



AGENCY: City Council
MEETING DATE: March 30, 2020
DEPARTMENT: Administration
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of Urgency Ordinance No. 960-2020 Adding a Temporary Moratorium on Evictions Due to COVID-19

ISSUE:

Due to the State of Emergency resulting from COVID-19, the Governor has authorized cities to enact moratoriums on residential and commercial evictions due to lost income stemming from COVID-19. The proposed Urgency Ordinance would suspend these evictions for the duration of the emergency and must be passed by a four-fifths vote of the entire City Council.

ANALYSIS:

As the global COVID-19 emergency persists, the economic impacts of the federal, state and local orders to prevent the spread of the virus such as social distancing, school closures, restaurant and bar closures, and Shelter-in-Place orders have left many Fort Bragg businesses and individuals unable to pay their rent.

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.

Under the proposed Urgency Ordinance, both commercial and residential tenants who notify their landlords before their rent is due, and provide documentation to their landlord within thirty (30) days of their rent due date that they are unable to pay all or a portion of their rent due to substantial financial hardships resulting from COVID-19, may not be evicted during the pendency of the Governor's Order N-28-20 or an extension thereof.

Urgency Ordinances

Urgency Ordinances that are necessary for the immediate preservation of the public peace, health or safety, must contain a declaration of the facts constituting the urgency, and must be passed by a four-fifths vote of the City Council per Government Code Section 36937. Urgency Ordinances go into effect immediately upon adoption per California Government Code Section 36934. The proposed Ordinance contains the required findings.

Moratorium on Evictions and Deferral of Rent Payments

The proposed Urgency Ordinance would apply to both commercial and residential tenants who are unable to pay rent during the term of the Ordinance due to financial impacts of COVID-19. To be protected from eviction by the Ordinance, tenants would need to notify their landlords and provide documentation evidencing their inability to pay all or a portion of

their rent during the effective dates of the Ordinance due to COVID-19 impacts.

Landlords would not be permitted to begin eviction proceedings against tenants who qualify during the term of the Ordinance, nor would landlords be able to charge late fees to eligible tenants. However, tenants will still be legally responsible for paying all rent due within six months after the expiration of the Ordinance.

Optional changes to the proposed Ordinance:

1. Time period Ordinance applies. Currently until expiration of Governor's Executive Order N-28-20, including extensions. Many jurisdictions have an expiration date of May 31st with an option to terminate early or extend upon Council action.
2. Apply moratorium only to Residential or Commercial tenants. Current proposed Ordinance applies to both.
3. Forgive a portion of the rent due. Current proposed Ordinance requires repayment of all back rent owed but does waive any penalties or interest charges. Jurisdictions could waive a portion of the back rent but this is not recommended because of the long-term impact to the landlord/property owner.
4. Increase notice requirements. Current proposed Ordinance is one (1) day prior to rent due date.
5. Further define documentation necessary to verify COVID-19 financial hardship.
6. Narrow the applicability of the Eviction Moratorium.
7. Increase or decrease repayment period. Current proposed Ordinance has a 180-day repayment period.

Local Enforcement

Under the proposed Ordinance, so long as a tenant has complied with the notice and documentation requirements, a landlord cannot serve an eviction notice, file or prosecute an unlawful detainer action on a three-day pay or quit notice, or otherwise attempt to evict a tenant for nonpayment of rent. The tenant may use the Ordinance as an affirmative defense in such an action. This would be applicable through court proceedings and not require active City enforcement, unless City Council directed staff to utilize the City Prosecutor from Jones & Mayer, the City's law firm for active enforcement efforts. Staff is not recommending local enforcement outside of the Court's application of local law to eviction actions based on the added costs.

Governor Newsom's Mortgage Relief Deal

On March 25, 2020, Governor Newsom announced a 90-Day Mortgage Payment Relief Package. The Governor secured support from most of the larger mortgage banks and nearly 200 state-chartered banks, credit unions and services to agree to a 90-day grace period for

borrowers impacted by COVID-19. These financial institutions will not report derogatory tradelines (e.g., late payments) to the credit reporting agencies. For at least 60 days no foreclosures sales or evictions will occur. Participating financial institutions will also waive or refund late fees for 90 days. The Governor's Relief applies to Californians, regardless of income level.

The Governor has also expressed disappointment that local jurisdictions have not more readily adopted Eviction Moratoriums and has indicated he may take further action to mandate eviction moratoriums across the state. The Governor has stated the increased risk of homelessness as one of his primary reasons for issuing the Executive Order allowing local governments to adopt Eviction Moratoriums. As of writing this staff report, I am not aware that the Governor has taken further action to implement a statewide Eviction Moratorium.

The Mendocino County Board of Supervisors unanimously passed an Eviction Moratorium on March 24, 2020, which protects residential and commercial tenants from eviction for COVID-19 related non-payment of rents. The County Ordinance is effective upon passage and applicable through May 31, 2020 unless terminated or extended and only applies in the unincorporated areas of the County. Both Ukiah and Willits City Councils are reportedly considering similar Ordinances.

San Francisco, Oakland, Berkeley, San Jose, Santa Monica, Culver City, Stockton, San Diego, Alameda, Burbank, Pasadena, Vallejo, Inglewood, Glendale, El Monte, South Pasadena, Richmond, Emeryville, Ojai, Palo Alto, Clearlake, Palm Springs, Goleta, Santa Ana, San Luis Obispo County, West Sacramento and Los Angeles have also adopted some version of an Eviction Moratorium Ordinance.

Residential Statistics

According to the most current data available, renters occupy 64% of the households in Fort Bragg and owners occupy the remaining 36%.¹ This is opposite the ratio for the United States as a whole, where 64% of households own their housing unit and 36% rent.² For the State of California 55% of residents are homeowners and 45% are renters.³

Lower income households make up 55% (1,565/2,855) of Fort Bragg Households. Renters account for 78% of lower income households and owners just 22%.⁴ More than half of those low income households or 28% of all households in Fort Bragg pay more than 50% of their income to rent.⁵

Nationally, 54% of people making \$25,000 or less per year could not come up with \$2,000 by the end of the month, if an unexpected expense arose. Nearly 10% of people making more than \$100,000 could not raise \$2,000. See graph on next page.

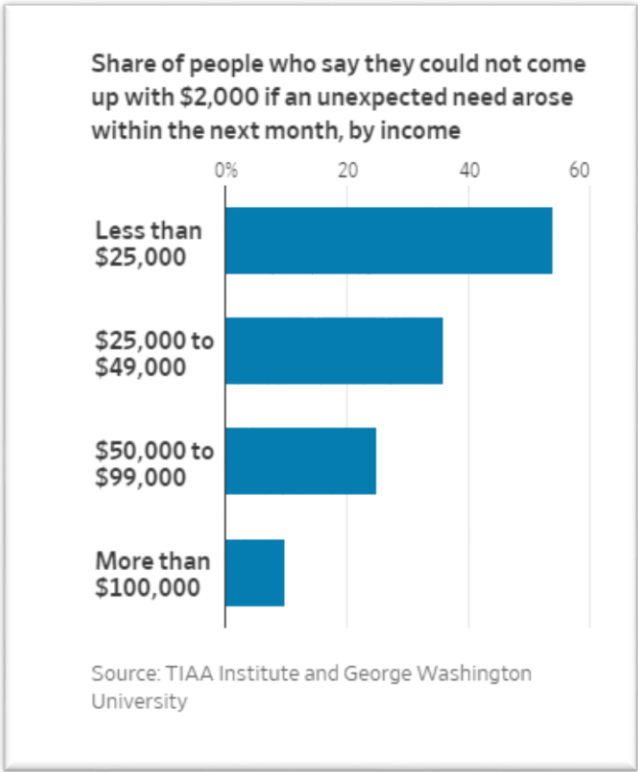
¹ Fort Bragg 2019 Housing Element, pages 10-36

² Census.gov

³ *Id.*

⁴ Fort Bragg 2019 Housing Element, pages 10-39

⁵ *Id.*



The high number of renters and the high number of low-income households in Fort Bragg means that our population is more financially vulnerable and therefore at a greater risk of losing housing. Homelessness is already at crisis levels in California and our City does not have sufficient options to support an increase in the number of homeless in our City.

That said, we must also recognize that an Eviction Moratorium will cause financial harm to landlords. Homeowners with Accessory Dwelling Units (ADUs), roommates or similar tenant rental arrangements have some protections from foreclosure, thanks in part to the Governor’s Mortgage Relief but commercial or investment landlords do not have that protection. Commercial and investment landlords may have relief options available as state and federal emergency and stimulus programs are implemented. Small Business Assistance (SBA) emergency loans are already in place.

RECOMMENDED ACTION:

Waive the reading of the Ordinance and adopt by title only 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.

ALTERNATIVE ACTION(S):

The City Council may choose to decline to adopt the Urgency Ordinance and provide other direction to staff.

FISCAL IMPACT:

There will likely be fiscal impacts to both renters and landlords. The Ordinance protects tenants from eviction but it does not relieve or forgive a tenant of the liability for unpaid rent. Mortgage protections for landlords are beyond the scope or jurisdiction of the City of Fort Bragg.

GREENHOUSE GAS EMISSIONS IMPACT:

There may be a small positive reduction in greenhouse gas emissions if tenants are not forced to relocate or transfer belongings by vehicle to another location.

CONSISTENCY:

The proposed urgency Ordinance is consistent with all state laws, city ordinances, and emergency orders currently in effect.

IMPLEMENTATION/TIMEFRAMES:

If adopted by a four-fifths vote of the entire membership of the City Council, the proposed Urgency Ordinance will become effective immediately.

ATTACHMENTS:

1. Urgency Ordinance 960-2020
2. Eviction Moratorium PowerPoint Presentation
3. Governor's Order N-28-20
4. Governor's Order N-37-20
5. Public Comment

NOTIFICATION:

1. Affordable Housing, Notify Me subscriber list
2. Homeless, Notify Me subscriber list
3. Economic Development Planning, Notify Me subscriber list