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EUREKA POLICE DEPARTMENT

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FOR IMMEDIATE RELEASE

Date Released: December 7, 2018

Subject: New City of Eureka Trespass Ordinance

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Released by: Chief Watson

On December 4, 2018, the Eureka City Council unanimously adopted an amendment to Eureka Municipal Code Chapter 131 (Property Offenses) adding a section relating to the prohibition of trespass upon private property. EMC 131.30 (TRESPASS ON PRIVATE PROPERTY PROHIBITED) provides:

- A. No person may remain upon any private property or business premises after being notified by the owner or lessee or other person in charge thereof to leave the premises.
- B. No person, without the express or implied permission of the owner, the owner's agent, or the lessee, the lessee's agent, or other person in charge of private property or business premises, may re-enter any private property or business premises after having been notified by the owner, the owner's agent, or the lessee, the lessee's agent, or other person in charge thereof to keep off or keep away therefrom.

This section essentially makes it a prohibited trespass on private property or a private business when an individual has been requested to leave the premises by the owner or other person in charge of the property and thereafter refuses to leave or re-enters without permission. This section no longer applies "where more than 365



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days have elapsed since the original notification to leave the premises or to keep off or keep away therefrom.”

EMC 131.30 is derived from an ordinance which was first adopted by the City of San Rafael and more recently by the City of Redding in 2017. The ordinance is crafted to provide limitations so that enforcement is not arbitrary or capricious. It has no application where removal would be in violation of the Unruh Civil Rights Act, or any other provision of law relating to prohibited discrimination against any person on account of that person’s membership in a protected class. It also has no application against those who are on premises for lawful protected activity (i.e., labor picketing, exercise of free speech). Lastly, it has no application in situations where the individual has some other right to be present on the property including, but not limited to, marital disputes, disputes relating to title over the property, landlord/tenant disputes, familial disputes etc.

This ordinance was created because California’s existing trespass statutes are deficient and Eureka’s private property/business owners lacked adequate recourse to laws which provide sufficient means to protect their employees, customers and property from unwelcome persons. Owners and those otherwise in lawful possession of private commercial properties and businesses should have the benefit of laws (like EMC 131.30) established to secure the peaceful enjoyment of such premises and to thereby regulate the conduct of those who enter. The adopted ordinance will assist the City’s commercial businesses in regulating conduct and will provide a tool, which is presently lacking, for the Eureka Police Department to use in their aid.

This Ordinance takes effect thirty (30) days after the date of its adoption and certification by the City Clerk. EPD will judiciously respond to and investigate trespass-related complaints and calls for service. Violation of any provision of this subchapter shall be a misdemeanor offenses but may also be cited and prosecuted as an infraction.

The City has created a Trespass Documentation Form which will be made available at the Eureka Police Department’s front counter and on EPD’s website. (<http://www.ci.eureka.ca.gov/depts/police/default.asp>.)

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