Counsel</p> <p>Date: July 24, 2020</p> | <p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: July 28, 2020<br/>Processed By:</p> <p>Deputy Clerk of the Board</p> | <p>ATTEST: JOSE LUIS VALDEZ<br/>Clerk of the Board of Supervisors</p> <p>By: </p> |
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET, ROOM 310, IN NAPA, CALIFORNIA ON \_\_\_\_\_.

\_\_\_\_\_, DEPUTY  
 JOSE LUIS VALDEZ, CLERK OF THE BOARD