

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 2023-XXX

AN ORDINANCE OF THE CITY OF SAN LEANDRO CITY COUNCIL AMENDING ORDINANCE NO. 2023-001 TO TERMINATE THE CITY'S EVICTION MORATORIUM EFFECTIVE JULY 31, 2023

The City Council of the City of San Leandro does **FIND** as follows:

WHEREAS, a severe outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19 ("COVID-19"); and

WHEREAS, on March 1, 2020, the Health Officer of Alameda County declared a public health emergency throughout the County of Alameda due to COVID-19; and

WHEREAS, on March 4, 2020, the Governor of California proclaimed a state of emergency throughout California related to COVID-19; and

WHEREAS, on March 16, 2020, due to an escalating increase in the number of cases in Alameda County, under San Leandro Municipal Code section 3-4-124, the Director of Emergency Services proclaimed a local emergency and a state of emergency related to COVID-19; and

WHEREAS, on March 16, 2020, at its regular meeting the San Leandro City Council ratified the Director of Emergency Services' proclamation of a local emergency and a state of emergency related to COVID-19; and

WHEREAS, on March 16, 2020, California Governor Gavin Newsom issued Executive Order N- 28-20 suspending any provision of state law that would preempt or otherwise restrict a local government's exercise of its police powers to impose substantive limitations on residential or commercial evictions related to COVID-19; and

WHEREAS, the City Council adopted Ordinance No. 2020-003 as an urgency ordinance on March 23, 2020 to establish a moratorium on residential and commercial evictions due to nonpayment of rent for tenants where the failure to pay rent is from income loss resulting from COVID-19; and

WHEREAS, the eviction moratorium enacted by Ordinance No. 2020-003 was set to expire upon the expiration of the later of the Governor's proclamation of a state of emergency or the City Council's termination of the local emergency, both of which occurred on February 28, 2023; and

WHEREAS, on February 21, 2023, the City Council adopted Ordinance No. 2023-001 extending the moratorium on residential evictions due to nonpayment of rent for tenants where the failure to pay rent is from income resulting from COVID-19 until February 28, 2024 based on findings contained in Ordinance No. 2023-001; and

WHEREAS, at the time the City Council adopted Ordinance No. 2023-001 it directed staff to provide an

update to the City Council every 90 days thereafter on the impacts of the moratorium and related relevant data; and

WHEREAS, the purpose of these reports was for the Council to evaluate whether the eviction moratorium should continue; and

WHEREAS, on May 15, 2023, staff presented the City Council with information regarding the impacts of the eviction moratorium on tenants and landlords within San Leandro, actions taken by other cities with eviction moratoria, the City’s outreach efforts, and related relevant data; and

WHEREAS, after considering the presentation by staff and comments from the public, the City Council directed staff to prepare an ordinance terminating the eviction moratorium; and

WHEREAS, the City Council desires to terminate the eviction moratorium effective July 31, 2023; and

WHEREAS, nothing in this ordinance or Ordinance No. 2023-001 relieves a tenant or mobile home owner of liability for the unpaid accumulated rent; and

WHEREAS, landlords may seek repayment of unpaid rent that accumulated during the eviction moratorium one hundred eighty (180) days after the end of the eviction moratorium, subject to any restrictions contained in state or otherwise applicable law; and

WHEREAS, the City Council desires to establish a date for terminating the moratorium on residential evictions first adopted in March 2020 in response to the COVID-19 pandemic, and provide notice to residential tenants and landlords of the planned termination of the moratorium.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN LEANDRO, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. **Findings**

The City Council of the City of San Leandro finds that all Recitals are true and correct and incorporated herein by reference.

SECTION 2. **Ordinance**

The City Council hereby makes the findings contained herein and hereby amends uncodified Ordinance No 2023-001 to read as follows (with additions underlined):

Section 1. **Moratorium on Eviction for Nonpayment of Rent to Address the Effects of COVID-19 after the Lifting of the Local State of Emergency**

A. During the term of this Ordinance, no landlord shall endeavor to evict a residential tenant and mobile homeowner for nonpayment of rent, including but not limited to any such provision under Civil Code sections 798.56 et seq., 1940 et. seq., or 1954.25 et. seq., if the tenant, or mobile homeowner demonstrates that the inability to pay rent is:

1. Due to, or arising out of a substantial decrease in household or business income (including but not limited to the circumstances described in subsections B and C) or substantial out-of-pocket medical expenses; and
2. The decrease in household or business income, or the substantial out-of-pocket medical expenses, was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented in writing.

For the purposes of this Ordinance, mobile homeowner also means recreational vehicle (RV) owner.

B. “Substantial decrease in household income” includes but is not limited to income loss caused by COVID-19 illness or caring for a household or family member with COVID-19 illness, work closures, layoffs, job loss, a reduction in the number of compensable hours or other economic or employer impacts of COVID-19, missing work due to a minor child’s school or day care closure, compliance with government health authority orders, or other similarly-caused reason resulting in loss of household income due to COVID-19, substantiated with written documentation or other objectively verifiable proof of same.

C. “Substantial decrease in business income” includes, but is not limited to, income loss caused by work closures, reduction in staff reporting to work, reduction in opening hours, or reduction in consumer demand, compliance with government health authority orders, or other similarly-caused reason resulting in loss of business income due to COVID-19, substantiated with written documentation or other objectively verifiable proof of same.

D. A landlord who knows that a tenant or mobile homeowner cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure sections 1161 or 1162, as applicable, file or prosecute an unlawful detainer action based on a three-day pay or quit notice, or otherwise seek to evict for nonpayment of rent.

E. A landlord knows of a tenant’s or mobile homeowner’s inability to pay rent within the meaning of this Ordinance if the tenant or mobile homeowner, within 30 days after the date that rent is due, notifies the landlord in writing of tenant’s or mobile homeowner’s inability to pay full rent because of a substantial decrease in household or business income or out-of-pocket medical expenses was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and provides documentation to support the claim. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant’s or mobile homeowner’s claim.

F. Nothing in this Ordinance relieves the tenant or mobile homeowner of liability for the unpaid rent, which the landlord may seek after the expiration of this Ordinance, and the tenant or mobile homeowner must pay within one hundred eighty (180) days of the date of expiration of this Ordinance, unless a state or otherwise applicable law or order is amended or adopted providing for a longer period, in which case this subsection shall be so superseded.

G. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in

this Ordinance, nor may a landlord seek rent that is delayed for the reasons stated in this Ordinance through the eviction process.

H. This Ordinance may be asserted as an affirmative defense in any unlawful detainer action or other action brought by an owner or landlord to recover possession. A tenant or mobile homeowner may bring a civil suit seeking owner or landlord compliance with any provisions of this Ordinance.

Section 2. Moratorium on Judicial Foreclosures To Address the Effects of the COVID-19 Emergency after the Lifting of the Local State of Emergency

Consistent with the other provisions in this ordinance, the statutory cause of action for judicial foreclosure, Code of Civil Procedure section 725a et seq.; the statutory cause of action for unlawful detainer, Code of Civil Procedure section 1161 et seq.; and any other statutory cause of action that could be used to evict or otherwise eject a residential, or mobile homeowner, or occupant of residential real property after foreclosure is hereby suspended as applied to any tenancy, or residential real property and any occupation thereof, to which a limitation on eviction is imposed pursuant to this Ordinance.

Section 3. Landlord Submittal of Documentation to City

Within five calendar days of receipt from a tenant of the notice and documentation required by Section 1.E., the landlord shall report to the City, on a form provided by the City, the fact that the tenant submitted to the landlord the notice and documentation required by Section 1.E. The failure of a landlord to provide the report to the City shall be grounds for enforcement under San Leandro Municipal Code Chapter 1-12.

Section 4. Term of Moratorium

The moratorium on evictions established by Section 1(A) and the moratorium on judicial foreclosures established by Section 2 herein shall terminate at 11:59 PST on July 31, 2023. The one hundred eighty (180) day period established by Section 1(F) shall commence on August 1, 2023.

SECTION 3. ENVIRONMENTAL REVIEW Adoption of this Ordinance is exempt from further review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA guidelines Section 15061(b)(3). As an amendment allowing tenants and mobile home owners more time to make past due rent payments, it can be seen with certainty that this Ordinance will have no impact on the environment.

SECTION 4. SEVERABILITY If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 5. **EFFECTIVE DATE** This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

Introduced at a first reading by Councilmember _____ and passed to print on the 5th day of June 2023 by the following called vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Kelly B. Clancy, CMC
City Clerk