

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN URGENCY ORDINANCE OF THE CITY OF FORT BRAGG RELATING TO A TEMPORARY MORATORIUM ON EVICTING TENANTS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY UPON ADOPTION

**URGENCY ORDINANCE
NO. 960-2020**

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”). On March 4, 2020, the Mendocino County Board of Supervisors and Department of Public Health declared a public health emergency in Mendocino County due to COVID-19. On March 17, 2020, the Fort Bragg City Manager, acting as the Director of Emergency Services, declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 City Council meeting. On March 18, 2020, the Mendocino County Health Official issued a Shelter-in-Place Order effective at 10:00pm the same day through April 7, 2020. On March 19, 2020, the Governor issued Executive Order N-33-20 which orders California Residents to stay at home except for certain critical activities. Due to directives from federal, state, and local health officials, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease.

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 City’s exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19.

WHEREAS, the City has been impacted by the health crisis of this global pandemic. Essentially all upcoming social gatherings and events have been cancelled. Mendocino School Districts have issued closures which may extend beyond April 14, 2020. Employees have been advised to work at home. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home for extended periods.

WHEREAS, many tenants have experienced sudden income loss, and further income impacts are anticipated. 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.

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

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 unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted.

WHEREAS, nothing in this Ordinance waives a tenant’s obligations to pay back rent owed once this Ordinance is no longer effective.

WHEREAS, the City Council has the authority to adopt this Ordinance under Government Code Section 8630, and also its authority under California Constitution Art XI, section 7, and pursuant to the Governor’s Order N-28-20.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FORT BRAGG DOES ORDAIN AS FOLLOWS:

SECTION 1. Moratorium on evictions due to nonpayment of rent during the COVID-19 emergency.

- A. This Section 1 remains in effect until the expiration of the Governor’s Executive Order N-28-20, including any extensions.
- B. This Ordinance applies to all residential and commercial tenants within the City of Fort Bragg.
- C. No landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant, in accordance with this Section 1, demonstrates that the inability to pay rent is due to the Coronavirus Disease 2019 (COVID-19), the state of emergency regarding COVID-19, or following government-recommended COVID-19 precautions.
- D. As used in this Section 1, “covered reason for delayed payment” means a tenant’s loss of income due to any of the following: (a) tenant was sick with COVID-19 or caring for a household or family member who is sick with COVID-19; (b) 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; (c) 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; (d) tenant’s need to miss work to care for a home-bound school-age child; and (e) tenant’s extraordinary medical cost resulting from COVID-19 related medical expenses.
- E. To take advantage of the protections afforded under this Ordinance, a tenant must do all the following:
 - a. Notify the landlord in writing on or before the day rent is due that the tenant has a covered reason for delayed payment;

- b. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment within thirty (30) days of the day the rent is due; and
 - c. Pay the full amount of rent otherwise due, less the amount of the change in funds available due to a covered reason for delayed payment.
- F. If a tenant complies with the requirements of this Ordinance, a landlord 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, and this Ordinance shall be an affirmative defense to any such eviction action.
- G. Nothing in this Ordinance relieves the tenant of liability for the unpaid rent after expiration of this Ordinance.

SECTION 2. 180-Day Repayment Period.

Tenants who were afforded eviction protection under Section 1 of this Ordinance shall have up to 180 days after the expiration of the Governor's Executive Order N-28-20, including any extensions, to pay their landlord all unpaid rent accrued during the term covered by this Ordinance. During that 180-day period, the protections against eviction found in Section 1 of this Ordinance apply for such tenants, and provided the tenant pays all rent due by this deadline, shall not be liable for payment of any late fees or penalties for the delay in payment.

SECTION 3. Emergency Declaration/Effective Date.

The City Council declares this Ordinance to be an emergency measure, to take effect immediately upon adoption pursuant to California Government Code section 36934.

The facts constituting the emergency are as follows: The directives from health officials to contain the spread of COVID-19 has resulted in loss of business, furloughs, loss of wages, and lack of work for employees. To protect the public health, safety, and welfare, the City must act to prevent eviction of tenants who are unable to pay rent due to wage losses caused by the effects of COVID-19. An emergency measure is necessary to protect tenants from eviction for a temporary period.

SECTION 4. Severability. If any portion of this Ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this Ordinance shall be enforced to the maximum extent legally permissible.

SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance as required by law.

The foregoing Urgency Ordinance was introduced by Councilmember _____ and adopted at a special meeting of the City Council of the City of Fort Bragg held on March 24, 2020 by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

**William V. Lee,
Mayor**

ATTEST:

**June Lemos, CMC
City Clerk**

**PUBLISH: April 2, 2020 (by summary).
EFFECTIVE DATE: March 24, 2020.**