



# City of San Leandro

Meeting Date: September 7, 2021

## Staff Report

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**File Number:** 21-482

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.B.

**TO:** City Council

**FROM:** Fran Robustelli  
City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report for a City of San Leandro City Council Urgency Ordinance Amending Ordinance No. 2020-003 to Change the Termination Date of the Moratorium on Evictions Due to Nonpayment of Rent for Commercial Tenants Where the Failure to Pay Rent is from Income Loss Resulting from the Novel Coronavirus (COVID-19) to Align with the State of California's Commercial Eviction Moratorium

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### SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve and adopt an Urgency Ordinance Amending Ordinance No. 2020-003 to Change the Termination Date of the Moratorium on Evictions Due to Nonpayment of Rent for Commercial Tenants Where the Failure to Pay Rent is from Income Loss Resulting from the Novel Coronavirus (COVID-19) to align with the State of California Commercial Eviction Moratorium, which is scheduled to expire September 30, 2021.

### BACKGROUND

On March 4, 2020, Governor Newsom proclaimed a state of emergency in California, and on March 16, 2020 the San Leandro City Council ratified the Director of Emergency Services' proclamation of a local emergency related to the novel Coronavirus ("COVID-19").

On March 16, 2020, under Executive Order N-28-20, the Governor allowed individual cities and counties to enact eviction moratoriums to protect residents and commercial tenants suffering COVID-19 related financial hardship. The Executive Order suspended provisions of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential and commercial evictions due to specified financial burdens caused by COVID-19. The pertinent portions of Executive Order N-28-20 related to commercial evictions have been extended several times, most recently through September 30, 2021 via Executive Order N-08-21.

On March 23, 2020, the City of San Leandro City Council adopted an Urgency Ordinance

imposing within the City of San Leandro a temporary moratorium on evictions due to nonpayment of rent for mobile homeowners, and residential and commercial tenants where the failure to pay rent is from income loss resulting from COVID-19. The ordinance went into effect immediately, with the ability to remain in effect until May 31, 2020 or the expiration of the local state of emergency or the Governor's proclamation of a state of emergency, whichever is later.

As a result of the state of emergency and resulting government restrictions surrounding COVID-19, many residential and commercial tenants experienced income loss, leaving tenants vulnerable to eviction. During this state of emergency, and in the interests of protecting the public health and welfare, and to help prevent transmission of the coronavirus, the eviction moratorium helped to avoid unnecessary displacement, business closures, and homelessness. The eviction moratorium acts as a deterrent to landlords initiating eviction proceedings, as it provides a tenant a substantive defense if an eviction proceeding (an unlawful detainer) were filed against the tenant for non-payment of rent and they could demonstrate that the non-payment of rent was due to the substantial loss of income due to COVID-19.

As outlined in the ordinance, once the eviction moratorium expires, the following terms will apply:

- Notification - In order to be protected under the moratorium, tenants must notify their landlord within 10 days after the rent is due of their inability to pay full rent because of a substantial decrease in household or business income, or increase in out-of-pocket medical expenses, due to the pandemic and/or governmental response, and provides documentation to support the claim.
- Rent Due - Nothing in the ordinance, would relieve tenants from the obligation to pay past due rent. Tenants would have 120 days to repay past due rent ('repayment period'). However, a tenant could have an additional 60 days, for a total of 180 days, if within 10 days after the repayment period, the tenant notifies the landlord in writing of the tenant's inability to pay full rent due to a COVID-19 related decrease in income, as defined in the ordinance.
- Fees - A landlord may not charge or collect a late fee for rent that is delayed due to COVID-19 related income loss.
- Alternate Arrangements - The ordinance allows landlords and tenants to voluntarily negotiate payment agreements which may be longer or more lenient than outlined in the ordinance.

**NOTE - The proposed amendment does *not* impact San Leandro's residential eviction moratorium. While the State of California's residential eviction moratorium is set to expire on September 30, 2021, San Leandro's local residential eviction moratorium may remain in effect until the later of the expiration of the local state of emergency or the Governor's proclamation of a state of emergency. A 60-day extension of San Leandro's local state of emergency is proposed for approval at this meeting of September 7, 2021.**

### **Analysis/Discussion**

Approval of this ordinance aligns the date of expiration of San Leandro's *commercial* eviction moratorium to that of the State of California, consistent with the Governor's Executive Order N-08-21. If approved, the protections of the local eviction moratorium for commercial tenants would apply through September 30, 2021; and would be extended automatically if any future state

Executive Orders are enacted to extend the local authority to enact local eviction moratoriums further.

With ever changing regulations at the national, state and county level over the past year, there has been confusion amongst commercial landlords and tenants as to the timing and applicability of San Leandro's commercial eviction moratorium. Aligning the expiration of the commercial eviction moratorium with that of the state will provide consistency and certainty for commercial tenants and landlords in San Leandro. Additionally, this timeline will be consistent with that of other Bay Area municipalities, including those surrounding San Leandro, and unincorporated Alameda County.

The goal of the local *commercial* eviction moratorium was to reduce the risk of business closures due to the pandemic, particularly while businesses were required to be closed for many months, and to allow businesses additional time to generate business income to stay current with rent owed, as well as pay any deferred rent.

On June 11, 2021, the Governor issued Executive Order N-07-21, which formally ended the Stay-at-Home Order and removed restrictions on businesses and activities that were in place under the 'Blueprint for a Safer Economy' framework, allowing businesses to fully reopen. The ending of restrictions had a particular impact on service, retail, and other customer-facing businesses, which were first required to close, then had various levels of customer and operating restrictions, such as occupancy and indoor dining restrictions, respectively.

On April 15, 2021, vaccines became widely available to all Californians 16 and over, and on May 12, 2021, the vaccine became available to all 12 and over. Since that time, millions of Californians have become fully vaccinated, including over 56,600 San Leandrans, which is 73.7% of residents 12 and over.

While the number of vaccinated individuals continues to increase, the rise of the COVID-19 Delta variant has led to a rapid increase in case rates. As of August 23, 2021, the case rate in Alameda County is approximately 6,400 per 100,000 in population. While vaccinated individuals are known to have contracted the Delta variant, the vaccine has been shown to protect against serious disease and the vast majority of those hospitalized are unvaccinated.

Health officials have found that, with proper precautions, in particular masking, individuals may visit businesses. As such, businesses in Alameda County are permitted to fully operate in line with State of California regulations. However, Alameda County has required that all individuals, regardless of vaccination status, must wear masks indoors and recommended that they do so in certain outdoor settings. It is not anticipated that there will be further business restrictions or a shelter-in-place order at this time. However, if the state puts additional businesses restrictions in place, the state, and in turn the local, commercial eviction moratorium may be extended as well.

### Business Support

In preparation for the ending of the *commercial* eviction moratorium, Economic Development staff are working diligently to gather resources and information to support businesses who are behind on rent.

Among the next steps that staff will take to help businesses and property owners prepare for the ending of the commercial eviction moratorium are:

- Notification - perform broad outreach to let businesses and property owners know about the end date of the moratorium.
- Information - provide information on the details of the eviction moratorium, what the procedures are to participate, what tenant's rights are, etc.
- Assistance - connect businesses with no or low-cost assistance in working with their landlords, including free legal resources, webinars, etc.
- Funding - inform businesses of available funding and programs to assist in rent repayment, increasing customer base, marketing/online presence, and more. This includes information on the California Small Business Grant program.

It is unclear exactly how many businesses are behind on rent in San Leandro. However, a national small business survey done by Small Business Majority in early 2021 found that 25% of respondents were 3 or more months behind on rent. Similar results were seen in the San Leandro Small Business Survey, where 22% of respondents indicated that they were behind on rent. If this rate were applied to all 'brick-and-mortar' businesses in San Leandro, over 1,000 businesses could be behind on rent.

While technical and financial assistance is available, more is needed. With many small service businesses required to be totally closed and not receiving income for over 8 months, and the high costs to operate in the Bay Area, businesses' needs greatly exceed available funding. While many San Leandro businesses participated in available federal, state, and local grant and loan programs, many have not successfully utilized the programs or found the funding to be only 'a drop in the bucket' of their needs. This is seen in San Leandro's Small Business Survey, where 23% of respondents had received no COVID-19 financial assistance and the top two areas that businesses said it would be helpful to receive assistance with going forward were additional grant funds (69%) and assistance applying for funds (44%).

Staff continues to evaluate businesses' needs and available funding and in the coming month will propose an allocation of San Leandro's available federal and state funding, such as that from the American Rescue Plan Act (ARPA), to assist businesses. This is expected to include small business grants, technical assistance, and online marketing assistance, among other things.

### **Legal Analysis**

The City Attorney drafted the urgency ordinance. This Ordinance is proposed and drafted pursuant to the City's general police powers, section 1-1-345(b) of the City of San Leandro Municipal Code, and Article XI of the California Constitution.

### **Fiscal Impacts**

There is no impact to the General Fund. The ordinance could be relied upon as an affirmative defense in a court proceeding for an unlawful detainer action. Therefore, there is no staff work associated with implementing the ordinance other than providing notifications to the community, the cost of which will be absorbed by existing departmental budgets.

**ATTACHMENT(S)**

**Attachment(s) to Staff Report**

- None

**Attachment(s) to Related Legislative Files**

- None

**PREPARED BY:** Katie Bowman, Economic Development Manager



# City of San Leandro

Meeting Date: September 7, 2021

## Urgency Ordinance

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**File Number:** 21-483 **Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Fran Robustelli  
City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** AN URGENCY ORDINANCE of the City of San Leandro City Council Amending Ordinance No. 2020-003 to Change the Termination Date of the Moratorium on Evictions Due to Nonpayment of Rent for Commercial Tenants Where the Failure to Pay Rent is from Income Loss Resulting from the Novel Coronavirus (COVID-19)

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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**, on June 11, 2021, the Governor issued Executive Order N-08-21 that extended the portions of Executive Order N-28-20 concerning commercial evictions only until September 30, 2021; and

**WHEREAS**, the suspension of any provision of state law that would preempt or otherwise restrict the City's exercise of its police power to impose substantive limitations on commercial evictions due to specified financial burdens caused by COVID-19 will expire on September 30, 2021; and

**WHEREAS**, the City Council desires to align the City's commercial eviction moratorium with the expiration of the Governor's Executive Order N-28-20 authorizing local jurisdictions to enact commercial eviction moratoriums, and finds that it is in the public interest to align with the timelines of the Governor's order, as amended from time to time, for consistency, certainty, and efficiency; and

**WHEREAS**, San Leandro Municipal Code section 1-1-345(b) authorizes the City Council to introduce and adopt an ordinance it declares to be necessary as an emergency measure to preserve the public peace, health, and safety at one and the same meeting; and

**WHEREAS**, this Ordinance is intended to promote consistency and certainty for commercial tenants and property owners in San Leandro by aligning the City's ordinance with the expiration of the protections authorized by Executive Order N-28-20; and

**WHEREAS**, the City Council finds and determines that regulating the relations between commercial landlords and tenants is essential to preventing the spread of COVID-19 in the City and thereby serves the public peace, health, welfare and safety; and

**WHEREAS**, an urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, welfare, and safety as failure to adopt this urgency ordinance could result in the avoidable displacement due to confusion regarding the expiration of the protections for commercial tenants authorized by Executive Order N-28-20.

**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. Urgency Findings**

The City Council of the City of San Leandro hereby finds that there is a current and immediate threat to the public health, safety and welfare and a need for immediate preservation of the public peace, health, welfare and safety that warrants this urgency ordinance, which is based upon the facts stated in the recitals above, and in the staff report dated September 7, 2021, as well as any oral and written testimony at the September 7, 2021 City Council meeting. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health, welfare, and safety.

**SECTION 3. Amendment to Commercial Eviction Moratorium**

The City Council hereby amends Section 5 of Ordinance No. 2020-003 to read as follows (with additions underlined and deletions in ~~strikethrough~~):

**"SECTION 5. Effective Date**

This Urgency Ordinance shall become effective immediately upon its adoption pursuant to City of San Leandro Municipal Code section 1-1-345(b) and shall remain in effect as follows:

1. As to the portions concerning commercial tenants, until September 30, 2021 or

the expiration of portions of Executive Order N-28-20 concerning commercial evictions, whichever is later; and

2. As to all other provisions of the Urgency Ordinance, until May 31, 2020 or the expiration of the local emergency or the Governor’s proclamation of a state of emergency, whichever is later.”

**SECTION 4. Severability**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 5. Effective Date**

This Urgency Ordinance amending Ordinance No. 2020-003 shall become effective immediately upon its adoption pursuant to City of San Leandro Municipal Code section 1-1-345(b).



**IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO**

**ORDINANCE NO. 2020-003**

**AN URGENCY ORDINANCE OF THE CITY OF SAN LEANDRO UNDER SAN LEANDRO MUNICIPAL CODE SECTION 1-1-345(B) ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL AND COMMERCIAL TENANTS WHERE THE FAILURE TO PAY RENT IS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19)**

**WHEREAS**, international, national, state, and local health and governmental authorities are responding to an 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 January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern, and on January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

**WHEREAS**, on January 23, 2020 the CDC activated its emergency response system to provide ongoing support for the response to COVID-19 in the United States; and

**WHEREAS**, on January 31, 2020, the Secretary of the United States Department of Health and Human Services declared a public health emergency for the entire United States to aid the nation’s healthcare community in responding to COVID-19; and

**WHEREAS**, on February 25, 2020, the Centers for Disease Control and Prevention announced that community spread of COVID-19 is likely to occur in the United States; and

**WHEREAS**, on March 1, 2020, the Health Officer of Alameda County declared a public health emergency throughout the County of Alameda; and

**WHEREAS**, on March 4, 2020, the Governor of California proclaimed a state of emergency exists in California after making determinations that:

1. The conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and
2. Local authority is inadequate to cope with the threat posed by COVID-19; and

**WHEREAS**, on March 12, 2020, the Alameda County Department of Public Health confirmed evidence of community-acquired transmission; and

**WHEREAS**, on March 13, 2020, the President of the United States of America declared a national state of emergency in response to the spread of COVID-19 within the United States of

America; and

**WHEREAS**, on March 16, 2020, seven health officers within six Bay Area counties, including Alameda County, took a unified step to slow the spread of novel coronavirus (COVID-19) and preserve critical health care capacity across the region by issuing a legal order directing their respective residents to shelter at home for three weeks beginning March 17, 2020. The order limits activity, travel, and business functions to only the most essential needs. The guidance comes after substantial input from the U.S. Centers for Disease Control and Prevention (CDC) and best practices from other health officials around the world; 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 ordering waiver of time limitations set forth in Penal Code section 396(f) concerning protections against residential evictions, and suspending 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 related to COVID-19. The order further suspended statutory causes of action for judicial foreclosure, including 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 commercial tenant or occupant of residential real property after foreclosure; and

**WHEREAS**, both large and smaller events across the Bay Area and in San Leandro are cancelling or being postponed due to the County's and State's Orders and recommendations at all levels of government to cancel large gatherings are occurring amid concerns over spread of the virus. These cancellations and postponements cause loss in revenue for the event, as well as surrounding local businesses that rely on such events to bring in patrons to their businesses; and

**WHEREAS**, California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the public health, safety, and general welfare of their citizens; and

**WHEREAS**, San Leandro Municipal Code section 1-1-345(b) authorizes the City Council to introduce and adopt an ordinance it declares to be necessary as an emergency measure to preserve the public peace, health, and safety at one and the same meeting; and

**WHEREAS**, this Ordinance is a temporary moratorium intended to promote stability and fairness within the residential and commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness and evictions thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose incomes and ability to work are affected by COVID-19 to remain in their homes and businesses; and

**WHEREAS**, displacement through eviction destabilizes the living situation of tenants, impacts the health of San Leandro residents, and detrimentally affects the conduct of commerce and business, disrupting the social ties and networks that are integral to citizens' welfare, businesses, and the stability of all communities within the City; and

**WHEREAS**, displacement through eviction creates undue hardship for tenants through additional relocation costs, and during the COVID-19 pandemic outbreak, affected tenants who have lost income due to impacts on the economy or their employment may be at risk of homelessness or business loss, closure or bankruptcy if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing or business operation space if evicted; and

**WHEREAS**, housing instability threatens the public peace, health, and safety as eviction from one's home can lead to prolonged homelessness; strain on household finances due to the necessity of paying rental application fees and security deposits; stress and anxiety experienced by those displaced; interruption of the education of children in the home; and increased exposure to, and spreading of COVID-19, in contradiction to the Alameda County Health Officer's orders; and

**WHEREAS**, businesses are also affected by COVID-19 and may be unable to pay rent. If businesses are unable to pay rent, they may be evicted, which will negatively impact the local economy by laying off employees and ceasing to provide services to residents of the City, and negatively impacting local health by forcing persons out of their shelter-in-place locations to prepare for business eviction, increasing potential COVID-19 exposure, and reducing the number of retail and commercial spaces available to provide essential services, also increasing potential COVID-19 exposure as a result of less retail and commercial spaces available for residents and thus less space available for social distancing; and

**WHEREAS**, the City Council finds and determines that regulating the relations between residential and commercial landlords and tenants is essential to preventing the spread of COVID-19 in the City and thereby serves the public peace, health, welfare and safety; and

**WHEREAS**, an urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, welfare, and safety as failure to adopt this urgency ordinance could result in the avoidable displacement or exposure to COVID-19 of the City's residents and community members.

**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. The provisions of the Governor's Executive Order N-28-20 (March 17, 2020), including its recitals, are incorporated herein as if fully set forth.

**SECTION 2. URGENCY FINDINGS**  
The City Council of the City of San Leandro hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, welfare and safety that warrants this urgency ordinance, which finding is

based upon the facts stated in the recitals above, and in the staff report dated March 23, 2020, as well as any oral and written testimony at the March 23, 2020 City Council meeting. This Ordinance and any moratorium that may be established thereunder is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health, welfare, or safety. The facts constituting such urgency are all of those certain facts set forth and referenced in this Ordinance and the entirety of the record before the City Council.

### **SECTION 3. ORDINANCE**

The City Council hereby makes the findings contained herein and hereby adopts the uncodified Ordinance to read as follows.

#### **COVID-19 Eviction Moratorium Ordinance**

##### **Section 1. Moratorium on Eviction for Nonpayment of Rent During the COVID-19 Emergency**

A. During the term of this Ordinance, no landlord shall endeavor to evict a residential, mobile homeowner, or commercial 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 B and C) 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.

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 10 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 120 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. A tenant or mobile homeowner shall have an additional 60 days, for a total of 180 days, if within 10 days after the 120th day after the expiration of this Ordinance, the tenant or mobile homeowner 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 to substantiate the need for additional time after the first 120 days shall be held in confidence, and only used for evaluating the tenant's or mobile homeowner's claim for the additional 60 days to pay any unpaid rent.

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 During the COVID-19 Emergency**

As provided for in Executive Order N-28-20 and 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 commercial tenant 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 4. SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 5. EFFECTIVE DATE**

This Urgency Ordinance shall become effective immediately upon its adoption pursuant to City of San Leandro Municipal Code section 1-1-345(b) and shall remain in effect until May 31, 2020 or the expiration of the local emergency or the Governor's proclamation of a state of emergency, whichever is later.

Introduced by Mayor Cutter and passed and adopted this 23rd day of March 2020 by the following called vote:

Members of the Council:

AYES: Councilmembers Aguilar, Ballew, Cox, Hernandez, Lee, Lopez, Mayor Cutter (7)

NOES: None (0)

ABSENT: None (0)

ATTEST: \_\_\_\_\_  
Leticia I. Miguel, City Clerk