TO: Honorable Mayor and Members of the Town Council

FROM: Adam Wolff, Interim Town Manager  
Amy Ackerman, Town Attorney

SUBJECT: Adopt Urgency Ordinance No. 1021, Pursuant To California Government Code Section 36937(B), Barring Evictions In The Town Of Corte Madera Through September 30, 2022 Due To The Public Health Emergency Arising From COVID-19; CEQA exempt under CEQA Guidelines section 15061(b)(c)

RECOMMENDED ACTION:

Introduce and adopt an urgency ordinance entitled “An Urgency Ordinance of the Town Council of the Town of Corte Madera Temporarily Prohibiting Residential Evictions Without Cause Through September 30, 2022.”

Note: A 4/5 vote of the Town Council is required to adopt an urgency ordinance and it takes effect immediately or on a set date.

BACKGROUND:

Below is the chronology of actions taken by the County of Marin Board of Supervisors, Governor Newsom, and/or the State legislature to prevent residential evictions due to the significant and on-going impact from the COVID-19 pandemic.

On March 24, 2020, to reduce the spread of COVID-19 in the community, the Marin County Board of Supervisors adopted Resolution No. 2020-27, titled “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 to reduce the spread of COVID-19.

On March 27, 2020, Governor Newsom issued an executive order 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.
In April through July 2020, the Marin County Board of Supervisors adopted a series of resolutions amending and updating the Eviction Ban Resolution and extending its protections for residential tenants through September 30, 2020.

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, if 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 if they pay 25 percent of the rent due by January 31, 2021.

In response to the late-2020 surge in COVID-19 cases, the Legislature adopted Senate Bill 91 ("SB 91"), approved by the Governor on January 29, 2021, extending the protections of AB 3088 through June 30, 2021.

On June 8, 2021, the Marin County Board of Supervisors adopted Urgency Ordinance No. 3750 extending its protections for residential tenants in unincorporated Marin County through September 30, 2021.

On June 28, 2021, the Governor signed Assembly Bill 832 ("AB 832"), the COVID-19 Rental Housing Recovery Act, which extended SB-91’s protections until September 30, 2021, and created additional protections for residential tenants facing non-payment evictions through March 31, 2022.

On March 31, 2022, the California Legislature approved Assembly Bill 2179 ("AB 2179"), which extended the state’s eviction moratorium through June 30, 2022 for certain residential tenants who applied for rental assistance on or before March 31, 2022. The extension of the state moratorium also preempts local jurisdictions from adopting new eviction restrictions until July 1, 2022.

DISCUSSION:

The State eviction moratorium currently scheduled to expire on June 30, 2022. The proposed Urgency Ordinance would establish a moratorium on evictions for residential tenants in the Town of Corte Madera, effective July 1, 2022 through September 30, 2022. The proposed Urgency Ordinance essentially reinstates the local eviction moratorium previously adopted by the Town Council in June 2021.

The proposed Urgency Ordinance provides stability to the residential renter community in Corte Madera who face on-going impacts from COVID-19, by preventing evictions and late fees for nonpayment of rent due to COVID-19 financial loss. The County of Marin is responsible for distributing rental assistance funding all jurisdictions in the County. At this time the County has estimated it will be able to disburse all rental assistance funding for pending applications by September 30, 2022. This will help mitigate the pandemic’s financial impacts on Corte Madera property landlords and renters. The proposed eviction moratorium would provide relief for tenants and landlords from July 1 through September 30, 2022 for this period while the County disburses
the remaining rental assistance funding for those who have pending applications.

Because the impact of the public health emergency arising from COVID-19 is a fluid and ongoing situation, staff will continue to monitor the situation and may come back to the Council with recommended amendments based on COVID-19 related circumstances affecting the stability of renters and landlords in Corte Madera.

**FISCAL IMPACT:**

There would be no fiscal impact on the general fund from this action.

**ENVIRONMENTAL IMPACT:**

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

**OPTIONS:**

1. Adopt Urgency Ordinance as presented (a 4/5 vote is required to adopt an Urgency Ordinance)
2. Adopt Urgency Ordinance with modifications
3. Do not adopt Urgency Ordinance and provide further direction to staff

**ATTACHMENTS:**

1. Draft Urgency Ordinance
ATTACHMENT 1

Draft Urgency Ordinance
ORDINANCE NO. 1021

AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA, PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 36937(B), BARRING EVICTIONS IN THE TOWN OF CORTE MADERA THROUGH SEPTEMBER 30, 2022 DUE TO THE PUBLIC HEALTH EMERGENCY ARISING FROM COVID-19

THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DOES ORDAIN AS FOLLOWS:

WHEREAS, Government Code Section 36937(b) authorizes the adoption of an urgency ordinance for the immediate preservation of the public peace, health or safety; and

WHEREAS, on February 26, 2020, community transmission of a widespread, ongoing global outbreak of respiratory illness known as COVID-19 was confirmed by the Centers for Disease Control and Prevention (CDC) in the Bay Area; and

WHEREAS, on March 4, 2020, California Governor Newsom declared a state of emergency in the State of California; and

WHEREAS, 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; and

WHEREAS, on March 17, 2020, the Town Council proclaimed the existence of a local emergency related to COVID-19; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-2 authorizing local governments to halt evictions for renters and homeowners, slow foreclosures, and protect against utility shutoff for Californians affected by COVID-19. These protections were extended on August 31, 2020 by California Assembly Bill (AB) 3088, the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, and again on January 29, 2021 by California Senate Bill (SB) 91, with an effective date through June 30, 2021; and

WHEREAS, SB 91 includes provisions establishing a rental assistance program, and provides parameters for distribution of those funds; and

WHEREAS, on March 24, 2020, pursuant to the powers established under Government Code sections 8630 and 8634, the Marin County Board of Supervisors adopted Resolution No. 2020-27 barring evictions in Marin County due to the public health emergency arising from COVID-19 (the “Eviction Ban” Resolution). The Eviction Ban Resolution encompassed properties located within the incorporated and unincorporated areas of the County and thus included properties located within the Town of Corte Madera; and

WHEREAS, on April 28, 2020, the Marin County Board of Supervisors adopted Resolution 2020-40 amending and updating the Eviction Ban Resolution, including adding in a 90-day repayment
provision for renters to repay back rent, and requiring landlords to provide a notice of the Eviction Ban prior to serving a notice of eviction on any tenant. Resolution 2020-40 included properties located within the Town of Corte Madera. The Eviction Ban was updated and extended on May 26, 2020, June 23, 2020, July 28, 2020, and most recently on January 12, 2021; and

WHEREAS, on June 28, 2021, Governor Newsom signed AB 832 into law, which further modified the eviction protections and the temporary preemption provisions of AB 3088, AB 81, and SB 91 (collectively “AB 3088, as amended”) and extended eviction protections through September 30, 2021, as well as the temporary preemption of a local jurisdiction’s ability to enact new or amend existing eviction protections for nonpayment of rent due to financial distress related to COVID-19 through March 31 2022; and

WHEREAS, on March 31, 2022, Acting Governor Kounalakis signed AB 2179 into law, which extended eviction protections through July 1, 2022 for those who applied for rent relief before March 31, 2022 and which temporarily preempted a local jurisdiction’s ability to enact new or amend existing eviction protections for nonpayment of rent due to financial distress related to COVID-19 through July 1, 2022; and

WHEREAS, many residents from the Town of Corte Madera continue to experience sudden and substantial income loss due to business, 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; and

WHEREAS, housing instability continues to threaten the public space, health and safety as eviction can lead to homelessness; loss of community; stress and anxiety caused by the experience of displacement; increased incidence of families moving into overcrowded conditions creating greater risk for the spread of COVID-19; and

WHEREAS, without local protection, eviction notices for failure to pay rent due are likely to surge following the expiration of State eviction protections on June 30, 2022; and

WHEREAS, it continues to be essential, to the maximum feasible extent, to prevent displacement and homelessness due to evictions for non-payment of rent related to the COVID-19 emergency; and

WHEREAS, given the severe consequences to public health and safety throughout the Town of Corte Madera that would result from evictions of residential tenants during the State of Emergency, the Town of Corte Madera finds and determines that a temporary moratorium on evictions based on non-payment of rent due to COVID-19 is necessary to allow tenants to seek complete applications for the Marin County Emergency Rental Assistance program, minimize evictions and thereby serve the public peace, health and safety; and

WHEREAS, the Marin County Emergency Rental Assistance program, which provides rental relief to Marin County landlords and renters who have faced financial hardships due to the
COVID-19 pandemic, has a substantial number of applications to be processed and funds awarded; and

WHEREAS, the Marin County Emergency Rental Assistance program continues to process applications, and anticipates that the remaining funds will be administered by September 30, 2022; and

WHEREAS, if the current June 30, 2022 end to the statewide eviction moratorium stands and a local moratorium is not put in place through September 30, 2022, the Town of Corte Madera’s landlords and tenants eligible for rental assistance may undergo evictions, thereby losing the opportunity to receive these available funds to help mitigate their personal financial and business losses during the pandemic; and

WHEREAS, preventing further 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 Corte Madera residents.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DOES HEREBY ORDAIN AS FOLLOWS:

(1) The recitals above are each incorporated by reference and adopted as findings by the Town Council.

(2) A temporary moratorium on eviction from residential units for non-payment of rent by tenants impacted by the COVID-19 crisis is imposed as follows:

   a. This Ordinance applies to terminations of tenancies for nonpayment of rent, including eviction notices, no-fault eviction notices as defined herein, and unlawful detainer actions based on such notices, served or filed during the effective period of this urgency Ordinance.

   b. No landlord or owner of residential unit(s) shall endeavor to evict a residential tenant or otherwise require a tenant to vacate if the residential tenant has provided a Declaration of COVID-19-related financial distress to the landlord, owner or landlord or owner’s representative within 15 days after receiving notice demanding payment of rent from landlord, that the residential tenant is unable to pay rent due to COVID-19 financial distress, as further detailed below.

For purposes of the Ordinance, the following definitions shall apply:

   i. “COVID-19 Financial Distress” means:
      Loss of income caused by the COVID-19 pandemic; Increased out-of-pocket expenses directly related to performing essential work during the COVID-19
pandemic; Increased expenses directly related to health impacts of the COVID-19 pandemic; Childcare responsibilities or responsibilities for care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income; Increased costs for childcare or attending to an elderly, disabled or sick family member directly related to the COVID-19 pandemic; Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses. 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.

ii. “Declaration of COVID-19-related financial 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:

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:

iii. “Landlord” or “Owner” means any natural person, partnership, corporate or fictitious entity, acting as a lessor or sublessor, whether as a principal or through an agent, who receives or is entitled to receive rent in exchange for the use or occupancy of any residential unit for rent, and includes a predecessor in interest.
iv. “No-fault eviction notice” means any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant.

v. “Notice demanding payment of rent” means any notice demanding payment of rent or any 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.

vi. “Rent” means any financial obligation, monetary payment, or other consideration a tenant owes an owner for the occupancy or use of a residential unit whether by written or oral agreement.

vii. “Residential unit” means a structure or the part of a structure, including, but not limited to, houses, apartments, mobile homes and recreational vehicles, that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

viii. “Tenancy” means the occupancy of residential unit(s).

ix. “Tenant” means a residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupy a Residential Unit.

c. A landlord who has been provided with a Declaration of COVID-19-related financial distress under subsection (a), shall not serve, file, prosecute, or otherwise pursue an unlawful detainer action based on a notice of termination, or otherwise seek to evict a tenant for nonpayment of rent, between August 16, 2022 and September 30, 2022.

d. A landlord may not take any actions to evict or attempt to evict a residential tenant unless the landlord demonstrates that the landlord provided a copy of this resolution and the following notice in English and Spanish in at least 12-point font to tenants when serving tenants with a Notice demanding payment of rent:

“NOTICE: THE TOWN OF CORTE MADERA HAS ADOPTED A TEMPORARY MORATORIUM ON EVICTIONS FOR RESIDENTIAL TENANTS FOR NONPAYMENT OF RENT DUE TO COVID-19. A COPY OF THE TOWN OF CORTE MADERA’S RESOLUTION IS ATTACHED. If you are unable to pay the amount demanded in this notice, and have decreased income or increased expenses due to COVID-19, your landlord will not be able to evict you for this missed payment if you sign and deliver the declaration form included with your notice to your landlord within 15 days, excluding Saturdays,
Sundays, and other judicial holidays, but you will still owe this money to your landlord. If you do not sign and deliver the declaration within this time period, you may lose the eviction protections available to you. You must return this form to be protected. You should keep a copy or picture of the signed form for your records.

You will still owe this money to your landlord and can be sued for the money, but you cannot be evicted from your home if you comply with these requirements. You should keep careful track of what you have paid and any amount you still owe to protect your rights and avoid future disputes. Failure to respond to this notice may result in an unlawful detainer action (eviction) being filed against you.

e. For purposes of this Ordinance, the declaration required under subsection (a) may be provided in writing, including through paper copy, email, or text communications to a landlord or the landlord’s representative with whom the residential tenant has previously corresponded by email or text.

f. Landlords and owners of residential unit(s), and those acting on their behalf, are prohibited from harassing or intimidating residential tenants for acts or omissions expressly permitted under this Ordinance.

g. A residential tenant who demonstrated financial distress due to COVID-19 as required and defined under this Ordinance shall have up to 90 days after the expiration or termination date of this Ordinance to tender the past-due rent, before the tenant shall be deemed to be in default of rent payment obligations. Nothing in this Ordinance shall otherwise relieve the residential tenant of liability for the unpaid rent.

h. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance.

i. Landlords and tenants of residential units are encouraged to agree on a payment plan that would allow landlords to accept partial rent payments during the term of the eviction moratorium if tenants are able to make such payments.

j. The remedies available under this Ordinance shall be in addition to any existing remedies which may be available to the residential tenant under local, state or federal law.
k. The effective period of this Ordinance shall be August 16, 2022 through September 30, 2022, unless abrogated or superseded by local action, or state or federal law.

(3) Affirmative Defense to Eviction, Unlawful Detainer Action; Civil Remedies
This Urgency Ordinance grants a defense where an unlawful detainer action is commenced in violation of this Urgency Ordinance. Additionally, an aggrieved tenant may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages, and whatever other relief the court deems appropriate. The prevailing party shall be entitled to reasonable attorney's fees and costs as determined by the court. The remedy available under this section shall be in addition to any other existing remedies which may be available to the tenant under local, state or federal law.

(4) Severability
If any provision of this Ordinance or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Ordinance are severable.

(5) Urgency Finding
The Town hereby finds, determines 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 August 16, 2022, Town Council meeting.

(6) Effective Date Of Ordinance
This Ordinance is hereby declared to be an urgency measure and shall take effect immediately upon adoption by at least a four-fifths (4/5) vote of the Town Council pursuant to Government Code section 36937(b). This urgency ordinance shall be of no further force and effect one year from its date of adoption unless extended by the Town Council.

(7) Publication
The Town Clerk is directed to publish forthwith a copy of this Ordinance, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the Town of Corte Madera, as required by law.

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

__________________________________________________________________________________

Fred Casissa, Mayor

ATTEST:

__________________________________________________________________________________

Rebecca Vaughn, Town Clerk

I, REBECCA VAUGHN, Town Clerk of the Town of Corte Madera, certify that the foregoing Ordinance was passed by the Town Council of the Town of Corte Madera, California, by a vote of at least four-fifths (4/5) of the members thereof, at a regular meeting held on Tuesday, the 16th day of August 2022, by the following vote, to wit:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  

REBECCA VAUGHN, Town Clerk