

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of April 28, 2020

ORDINANCE NO. 2641

AN UNCODIFIED URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT ESTABLISHING AN AFFIRMATIVE DEFENSE TO EVICTION ARISING FROM INCOME LOSS OR MEDICAL EXPENSES RELATED TO COVID-19

The Board of Supervisors of the County of Humboldt, State of California, ordains as follows:

Section I. Title. This Ordinance shall be known as the COVID-19 Eviction Defense Ordinance.

Section II. Emergency Findings. This urgency ordinance is adopted pursuant to California Government Code sections 25123(d) and 25131 and shall take effect immediately upon approval by at least a four-fifths vote of the Board of Supervisors. The Board of Supervisors finds this Ordinance is necessary for the immediate preservation of the public, peace, health and safety, based upon the following facts:

1. On March 4, 2020, Governor Gavin Newsom declared a state of emergency in California pursuant to the California Emergency Services Act due to the introduction of the new corona virus named SARS – COV-2 and the disease it causes which has been named Corona Virus Disease 2019 (“COVID-19”), and reported that as of that date, there were more than 94,000 cases of COVID-19 worldwide, resulting in more than 3,000 deaths, with 129 confirmed cases of COVID- 19 in the U.S., including 53 in California.
2. On March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, allowing local jurisdictions to halt evictions for renters and homeowners, slowing foreclosures, and protecting against utility shutoffs for Californians affected by COVID-19.
3. On March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20, directing all residents of California to stay home or at their place of residence to protect the public health of all Californians.
4. On March 20, 2020, the Health Officer for the County of Humboldt (“Health Officer”) issued a Shelter in Place Order effective until April 9, 2020, declaring a public health emergency due to cases of COVID-19 within the County (“Public Health Emergency”), in order to slow community transmission of COVID-19, subject to exceptions for the provision and receipt of essential services.
5. On March 27, 2020, Governor Gavin Newsom issued Executive Order N-37-20, banning enforcement of already-filed eviction orders for residential renters affected by

COVID-19 through May 31, 2020.

6. On March 30, the Health Officer issued a revised Shelter in Place Order effective until rescinded, based on evidence of increasing occurrence of COVID-19 throughout the County of Humboldt, the state of California, and the United States.
7. On March 30, 2020, the Director of Emergency Services for the County of Humboldt proclaimed a Local Emergency pursuant to Ordinance No. 2447, which was ratified by the Board of Supervisors on April 6, 2020 (“Local Emergency”), to enable the County of Humboldt and other local government entities to adequately plan, prepare and preposition resources to be able to effectively respond to the threat posed by COVID-19, and to warn Humboldt County residents and visitors of the threat posed by COVID-19 and allow them sufficient time to plan and prepare.
8. On April 2, 2020, Governor Gavin Newsom issued Executive Order N-42-20, restricting water shutoffs to homes and small businesses.
9. On April 6, 2020, the Judicial Council of California adopted emergency rules, effective until 90 days after the Governor lifts the state of emergency related to COVID-19 or repeal by the Judicial Council, preventing California courts from processing unlawful detainers for any reason, unless necessary to protect public health and safety.
10. The legislative bodies of multiple Humboldt County municipalities have declared local states of emergency in response to COVID-19 pursuant to Section 8630 of the Government Code and other applicable law.
11. All Humboldt County School Districts have suspended in-person classes as part of ongoing efforts to mitigate the spread of COVID-19, resulting in children remaining at home and parents adjusting their work schedules to take time off work. Many hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home.
12. The COVID-19 pandemic and associated public health orders are expected to result in the closure of many local businesses and extreme restrictions on other local businesses until the local emergency is lifted, and possibly thereafter.
13. The COVID-19 pandemic and associated public health orders are expected to result in a severe loss of income to widespread portions of the local population dependent on wages or business income to pay rent, as well as substantial medical expenses for certain Humboldt County residents.
14. Many seniors and vulnerable populations reside in Mobilehome Parks throughout Humboldt County, and the sudden displacement of these residents due to their inability to pay rent as a result of COVID-19 would be injurious to the health and safety of the

community.

15. Housing displacement and evictions occurring during the Public Health and Local Emergency would hinder individuals from complying with state and local directives to shelter in place and lead to increased spread of COVID-19, overburdening our healthcare system, and potentially resulting in loss of life.
16. It is essential that this Ordinance become immediately effective to limit movement of people and associated spread of COVID-19 by temporarily prohibiting evictions for the duration of the Public Health and Local Emergencies, and 90 days thereafter, for any residential tenant who can demonstrate they are being evicted for the failure to pay rent, and that such failure is a result of the COVID-19 pandemic or any local, state, or federal government response to the pandemic.

Section III. Evictions Arising from Income Loss or Medical Expenses Related to the COVID-19 Pandemic.

1. Purpose.

This Ordinance is intended to coincide with Executive Order N-37-20 by expanding the affirmative defense for residential evictions related to COVID-19 to include new filings, and work in harmony with the Emergency Rules adopted by the Judicial Council of California on April 6, 2020.

This Ordinance prohibits evictions for the duration of the County of Humboldt's Public Health and Local Emergencies, and for 90 days thereafter, for any Tenant who can demonstrate they have received a notice of eviction from Residential Real Property, including any dwelling, Mobilehome, or unit that is intended or used for human habitation, for failure to pay rent, and that such failure results from a loss of income or out-of-pocket medical expenses resulting from the COVID-19 pandemic or any local, state, or federal government response to the COVID-19 pandemic.

This Ordinance also provides that evidence demonstrating the Tenant's inability to pay rent shall be shared with the Owner for the sole and limited purpose of supporting an Owner's claim for mortgage relief due to loss of income or out-of-pocket medical expenses resulting from the COVID-19 pandemic resulting in a financial hardship to the Tenant, or any local, state, or federal government response to the COVID-19 pandemic.

In adopting this Ordinance in the exercise of their emergency powers granted them by the California Emergency Services Act, it is the intention of the Board of Supervisors to establish an affirmative defense against residential evictions that applies throughout the unincorporated area of the County of Humboldt.

2. Definitions.

The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this section.

- (A) "Mobilehome" means those structures defined in California Civil Code Section 798, *et. seq.*, and other forms of vehicles designed or used for human habitation, including camping trailers, recreational vehicles, motorhomes, slide-in campers, or travel trailers, that occupy a site in a mobilehome park as defined in Civil Code sections 798.4 and 798.6.
- (B) "Mobilehome Park" means any manufactured home park as defined in Civil Code sections 798.4 and 798.6
- (C) "Owner" means any person, acting as principal or through an agent, providing Residential Real Property for rent, and includes a predecessor in interest to the Owner.
- (D) "Ordinance" means this COVID-19 Eviction Defense Ordinance.
- (E) "Residential Real Property" means any dwelling, Mobilehome, or unit that is intended or used for human habitation in Humboldt County.
- (F) "Tenancy" means the lawful occupation of Residential Real Property, including in mobilehomes and mobilehome parks and includes a lease or sublease.
- (G) "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 occupancy of Residential Real Property.

3. Term.

This Ordinance shall take effect immediately upon adoption and shall remain in effect until ninety (90) days after the Public Health Emergency and Local Emergency Orders are no longer in effect.

4. Prohibition on Evictions within the Unincorporated Areas of Humboldt County Stemming from COVID-19 Pandemic Losses.

- (A) While this Ordinance remains in effect, Owners are prohibited from terminating a Tenancy for failure to pay rent if the Tenant demonstrates in accordance with this Ordinance that the failure to pay rent results from a loss of income or out-of-pocket medical expenses associated with the COVID-19 pandemic resulting in a financial hardship to the Tenant, or any local, state, or federal government response to the COVID-19 pandemic.
- (B) To invoke the protection of this Ordinance, a Tenant must demonstrate through documentation or other objectively verifiable means:
 - (1) Loss of income from (a) job loss; (b) layoffs; (c) a reduction in the number of compensable hours of work; (d) a store, restaurant, office, or business closure;

(e) a decrease in business income caused by a reduction in opening hours or consumer demand; (f) the need to miss work to care for a home-bound school-age child or a family member infected with coronavirus; or (g) other similarly-caused loss of income that resulted from the COVID-19 pandemic; or

(2) Out-of-pocket medical expenses from the COVID-19 pandemic resulting in a financial hardship to the Tenant.

(C) To invoke the protection of this Ordinance, a Tenant must also share documentation of loss of income or out-of-pocket medical expenses from the COVID-19 pandemic resulting in financial hardship to the Tenant with the Owner, for the sole and limited purpose of supporting the Owner's claim for mortgage relief due to loss of income or out-of-pocket medical expenses from the COVID-19 pandemic or any local, state, or federal government response to the pandemic.

(D) The prohibition against terminating Tenancies in this Ordinance shall also apply to an Owner's action that constitutes constructive eviction (such as terminating a Tenant's utilities) under California law.

(E) An Owner's failure to comply with this Ordinance shall render any notice of termination of a Tenancy void. This Ordinance may be asserted as an affirmative defense by any Tenant residing in the unincorporated portion of Humboldt County against an unlawful detainer action brought by any Owner in violation of this Ordinance.

(F) Terminations of Tenancies necessary to protect public health and safety pursuant to an order issued by a government agency or court are excepted from the prohibition in this Ordinance.

(G) An Owner's failure to comply with this Ordinance does not constitute a criminal offense but will allow for an aggrieved Tenant to institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages (including damages for mental or emotional distress as specified below), and whatever other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of this Ordinance. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of 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.

(H) Nothing in this ordinance shall relieve a Tenant of the obligation to pay rent, nor restrict an Owner's ability to recover rent due.

(I) This Ordinance shall be liberally construed to provide the broadest possible protection for tenants in the County.

5. Payback Period

The prohibition against terminating Tenancies in this Ordinance shall continue to apply for ninety (90) days after the Public Health Emergency and Local Emergency Orders are no longer in effect to permit Tenants to pay Owners all unpaid rent.

Section IV. CEQA. Adoption of this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly).

Section V. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declare that they would have passed this Ordinance and every section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid, unconstitutional, or otherwise unenforceable.

Section VI. Effective Date. This Ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage by a four-fifths (4/5) or greater vote. A summary of this Ordinance shall be published once before the expiration of fifteen (15) days after said passage.

PASSED, APPROVED AND ADOPTED this 28th day of April 2020, by the following vote, to wit:

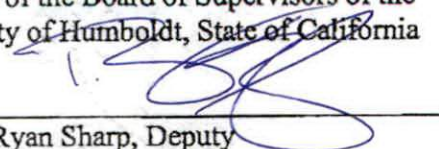
AYES: Supervisors: Bass, Fennell, Bohn, Madrone, Wilson
NOES: Supervisors:
ABSENT: Supervisors:
ABSTAIN: Supervisors:



Estelle Fennell, Chair
Board of Supervisors of the County of Humboldt
State of California

(SEAL)

ATTEST:
Kathy Hayes
Clerk of the Board of Supervisors of the
County of Humboldt, State of California



By: Ryan Sharp, Deputy