



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
ECONOMIC & CIVIC DEVELOPMENT DEPARTMENT

Chris Bazar
Agency Director

Agenda Item 14 December 8, 2020

November 24, 2020

Eileen Dalton
Director

Honorable Board of Supervisors
Administration Building
1221 Oak Street, Suite 536
Oakland, California 94612

224 West Winton Ave
Room 109

Hayward, California
94544-1215

Dear Board Members:

phone
510.670.5333
fax
510.670.6105

**SUBJECT: AMEND TEMPORARY MORATORIUM ON COMMERCIAL
EVICTIONS IN UNINCORPORATED ALAMEDA COUNTY DUE
TO BUSINESS INCOME LOSSES RESULTING FROM COVID-19**

www.acgov.org/cda

RECOMMENDATIONS:

Amend the current urgency ordinance, extending a temporary moratorium on commercial evictions in the unincorporated area of the County of Alameda due to business income losses resulting from COVID-19 through March 31, 2021.

SUMMARY/DISCUSSION:

Your Board adopted an urgency ordinance providing a temporary moratorium on commercial evictions in the unincorporated areas of the County on April 21, 2020 (Ordinance No. 2020-22; Item No. 6.3) through July 20, 2020 and extended the ordinance through September 30, 2020 (Ordinance No. 2020-40; July 14, 2020; Item No. 27) and again through December 31, 2020 (Ordinance No. 2020-50; September 22, 2020; Item No. 51).

On May 29, 2020, the Governor of the State of California issued Executive Order N-66-20 which extended to July 28, 2020 the pertinent portions of Executive Order N-28-20, thereby 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 due to specified financial burdens caused by COVID-19. On June 30, 2020, the Governor issued Executive Order N-71-20 extending to September 30, 2020 the same pertinent portions of Executive Order N-28-20. On September 23, 2020, the Governor issued Executive Order N-80-20 extending to March 31, 2021 the pertinent portions of Executive Order N-28-20 that relate to commercial evictions.

Businesses throughout the unincorporated area, including Castro Valley, San Lorenzo, Cherryland, Ashland, Fairview, Sunol and East County, have been suffering enormous losses caused by the need for the Shelter-in Place order, and these losses have

continued to mount. Even though essential businesses have been open since the original Shelter-in-Place order, most businesses have suffered serious economic damage, ranging from significant drop in sales, to reducing hours and laying off employees, to closing altogether. Businesses that remain open still face the same fixed costs. Rents are still due, businesses that own their properties still have mortgage payments, and business-related taxes and employees still need to be paid.

The ordinance still allows landlords and tenants to voluntarily negotiate payment agreements. Nothing in the ordinance, or this subsequent extension, would relieve tenants from the obligation to pay past due rent, but, by protecting commercial tenants from evictions, this ordinance will serve the public peace, health, safety, and public welfare.

Key provisions of the moratorium are:

1. Expiration Date: The moratorium would expire on March 31, 2021.
2. Noticing Requirements: Tenants would be required to notify landlords of inability to pay rent that is due within 15 days after the rent is due. Tenants must also provide documentation to their landlords that support claims of inability to pay due to the COVID-19 pandemic. Examples of documentation include, without limitation: a statement signed under penalty of perjury that the inability to pay is due to a Covered Reason for Delayed Payment as defined herein; documents showing reduced business income; and correspondence by a business owner citing COVID-19 as a basis for reduced business hours or business closure. Any financial information provided to the landlord shall be held in confidence, and only used for evaluating a tenant's claim.
3. Repayment Period: Tenants would have 90 days from the date the moratorium expires to pay rent that has not been paid. It also specifies that landlords cannot charge late fees or assess other penalties for unpaid rent.

Finally, this ordinance provides that no landlord may evict a commercial tenant in the unincorporated area of the County, require a commercial tenant to vacate their premises, or retaliate against a commercial tenant for nonpayment of their rent. Violation of this ordinance is an absolute defense to any unlawful detainer action or other proceeding to recover possession of the residence. Violation of this ordinance is considered a misdemeanor. Landlords or lenders that fail to comply are subject to a fine of \$1,000 per violation and may be subject to civil proceedings.

If approved by your Board, this ordinance takes immediate effect and its protections would apply through March 31, 2021.

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FINANCING:

There will be no increase in net county cost as a result of this action.

VISION 2026 GOAL:

A commercial eviction moratorium for the unincorporated areas of the County meets the 10X goal pathway of **Employment for All** in support of our shared vision of a **Prosperous and Vibrant Economy**.

Very truly yours,

DocuSigned by:

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Chris Bazar, Director
Community Development Agency

cc: Each member, Board of Supervisors
Susan S. Muranishi, County Administrator
Melissa Wilk, Auditor-Controller
Donna R. Ziegler, County Counsel
Heather Littlejohn, Office of the County Counsel
Jennifer Schulz, County Administrator's Office
Sandra Rivera, Community Development Agency