

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of May 5, 2020

ORDINANCE NO. 2642

**AN UNCODIFIED URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF HUMBOLDT TO PROHIBIT EVICTIONS DURING THE COVID-
19 STATE OF EMERGENCY FOR NONPAYMENT OF RENT OR FOR NO-FAULT
EVICTIONS AND TO REPEAL AND REPLACE ORDINANCE NO. 2641
REGARDING COVID-19 AND EVICTIONS**

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 for the immediate preservation of public peace, health, safety or welfare 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 effective period of this Ordinance may be extended if deemed necessary.

The Board of Supervisors finds this Ordinance is necessary 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 Mobile home Parks throughout Humboldt County, and the sudden displacement of these residents due to their inability to pay rent as a result of COVID-19 or through a no-fault eviction would be injurious to the health and safety of the community.
15. Housing displacement and evictions 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 any residential tenant who can demonstrate they are being evicted for the failure to pay rent as a result of the COVID-19 pandemic or through a no-fault eviction.
17. On April 28, 2020, the Board of Supervisors adopted Urgency Ordinance No. 2641 providing for eviction defense related to loss of income or medical expenses related to COVID-19, and the Board now wishes to repeal and replace Ordinance No. 2641 with updated provisions.

Section III. Purpose.

This Ordinance expands the affirmative defense for evictions established by Executive Order N-37-20 and is intended to work in harmony with the Emergency Rules adopted by the Judicial Council of California on April 6, 2020.

This Ordinance prohibits residential evictions through May 31, 2020, for unpaid rent or for a no-fault eviction as defined herein. Nothing in this Ordinance relieves a Tenant from liability for unpaid rent, payment of which the Owner may seek after May 31, 2020. However, when a Tenant owes Owner a Delayed Payment, defined herein, the Tenant shall not be deemed in default of rent payment obligations unless the Tenant fails to tender the full amount of the Delayed Payment within 90 days of May 31, 2020, or within 90 days of the date upon which an extension of this Ordinance expires, whichever is later.

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.

Section IV. Definitions.

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

1. "Delayed Payment" includes, but is not limited to, a payment made late as a result of any

of the following:

- a) Tenant lost household income as a result of being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 - b) Tenant lost household income as a result of a lay-off, loss of hours, loss of business, or other income reduction resulting from COVID-19 or the state of emergency;
 - c) Tenant lost household income due to 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 lost household income as a result of caring for minor children affected by school, pre-school and/or childcare closures; or
 - e) Tenant lost household income as a result of the discontinuance or reduction of a government aid program.
2. "Mobile home" 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 mobile home park as defined in Civil Code sections 798.4 and 798.6.
 3. "Mobile home park" means any manufactured home park as defined in Civil Code sections 798.4 and 798.6
 4. "No-fault eviction" as used in this Ordinance refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to California Civil Code Section 1946.2(b)(2) or Code of Civil Procedure sections 1161, subs. 1 or 5, or 1161c.
 5. "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.
 6. "Ordinance" means this COVID-19 Eviction Defense Ordinance.
 7. "Residential Real Property" means any dwelling, Mobile home, or unit that is intended or used for human habitation in Humboldt County.
 8. "Tenancy" means the lawful occupation of Residential Real Property, including in mobile homes and mobile home parks and includes a lease or sublease.
 9. "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.

Section V. Notice to Tenants.

All owners of rental property within the unincorporated area of Humboldt County must serve all tenants with written notice of the provisions of this Ordinance and the contact information for the owner, landlord, or agent to whom documentation of a Delayed Payment must be provided as specified below. Failure to provide such notice prior to service of a notice to pay rent or quit will be a complete defense to any unlawful detainer action based upon failure to pay rent that accrues during the effective period of this Ordinance.

Section VI. Prohibited Conduct.

1. Until after May 31, 2020, no Owner may endeavor to terminate a Tenancy for either of the following situations:
 - a) For nonpayment of rent; or
 - b) For a no-fault eviction as defined herein.

Endeavors to terminate a Tenancy that are prohibited by this Ordinance include issuance of a three-day notice to pay rent or quit, or a notice of no-fault termination of tenancy after the effective date of this Ordinance, or attempting to enforce a termination of tenancy through an unlawful detainer filing based on any notice issued but not yet expired prior to the effective date of this Ordinance.

2. Nothing in this Ordinance relieves a Tenant of liability for the unpaid rent, payment of which the Owner may seek after May 31, 2020. However, with respect to any Delayed Payment covered by this Ordinance, a Tenant may not be deemed in default of rent payment obligations unless the Tenant fails to tender the full amount of the Delayed Payment within 90 days of May 31, 2020, or within 90 days of the date upon which an extension of this Ordinance expires, whichever is later.
3. An Owner may not charge or collect a late fee or interest for a Delayed Payment as defined in this Ordinance.
4. 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.
5. Terminations of a tenancy necessary to protect public health and safety pursuant to an order issued by a government agency or court consistent with the Judicial Council of California's adopted emergency rules are excepted from this Ordinance.

Section VII. Application.

This Ordinance applies only to nonpayment eviction notices, no-fault eviction notices as defined

herein, and unlawful detainer actions based on such notices, served or filed on or after the date of introduction of this Ordinance through May 31, 2020 in the unincorporated area of Humboldt County.

Section VII. Invoking Protection of this Ordinance.

To invoke the protection of this Ordinance, a Tenant must notify the Owner in writing of inability to pay full rent due to lost income or out-of-pocket medical expenses related to COVID-19 resulting in a financial hardship to the Tenant, and provide documentation to support the claim, before the rent is due or within fourteen days afterward.

1. Documentation demonstrating loss of income or out-of-pocket medical related to COVID-19 resulting in financial hardship, may include termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, or other objectively verifiable evidence supporting the Tenant's assertion of an inability to pay.
2. For purposes of this section, "in writing" may include email, text or online communications to an Owner or the Owner's representative with whom the tenant has previously corresponded by email, text or an online program.
3. Any medical or financial information or other documentation provided to the Owner must be held in confidence, and only used for evaluating the Tenant's claim for protection under this Ordinance.

Section VIII. Payback Period and Repayment Plan.

1. With respect to any Delayed Payment covered by this Ordinance, a Tenant will not be deemed in default of rent payment obligations unless the Tenant fails to tender the full amount of the Delayed Payment within 90 days of May 31, 2020, or within 90 days of the date upon which an extension of this Ordinance expires, whichever is later. Tenant's failure to make an agreed upon or default scheduled Delayed Payment will be deemed a default of rent payment obligations.
2. The Owner and Tenant are encouraged to reach agreement as to a schedule of payment or payments to occur within the 90 period. If an agreement cannot be reached, the following will be the default schedule of payments: the amount of the total Delayed Payment will be divided by the number of months to repay the Delayed Payments, and an equal portion of the Delayed Payments will be paid monthly, separate from any other rents due Owner.

Section IX. Effect of Noncompliance.

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 area of Humboldt County against an unlawful detainer action brought by any Owner in violation of this Ordinance.

1. 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 Owner 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.

Section X. 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 XI. 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 XII. 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.

Section XIII. Repeal of Ordinance No. 2641. Adoption of this Ordinance No. 2642 shall act as a repeal and replacement of Ordinance No 2641 but shall have no retroactive application.

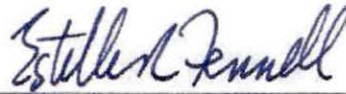
PASSED, APPROVED AND ADOPTED this 5th day of May 2020, by the following vote, to wit:

AYES: Supervisors: Bass, Fennell, Madrone, Wilson

NOES: Supervisors: Bohn

ABSENT: Supervisors:

ABSTAIN: Supervisors:



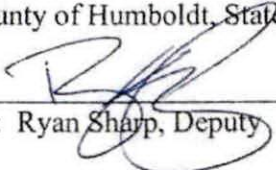
Estelle Fennell, Chair
Board of Supervisors of the County of Humboldt
State of California

(SEAL)

ATTEST:

Kathy Hayes

Clerk of the Board of Supervisors of the
County of Humboldt, State of California



By: Ryan Sharp, Deputy