

..Title

AN ORDINANCE of the City of San Leandro City Council To Extend the City’s Eviction Moratorium to February 28, 2024.

..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 eviction moratorium enacted by Ordinance No. 2020-003 expires 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 are currently scheduled to occur on February 28, 2023; and

WHEREAS, notwithstanding the end of the state of emergency and the local emergency, COVID-19 continues to be a threat to public health. As of February 9, 2023, according to Alameda County Public Health, an average of 161 cases per day were reported, a 34 percent increase

from the average two weeks prior. In San Leandro, as of February 9, 2023, there have been 1,956 probable cases of COVID-19 infection; and

WHEREAS, COVID-19 will remain unpredictable, especially as variants emerge, as reported in CNRS News on April 10, 2022, quoting Samuel Alizon, a specialist in the modelling of infectious diseases, “Although some underlying trends are becoming apparent, the progression of variants remains largely unpredictable. The Alpha strain appeared when most epidemiologists thought that the evolution of SARS-CoV-2 was only neutral. At a time when there were fears that mutants of Alpha might surface and escape immunity, Delta emerged and replaced it. And when monitoring focused on Delta clusters carrying worrying mutations, Omicron took over even more rapidly; and

WHEREAS, despite widespread availability of vaccines and that 87.7% of individuals in San Leandro have received the primary vaccine series, and 62.7% have received the primary series and both vaccine boosters, only 31.4% of San Leandro residents are estimated to have received the bivalent booster, which may affect infection rates especially if sub-variants are resistant to the primary and secondary dosages; and

WHEREAS, this Ordinance is a temporary moratorium intended to promote stability and fairness within the residential rental market in the City as residents continue to recover from and address the effects on daily life as COVID-19 shifts from pandemic to endemic, thereby preserving the public peace, health, safety, and welfare by enabling tenants in the City whose incomes and ability to work are affected by COVID-19 to remain in their homes and to prevent avoidable homelessness; and

WHEREAS, according to the City’s consultant, Centro Legal de La Raza (Centro Legal), reports by San Leandro tenants of threats of displacement, which included unlawful detainer, unable to pay rent, notice of termination of tenancy, COVID-19 impacts, landlord harassment, rent increase, repairs necessary for health or safety, and unfair or illegal behavior by the landlord went from 45 in 2019, to 39 in 2020, to 97 in 2021, to 102 in 2022; and

WHEREAS, Centro Legal reports that the unplanned strain on household finances due to the necessity of repaying accumulated rent because of COVID-19 can cause stress and anxiety to those impacted, and can cause families to skip meals and basic food purchases, 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 eviction moratorium to February 28, 2024, a date certain; and

WHEREAS, the additional time provided by this ordinance related to temporary eviction protection and for repayment of accumulated unpaid rent due to the pandemic will most likely allow families to remain in their homes and prevent avoidable homelessness, which would reduce impacts on already strained city and county homeless shelters and social services dedicated to serving the unhoused; and

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

WHEREAS, nothing in this ordinance prevents a tenant from being evicted for breach of contract, endangerment of life or property, the Ellis Act (Govt. Code Section 7060 et seq.), or reasons other than accumulated unpaid rent due to the effects of the COVID-19 pandemic; 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 due to COVID-19 serves the public peace, health, welfare and safety in San Leandro.

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 adopts this uncodified Ordinance to read as follows.

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 eight (180) days of the date of expiration of this Ordinance, unless a state 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. 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, and remain in effect until 11:59 P.M. PST February 28, 2024, whereupon it shall automatically terminate. 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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