

**..Title**

**AN ORDINANCE** of the City of San Leandro City Council To Extend the Time Period for Repayment of Unpaid Rent that Accumulated During the City’s Residential Eviction Moratorium to One Year

**..Body**

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 Governor’s proclamation of a state of emergency is set to expire on February 28, 2023; and

**WHEREAS**, the City Council intends to terminate the local emergency concurrently with the expiration of the Governor’s proclamation of a state of emergency; and

**WHEREAS**, the eviction moratorium enacted by Ordinance No. 2020-003 expires upon the expiration of both the Governor’s proclamation of a state of emergency and the City Council’s

termination of the local emergency, which is currently scheduled to occur on February 28, 2023; and

**WHEREAS**, Ordinance No. 2020-003 provides that, upon the expiration of the eviction moratorium, tenants and mobile home owners have a maximum of 180 days to repay rent that accumulated during the period of the eviction moratorium, but which has not yet been paid; and

**WHEREAS**, the COVID-19 pandemic has persisted longer than the City Council anticipated when it enacted Ordinance No. 2020-003, which contemplated that the Governor's emergency declaration and the local emergency declaration might end earlier than May 31, 2020; and

**WHEREAS**, in February 2020 the unemployment rate in Alameda County was 2.9%, but layoffs due to COVID-19 caused the unemployment rate to rise to 14.1% in April 2020, the highest rate since before World War II; and

**WHEREAS**, the unemployment rate in Alameda County remained above 8% for 6 months, and did not drop below 5% for 18 months; and

**WHEREAS**, high unemployment was one of multiple factors that caused a substantial decrease in the household income of many households in San Leandro, and this decrease in income prevented these households from paying rent for an extended period of time; and

**WHEREAS**, because the impacts of the COVID-19 pandemic lasted longer than originally anticipated, the amount of rent that accumulated during the eviction moratorium is greater than was anticipated when Ordinance No. 2020-003 was originally enacted; and

**WHEREAS**, requiring households to repay the entirety of the accumulated rent within a maximum of 180 days will cause severe financial hardship; and

**WHEREAS**, this financial hardship is exacerbated by ongoing high levels of inflation, which make purchasing necessary household goods like food, clothes, gasoline and medications substantially more expensive for households; and

**WHEREAS**, the strain on household finances due to the necessity of repaying all accumulated rent within a maximum of 180 days can cause stress and anxiety to those impacted, and can cause families to skip meals, ration medications, and cease purchasing other goods and services that are vital for maintaining their health and safety; and

**WHEREAS**, the City Council desires to extend the period for repayment of rent accumulated during the eviction moratorium from a maximum of 180 days to one year; and

**WHEREAS**, the additional time for repayment will ease the financial hardship on families and help prevent those households from having to take drastic action to make payments; and

**WHEREAS**, nothing in this ordinance relieves a tenant or mobile home owner of liability for the unpaid accumulated rent; and

**WHEREAS**, the City Council finds and determines that extending the time period for tenants to repay outstanding rent that accumulated during the eviction moratorium and declared state and local emergencies serves the public peace, health, welfare and safety.

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

**SECTION 1.**    **Findings.** The City Council of the City of San Leandro finds that all of the above Recitals are true and correct and incorporated herein by reference.

**SECTION 2.**    **Moratorium on Eviction for Nonpayment of Rent During the COVID-19 Emergency**

A.                No landlord shall endeavor to evict a residential or mobile homeowner tenant 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 i. and ii.) or substantial out-of-pocket medical expenses; and
2.                The 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 is documented in writing.

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

i.                “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.

ii.                “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.

B. 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.

C. 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.

D. 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 365 days, unless a state law or order is amended or adopted providing for a longer period, in which case this subsection shall be so superseded.

E. 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.

F. 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.

G. This Ordinance relates to Urgency Ordinance No. 2020-003 that was immediately effective upon its adoption pursuant to City of San Leandro Municipal Code section 1-1-345(b) on March 23, 2020. Ordinance No. 2020-003 remains in effect until the expiration of the local emergency or the Governor's proclamation of a state of emergency, whichever is later. If this Ordinance is adopted, upon its effective date it shall supersede Ordinance No. 2020-003 to the extent applicable.

H. Sections (A)-(C) of this Ordinance shall terminate upon the expiration of the local emergency or the Governor's proclamation of a state of emergency, whichever is later.

**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 AND PUBLICATION.** 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.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_ day of February, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

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