



# City of Emeryville

CALIFORNIA

## MEMORANDUM

**DATE:** April 21, 2020

**TO:** Mayor Patz and Members of the City Council

**FROM:** Michael Guina, City Attorney

**SUBJECT:** **An Ordinance Of The City Council Of The City Of Emeryville Enacting A Temporary Moratorium On Residential And Commercial Evictions Due to Nonpayment Of Rent And Residential Foreclosures Initiated by Homeowner's Associations Where The Failure To Pay Rent Or Assessments Results From Income Loss Due To The Novel Coronavirus (COVID-19) Pandemic; CEQA Determination: Exempt Pursuant to California Public Resources Code Section 21080(b)(4) and State CEQA Guidelines 15269(c) and 15061(b)(3)**

**An Urgency Ordinance Of The City Council Of The City Of Emeryville Enacting A Temporary Moratorium On Residential Evictions; And A Temporary Moratorium On Commercial Evictions Due to Nonpayment Of Rent And Residential Foreclosures Initiated by Homeowner's Associations Where The Failure To Pay Rent Or Assessments Results From Income Loss Due To The Novel Coronavirus (COVID-19) Pandemic; And Rescinding Ordinance No. 20-002. CEQA Determination: Exempt Pursuant to California Public Resources Code Section 21080(b)(4) and State CEQA Guidelines 15269(c) and 15061(b)(3)**

## RECOMMENDATION

Staff recommends that the City Council adopt the second reading of the above-referenced ordinance to mitigate the impacts from the COVID-19 pandemic.

Staff also recommends that the City Council adopt the companion urgency ordinance, which will take effect immediately if adopted by a 4/5 vote of the entire Council.

## BACKGROUND

On March 19, 2020, the City Council adopted the first reading of an ordinance enacting a temporary moratorium on residential and commercial evictions for failure to pay rent due to the novel coronavirus COVID-19. That ordinance also imposed a moratorium on residential foreclosures initiated by a homeowners association for failure to pay dues arises from the COVID-19 emergency. That same night the City Council adopted an identical, companion ordinance (Ord. No. 20-002) as an urgency ordinance which took effect immediately.

On April 7, 2020, the City Council considered the second reading of the eviction moratorium ordinance, and the Mayor and Councilmember Bauters recommended several changes. The City Council approved the changes and adopted a new first reading

of the ordinance, discussed below. The Council also directed that when the amended ordinance is considered for second reading at the April 21 meeting, staff should also bring a companion urgency ordinance to match the amended ordinance and to replace the urgency ordinance adopted on March 19, 2020.

## **DISCUSSION**

The amended ordinance extends the expiration date from May 31, 2020 to June 30, 2020, unless otherwise extended by the City Council by resolution. (Section Three of the ordinance)

The amended ordinance also expands the scope of the eviction moratorium for residential units. The prior ordinance limited the eviction moratoria to cases where the Residential Tenant or Residential Tenant Household was unable to pay rent due to the COVID-19 emergency. Under the prior ordinance a landlord could still terminate the tenancy of a Residential Tenant or Residential Tenant Household for other causes as provided in Emeryville Municipal Code section 5-40.03(e)(1)(ii) – (x). The amended ordinance now provides that the tenancy of a Residential Tenant or Residential Tenant Household may be terminated only upon a showing by the landlord that termination is necessary to protect health, safety, or welfare (Section 6 of the ordinance).

The companion urgency ordinance does the following: 1) rescinds and replaces Ord. No. 20-002, the urgency ordinance adopted on March 19, 2020; and 2) otherwise matches the amended moratorium ordinance. The urgency ordinance will take effect immediately upon a 4/5 vote of the entire City Council.

## **ENVIRONMENTAL REVIEW**

Adoption of the two proposed ordinances is exempt from the California Environmental Quality Act (CEQA) (Public Resources, § 21000). Actions taken to mitigate the impacts of a declared emergency, such as the COVID-19 pandemic, are exempt under California Public Resources Code Section 21080(b)(4) and State CEQA Guidelines 15269(c). Additionally, since adoption of these two proposed ordinances is designed to preserve existing conditions, adoption of the proposed ordinances is exempt under CEQA Guideline 15061(b)(3).

## **FISCAL IMPACT**

Existing staff resources will be used to publicize the moratorium. Enforcement of the ordinances is set up to provide affected residents and commercial tenants with an affirmative defense in any related evictions or foreclosures.

## **CONCLUSION**

Staff recommends that the City Council adopt the second reading of the proposed ordinance. Staff also recommends the City Council adopt the companion urgency ordinance by a 4/5 vote of the entire Council.

**APPROVED AND FORWARDED TO THE  
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



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Michael Guina, City Attorney

**ATTACHMENTS**

- Draft Ordinance
- Urgency Ordinance