

URGENCY ORDINANCE NO. 1532

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA ADOPTING TEMPORARY RESTRICTIONS ON THE EVICTION OF TENANTS DUE TO NON-PAYMENT OF RENT

The City Council of the City of Arcata does ordain as follows:

Section 1. **Findings and Purposes.** The City Council hereby finds as follows:

A. 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 11, 2020, the Humboldt County Health Officer declared a Local Health Emergency in response to the COVID-19 outbreak in California.

A. On March 16, 2020, the Governor issued Executive Order N-28-20, suspending any state law that would preempt or otherwise restrict a city’s exercise of its police power to impose substantive limitations on tenant evictions based on nonpayment of rent resulting from the impacts of COVID-19. As part of this Executive Order the Governor ordered “Any provision of state law that would preempt or otherwise restrict a local government’s exercise of its police power to impose substantive limitations on residential or commercial evictions as described in subparagraphs (i) and (ii) below-including, but not limited to, any such provision of Civil Code sections 1940 et seq. or 1954.25 et seq.-is hereby suspended to the extent that it would preempt or otherwise restrict such exercise.”

B. On March 19, 2020, the Governor issued Executive Order N-33-20 directing all California residents to stay at home indefinitely except for persons working in critical essential services. On March 20, 2020, the Humboldt County Health Officer issued an order directing all individuals living in Humboldt County to shelter in their residences except as needed to provide or receive specified essential services or engage in specified essential activities.

C. On March 26, 2020, the City Council adopted a resolution ratifying the Director of Emergency Services’ Proclamation of a Local Emergency in the City of Arcata due to the increase of COVID-19 in the community and the potential impact on community resources.

D. As a result of the City, County and State COVID-19 response, all non-essential activities and services in the City have been halted, with the result that many residents have been laid off or are experiencing reduced work hours, and have been impacted by lost or severely reduced wages. Similarly, many businesses in the City have either closed entirely or are experiencing dramatic reductions in business income.

E. Many tenants living in Arcata are experiencing sudden income loss, and further income impacts are anticipated as the COVID-19 epidemic spreads and response efforts continue. The loss of wages caused by the effects of COVID-19 may impact a tenant’s ability to pay rent when due, leaving tenants vulnerable to eviction. Providing residential tenants with short-term

protection from eviction due to the inability to pay rent because of COVID-19 impacts will help avoid housing displacement and prevent housed individuals from becoming homeless.

F. Further, protecting small business from being evicted for non-payment of rent due to COVID-19 impacts will help stabilize commercial tenancies thereby allowing such commercial establishments to decide whether and how to remain open based on public health concerns, and to mitigate the economic impacts of COVID-19.

G. During this 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.

H. Nothing in this ordinance waives a tenant's obligations to pay back rent owed once this ordinance is no longer effective.

Section 2. Temporary Restrictions on Evictions Due to Non-Payment of Rent During the COVID-19 Emergency.

A. This Urgency Ordinance applies to all residential and commercial and tenants (including mobilehome residents).

B. No property owner, landlord, or agent thereof shall endeavor to evict a tenant for nonpayment of rent in the City of Arcata if the tenant, in accordance with subsection C, below, demonstrates that the inability to pay rent is due to impacts from COVID-19; the State, County, or Local Emergencies; or, following government orders, regulations, or guidelines.

C. Any tenant seeking relief from eviction under this Ordinance shall demonstrate financial inability to pay because of all of the following:

- 1) A substantial decrease in household or business income caused by i) a layoff; ii) a reduction in the number of compensable hours of work; iii) substantial out-of-pocket medical expenses; iv) a substantial decrease in business income caused by a reduction in open hours or consumer demand; v) tenant's need to miss work to care for a school-age child; or vi) tenant's need to miss work to care for an individual with COVID-19; and
- 2) The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (1) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19; and

D. To take advantage of the protections afforded under this Urgency Ordinance, a tenant must do all the following:

- 1) Notify the landlord, or landlord's agent, in writing with simultaneous copy to the City Manager before the day rent is due of tenant's financial inability to pay rent because of the conditions identified in subsection C;
- 2) No later than 7 days after notification, provide the landlord, or landlord's agent, with verifiable documentation to support tenant's assertion of financial inability to pay rent because of the conditions identified in subsection C;
- 3) Demonstrate that the decrease in household or business income has not been adequately offset by unemployment insurance, a government COVID-19 stipend, government-sponsored loan or grant financing, or similar COVID-19 financial support; and
- 4) Pay the portion of rent that the tenant is able to pay.

E. 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 and 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.

F. Nothing in this Ordinance is intended to relieve the tenant, or any co-signer to a lease, of liability for the unpaid rent after expiration of this Ordinance.

Section 3. 90-Day Re-Payment Period.

Tenants who were afforded eviction protection under this Urgency Ordinance shall have up to 90 days after the expiration of this Ordinance, including any extensions, to pay their landlord all unpaid rent. During that 90-day period, the protections against eviction found in Section 2 of this Urgency Ordinance apply to such tenants.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 5. CEQA. This Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that the proposed code revisions are technical and/or have no possibility that they may have a significant effect on the environment.

Section 6. Effective Date of Ordinance. Based on the findings set out above and the need for the immediate preservation of public health and safety, this Urgency Ordinance shall have an early effective date pursuant to Government Code section 36937(b), and will take effect immediately upon its adoption.

Section 7. Termination Date of Ordinance. This Urgency Ordinance shall remain in effect until May 31, 2020, unless extended.

DATE: March 26, 2020

ATTEST:

APPROVED:

/s/ Bridget Dory
City Clerk, City of Arcata

/s/ Michael Winkler
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1532, passed and adopted at a special meeting of the City Council of the City of Arcata, Humboldt County, California, held on the 26th day of March, 2020, by the following roll call vote:

AYES: WINKLER, PITINO, PEREIRA, WATSON

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata