

**TOWN OF TRUCKEE
California**

ORDINANCE 2020-02

**AN URGENCY ORDINANCE OF THE TOWN OF TRUCKEE
ESTABLISHING A TEMPORARY MORATORIUM ON EVICTING TENANTS
UNDER SPECIFIED CIRCUMSTANCES AND DECLARING THE ORDINANCE
TO BE AN EMERGENCY MEASURE TO TAKE IMMEDIATE EFFECT**

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”), and on March 4, 2020, the Nevada County Board of Supervisors and Department of Public Health declared a public health emergency in Nevada County due to COVID-19, and on March 10, 2020, the Town Council declared a local emergency due to COVID-19; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20. The order suspends any state law that would preempt or otherwise restrict the Town’s exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19; and

WHEREAS, the Town has been impacted by the COVID-19 pandemic, with visitation to Truckee dramatically reduced, school closures implemented, and employees advised to work at home, resulting in significant declines in restaurant and retail business, workers being impacted by lost wages and layoffs, parents having to miss work to care for home-bound school-age children, which impacts may continue for extended periods of time; and

WHEREAS, many tenants have experienced sudden income loss, further income impacts are anticipated, and the loss of wages caused by the effects of COVID-19 may impact tenants’ ability to pay rent when due, leaving tenants vulnerable to eviction; and

WHEREAS, providing tenants with a short-term protection from eviction due to the inability to pay rent for COVID-19-related reasons will help avoid increasing the homeless population and stabilize the rental housing market by reducing displacement; and

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid displacement of tenants due to COVID-19-related loss of income, such that prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted; and

WHEREAS, there is an urgent need for the Town of Truckee to enact such restrictions to protect the health, safety, and welfare of its residents in light of the emergency declared by the State and Town regarding the COVID-19 pandemic; and

WHEREAS, the provisions of this ordinance are intended to supplement the eviction and tenancy termination provisions of the “Tenant Protection Act of 2019”, as codified in Civil Code Section 1946.2; and

WHEREAS, nothing in this ordinance is intended to or shall be deemed to affect a tenant's obligations to pay back rent owed once this ordinance is no longer effective, nor to affect a property owner's other statutory or contractual rights; and

WHEREAS, California Government Code Sections 36934 and 36937 authorize the Town Council to adopt by four-fifths (4/5) vote, without a second reading and with immediate effect, an ordinance for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency;

The Town Council of the Town of Truckee Does Ordain as Follows:

Section 1. Recitals Incorporated.

The recitals above are incorporated herein.

Section 2. Moratorium on Evictions Under Specified Circumstances.

A. This Section 2 shall remain in effect until the expiration of the Governor's Executive Order N-28-20, including any extensions.

B. This ordinance applies to all residential tenants within the Town of Truckee.

C. Until June 1, 2020, and except as otherwise required by applicable law, regulation, or order from a court or government agency, no owner of residential property shall, nor shall an owner's agent, endeavor to evict a tenant for nonpayment of rent if the tenant, in accordance with this Section 2, demonstrates through documentation or other objectively verifiable means that the inability to pay rent is due to the tenant's substantial out-of-pocket medical expenses related to COVID-19 or substantial loss of income due to any of the following:

- (i) the tenant is or was sick with COVID-19 or caring for a household or family member who is or was sick with COVID-19;
- (ii) the tenant experienced a lay-off, loss of hours, substantial decrease in business income caused by a reduction in the opening hours or consumer demand, or other income reduction resulting from COVID-19 or the state of emergency;
- (iii) the tenant's compliance with a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others during the state of emergency; and
- (iv) the tenant's need to miss work to care for a home-bound school-age child.

D. In order for the protections afforded under this ordinance to be applicable, a tenant must do all the following:

- (i) Notify the property owner or the owner's agent in writing that the tenant is unable to pay some or all of the rent due for one or more of the reasons set forth in Section C hereinabove;
- (ii) Provide the property owner or the owner's agent with verifiable documentation or other proof to support the assertion that the tenant is unable to pay some or all of the rent due for one or more of the reasons set forth in Section C hereinabove, within thirty (30) days of the day the rent is due;

- (iii) Notify the property owner or the owner's agent that the tenant is asserting the rights granted by this ordinance; and
- (iv) Pay the full amount of rent otherwise due, less the amount that is unavailable to the tenant for one or more of the reasons set forth in Section C hereinabove.

E. If a tenant complies with the requirements of this ordinance, a property owner or agent shall not serve a notice pursuant to California Code of Civil Procedure sections 1161 or 1162, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise endeavor to evict the tenant for nonpayment of rent. An owner's failure to comply with this ordinance shall render any notice of termination of tenancy void. This ordinance may be asserted as an affirmative defense in an unlawful detainer action.

F. Nothing in this ordinance relieves the tenant of liability for the unpaid rent after expiration of this ordinance, nor to affect a property owner's other statutory or contractual rights not consisting of eviction.

G. Tenants who were afforded eviction protection hereunder shall have until October 31, 2020, to pay the property owner or agent all unpaid rent.

Section 3. Violations.

The remedies provided by this ordinance are cumulative and in addition to any other remedies available at law or in equity. Each and every violation of this ordinance, or applicable state law or regulation, shall constitute a separate violation per day and shall be subject to all remedies and enforcement measures authorized by the Truckee Municipal Code or otherwise authorized by law, including without limitation citations and penalties pursuant to Chapters 1.02 and/or 1.03 of the Municipal Code as though this ordinance were codified in the Municipal Code, provided that the amount of any penalty shall be one thousand dollars per day. Additionally, any violation shall be subject to injunctive relief, disgorgement to the Town of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, restitution, and any other relief or remedy available at law or in equity. The Town and Nevada County, including without limitation the office of the town attorney and the office of the district attorney, may pursue any and all remedies and actions available and applicable under state and local laws for any violations.

Section 4. Declaration of Urgency and Effective Date.

The Town Council hereby finds, determines, and declares that this urgency ordinance is necessary to promote the immediate preservation of the public peace, health and safety by avoiding evictions due to a tenant's COVID-19-related loss of income. This ordinance shall take immediately as an urgency ordinance.

Section 5. Authority for Adoption.

The Town Council hereby enacts this urgency ordinance by not less than a four-fifths vote, and in light of the findings set forth herein, under the authority granted to it as a charter city by the California Constitution, and Sections 36934 and 36937(a) of the California Government Code, which allow the Town to adopt an urgency ordinance, in order to protect the public peace, health, and safety.

Section 6. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held by a court of competent jurisdiction to be invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this ordinance are declared to be severable.

Section 7. Publication.

The Town Clerk is hereby directed to publish this ordinance or a summary thereof in accordance with the law.

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The foregoing ordinance was introduced and adopted at a special meeting of the Truckee Town Council held on the 25th day of March, 2020; _____ moved for the adoption, the motion was seconded by _____ and was carried by the following vote:

AYES:

NOES:

ABSENT:

David Polivy, Mayor

ATTEST:

APPROVED AS TO FORM:

Judy Price, MMC, Town Clerk

Andrew Morris, Town Attorney