

ORDINANCE -

AN INTERM URGENCY ORDINANCE OF THE TOWN OF LOS GATOS ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19) AND SUSPENDING ALL DEADLINES RELATED TO LAND USE ENTITLEMENTS

WHEREAS, pursuant to the Town’s police power, as granted broadly under Article XI, Section 7 of the California Constitution, the Town Council has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the Town and its residents; and

WHEREAS, pursuant to California Government Code Section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster; and

WHEREAS, California Government Code Section 8634 states that “During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property...”; and

WHEREAS, the purpose of a local emergency proclamation is to provide extraordinary powers to issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, obtain vital supplies, and require emergency services of employees; and

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

WHEREAS, on January 30, 2020, the World Health Organization declared the Covid-19 outbreak a Public Health Emergency of International Concern; and

WHEREAS, on January 30, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, on January 31, 2020, the first case of COVID-19 was confirmed in Santa Clara County (“County”); and

WHEREAS, on February 10, 2020, the Santa Clara County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 an International Pandemic; and

WHEREAS, on March 12, 2020, the Town Manager of Los Gatos acting in the capacity of Director of Emergency Services issued a Proclamation of Local Emergency; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 14, 2020, the Town Library was closed to minimize the congregation of individuals consistent with Santa Clara County Public Health directives prohibiting more than 100 people to gather; and

WHEREAS, on March 16, 2020, the Santa Clara County Department of Public Health directed all individuals in the County to Shelter in Place and mandated requirements, including but not limited to, social distancing, staying home if sick, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, at the end of the business day on March 16, 2020, the Town closed its offices to the public pursuant to the Shelter in Place Order and suspended the ability to process planning and building applications, planning and building submittals, resubmittals, and issuance of permits; and

WHEREAS, on March 16, 2020 the Governor of the State of California issued an executive order that authorizes local governments to halt evictions for renters and homeowners, slows foreclosures, and protects against utility shutoffs for Californians affected by COVID-19; and

WHEREAS, on March 17, 2020, the Town Council of the Town of Los Gatos ratified the Proclamation of Local Emergency; and

WHEREAS, on March 18, the President of the United States of America announced a moratorium on evictions of single-family homeowners with federally backed mortgages, but the moratorium does not apply to the vast majority of renters; and

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and

basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Los Gatos have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the Town's affordable housing stock, and to prevent housed individuals from falling into homelessness; and

WHEREAS, loss of income as a result of COVID-19 may inhibit Los Gatos residents from fulfilling their financial obligations; and

WHEREAS, the Town Council does hereby find that the above described conditions warrant on an urgency basis a temporary moratorium on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from the Novel Coronavirus (COVID-19); and

WHEREAS, the Town Council does hereby find that the above described conditions and the closing of Town office warrant suspending all established planning and building deadlines that authorize automatic approvals or denials for the duration of the ordinance; and

WHEREAS, this interim urgency ordinance is adopted in accordance with the requirements of Government Code Section 65858; and

WHEREAS, this interim urgency ordinance is temporary and not a general ordinance in force required to be codified but rather intended to enhance stability and public health in the Town during the COVID-19 pandemic outbreak.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOSGATOS DOES ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are incorporated herein and are each relied upon independently by the Town Council for its adoption of this urgency interim ordinance.

SECTION 2. The intent of the Santa Clara County Health Department Shelter in Place Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the maximum extent possible.

SECTION 3. For a period of forty five (45) days, commencing on the date of the adoption of this urgency interim ordinance, or until such time as this urgency interim ordinance may expire

subject to any extension of this urgency interim ordinance that the Town Council may adopt and approve pursuant to Government Code section 65858, no evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from the Novel Coronavirus (COVID-19) shall occur.

SECTION 4. A landlord knows of a tenant's inability to pay rent within the meaning of this ordinance if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

SECTION 5. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed, or the reasons stated in this ordinance through the eviction process.

SECTION 6. This ordinance shall not be read in any way to (a) adversely affect and/or abrogate the rights of tenants under Chapter 14.80 of the Los Gatos Town; and/or (b) prohibit any terminations of tenancy for just cause, or other terminations of tenancy where this ordinance does not apply.

SECTION 7. As applied to notices of termination issued prior to the effective date of this ordinance, this ordinance shall apply to tenancies where, as of the effective date of this ordinance, said tenant remains in possession and/or any eviction lawsuit has not reached a final judgment or issuance of a final order, after all appeals have been exhausted.

SECTION 8. This ordinance may be asserted as an affirmative defense in an unlawful detainer action. Any failure to comply with this ordinance does not constitute a criminal offense.

SECTION 9. All provisions of laws, ordinances, regulations, resolutions, rules and statutes, including but not limited to, provisions contained in the California Permit Streamlining Act, the California Environmental Quality Act, the California Subdivision Map Act, the Housing Accountability Act, SB 35, Town Subdivision Regulations, Town Zoning Regulations and Town Application policies and procedures, establishing review deadlines and authorizing automatic approvals, are suspended for the duration of the ordinance.

SECTION 10. This Interim Urgency Ordinance is enacted pursuant to the authority conferred upon the Town Council of the Town of Los Gatos by Government Code Sections 65858, 36934 and 36937, and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the Town Council as if and to the same extent that such Ordinance had been adopted pursuant to each of the individual sections set forth hereinabove.

SECTION 11. In adopting this Interim Urgency Ordinance, the Town Council finds and determines that each of the recitals contained in this Ordinance are true and correct, and that the adoption of this Interim Urgency Ordinance is necessary to protect the public safety, health and welfare, as those terms are defined in Government Code Section 65858(a).

SECTION 12. The approval of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). This ordinance imposes a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the ordinance is not a "project" within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the Town would undertake the required CEQA review for that project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

SECTION 13. This interim urgency ordinance shall be of no further force or effect forty-five (45) days from and after the date of its adoption, unless the same is extended pursuant to the authority conferred upon the Town Council by Government Code Section 65858(a).

SECTION 14. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 24th day of March 2020, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____