

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”).

WHEREAS, 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.

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, a copy of the Governor’s executive order is attached hereto as Exhibit 1.

WHEREAS, 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.

WHEREAS, on March 18, 2020, the Mendocino County Health Official issued a Shelter-in-Place Order.

WHEREAS, 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, 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, evictions resulting from the conditions identified in Executive Order N-28-20 present an immediate threat to the public peace, health and safety, as described in Government Code section 36937(b) in that they will potentially cause the irregular and increased displacement of residents and commercial businesses, contribute to an increase in the homeless population in City of Fort Bragg, and make it more difficult for the City to enforce the shelter-in-place order designed to promote public health through social distancing to combat the negative effects of the COVID-19 pandemic

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. Findings and Emergency Declaration.

The City Council finds and declares as follows:

- A. The provisions of the Governor's Executive Order N-28-20, including its recitals, are incorporated herein as if fully set forth.
- B. The above recitals, and the recitals in the Governor's Executive Order N-28-20, are true and correct.
- C. In order to address the immediate threat to the public peace, health and safety, this ordinance temporarily prohibits evictions throughout the City of Fort Bragg related to the existence of the COVID-19 pandemic emergency.
- D. This ordinance is an emergency measure, to take effect immediately upon adoption pursuant to California Government Code section 36934 based on the facts recited above.

SECTION 2. Moratorium on evictions due to nonpayment of rent during the COVID-19 emergency.

Pursuant to the general police power of the City to protect the health, safety and welfare of its citizens, the authority of any landlord to commence evictions on any residential or commercial property within the unincorporated area for the following reasons is hereby suspended through the expiration of the Governor's Executive Order N-28-20, including any extensions, unless otherwise terminated:

- A. The basis of the eviction is non-payment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses; and
- B. The decrease in household or business income or the out-of-pocket medical expenses describe in subparagraph (a) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented; and
- C. 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.

Nothing in this ordinance shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.

SECTION 3. Other Provisions.

- A. All public housing authorities operating in the City are requested to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the housing authority.
- B. Financial institutions in the City holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.
- C. This ordinance shall be liberally construed to provide the broadest possible protection for the citizens of the City.
- D. The City Manager and all other City officers and department heads are authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this ordinance.

- E. Tenants may use the protections afforded in this ordinance as an affirmative defense in an eviction action, including but not limited to an action for unlawful detainer.
- F. This ordinance may be enforced as stated in the provisions of this ordinance, as a violation of City Code, as a nuisance, or by any other available and legal enforcement mechanism.

SECTION 4. 180-Day Repayment Period.

Tenants who were afforded eviction protection under Section 2 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 2 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 5. 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 6. 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 30, 2020 by the following vote:

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

**William V. Lee,
Mayor**

ATTEST:

**June Lemos, CMC
City Clerk**

**PUBLISH: April 9, 2020 (by summary).
EFFECTIVE DATE: March 30, 2020.**