



**DATE:** June 30, 2020

**TO:** Mayor and City Council

**FROM:** Deputy City Manager

**SUBJECT:** Extension of Temporary Evictions Moratorium: Adoption of Emergency Ordinance Amending Temporary Moratorium on Residential and Commercial Evictions to Extend the Moratorium and the Repayment Period

### **RECOMMENDATION**

That Council adopts an Emergency Ordinance (Attachment II) amending the temporary moratorium on residential and commercial evictions in the City of Hayward for non-payment of rent or mortgage payments caused by the Coronavirus (COVID-19) Pandemic to extend the Moratorium until September 30, 2020 and the repayment period an additional 90 days.

### **SUMMARY**

On March 24, 2020, the City Council adopted a 90-day emergency moratorium on evictions of residential tenants due to non-payment of rent caused by the COVID-19 pandemic and on no-fault evictions, which was repealed and replaced on April 7, 2020 to expand the moratorium to also prohibit eviction of commercial tenants and homeowners facing eviction after foreclosure. The shelter-in-place orders are only partially lifted and high unemployment rates continue. The moratorium period will conclude on July 6, 2020 unless extended by City Council. Staff recommends extending the eviction moratorium until September 30, 2020 and the repayment period an additional 90 days to allow time for tenants' employment situations to stabilize and tenants to enter into repayment agreements with their landlords.

Enactment of an emergency ordinance would require at least five affirmative votes from the City Council. If only four Council members vote for the proposed ordinance, then adoption would occur at the next City Council meeting and the ordinance would go into effect 30 days after adoption.

### **BACKGROUND**

On March 1, 2020, the Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19.

On March 11, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to the spread of COVID-19, which was affirmed by the City Council on March 17, 2020.

On March 16, 2020, the Governor of the State of California issued Executive Order N-28-20 in response to the economic impacts of COVID-19 that threaten to undermine California's housing security and the stability of California businesses due to substantial loss of income, which authorized local jurisdictions to prohibit commercial and residential evictions due to non-payment of rent or mortgage payments, where failure to pay is related to the COVID-19 pandemic.

On March 17, 2020, Alameda County issued a legal order directing residents to shelter at home for three weeks, which has been amended and reissued multiple times, no longer includes an end date, and outlines a phased reopening plan for the County. The original order limited activity, travel, and business functions to only the most essential needs. The Shelter-in-Place Order has caused and will continue to cause a decrease in income for many Hayward businesses and residents, which will increase the risk of loss of jobs, displacement, and homelessness. While "essential businesses" such as pharmacies and grocery stores are exempt and restaurants are allowed to serve customers via take-out and outdoor dining only, the business community is facing severe economic injury. Businesses small and large have reported a complete collapse of their revenue streams, reduced sales, and the need to layoff or reduce their workforce's hours. While sales have dramatically fallen, fixed costs such as rents, health care costs, outstanding loans, and taxes remain on the books.

On March 24, 2020<sup>1</sup>, the City Council adopted an emergency ordinance that 1) established a temporary moratorium on evictions in the City of Hayward for non-payment of rent caused by the COVID-19 pandemic, or for no-fault evictions unless the eviction is necessary for the health and safety of the tenant or landlord (e.g. unit is deemed uninhabitable), and 2) provided residential tenants and landlords mediation services to negotiate payment agreements. At that meeting, the City Council also directed staff to evaluate further the potential of including prohibitions on commercial and homeowner evictions.

On April 7, 2020<sup>2</sup>, in response to the COVID-19 pandemic and corresponding state and local emergency orders, the Hayward City Council voted to expand the Temporary Moratorium on Evictions to prevent displacement of residential and commercial tenants impacted by the COVID-19 pandemic.

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<sup>1</sup> March 24, 2020 City Council Meeting Staff Report and Attachments:  
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4399195&GUID=BFD696C9-8ED0-4F9F-8B99-98912C9C0679&Options=&Search=>

<sup>2</sup> April 7, 2020 City Council Meeting Staff Report and Attachments:  
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4411520&GUID=D179CF31-EC55-4AA7-B3C1-430B1C8DC5E4&Options=&Search=>

On April 21, 2020, the Alameda County Board of Supervisors adopted amendments to the Countywide Eviction Moratorium<sup>3</sup> to provide expanded tenant eviction protections Countywide. Even though Alameda County's eviction moratorium is Countywide, the City Attorney's Office has determined that the City of Hayward's Ordinance is still effective and can be enforced. As a result, City staff will be enforcing the City's Ordinance. Additionally, by enforcing the City's Ordinance, City staff can provide technical assistance resources to the community since the City cannot enforce or explain the County moratorium.

## **DISCUSSION**

As a result of the State of Emergency declarations and Alameda County Shelter-in-Place Order during the COVID-19 pandemic outbreak, many residential tenants, homeowners, and commercial businesses have experienced sudden income loss, leaving them vulnerable to eviction. During the State of Emergency, the public interest in preserving peace, health, and safety, and preventing further transmission of COVID-19 will be served by avoiding unnecessary loss of jobs, displacement, and homelessness. The City's unemployment rate for the April 2020 was 17.1%, which was 13.2% higher than the unemployment rate for February 2020 and higher than any given month during the great recession.<sup>4</sup> While local May 2020 unemployment rates were unavailable at the time this report was prepared, the national unemployment rate continues to be high at 13.3% for May 2020. As of June 8, 2020, Alameda County has started to lift some of the restrictions under the Shelter-in-Place Order; however, not all businesses have been permitted to resume operations and those that have, are subject to restrictions. Childcare and camps were expanded to non-essential employees, which will enable some individuals to start looking for employment. Yet, there are still four more re-opening stages before the Shelter-in-Place-Order is fully lifted and as a result, many community members are still unemployed and continued eviction protections are needed.

Due to the continued state of emergency and continued restrictions under the Shelter-in-Place-Order, staff recommends the following revisions to the City's eviction moratorium:

1. **Extend the moratorium until September 30, 2020.** Extending the moratorium until September 30, 2020 will provide the existing protections through Council recess and provide sufficient time for staff to reassess the need for any continued protections. Additionally, by providing a precise date, it will be clear that rent for the month of October will be due if the moratorium is not extended.
2. **Extend the repayment period an additional 90 days.** Extending the repayment period from 90 to 180 days will provide tenants with a total of six months to secure stable employment and enter into repayment agreements for past due rent. While it is anticipated that tenants may need more than six months to pay past due rent, tenants can use the City's mediation services to negotiate binding repayment agreements for a longer time period that are based on their ability to pay the past due rent.

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<sup>3</sup> Alameda County Moratorium:  
<http://www.acgov.org/cda/hcd/>

<sup>4</sup>Bureau of Labor and Statistics:  
<https://data.bls.gov/PDQWeb/la>

All other terms of the eviction moratorium will remain the same. Attachment III provides a summary of the terms of the moratorium. Nothing in the Ordinance would relieve residential or commercial tenants or homeowners of the liability for unpaid rent or mortgage payments. The City has committed over \$525,000 to providing rental assistance that is anticipated to help over 200 rental housing tenants meet their obligations and staff continues to identify additional funds to provide more assistance. Additionally, the City has provided mediation services to 24 petitioners with 96% of the requests being initiated by the landlord. It is expected that the demand for mediation will increase once tenants' incomes stabilize, and the eviction moratoria are lifted.

#### Next Steps

Enactment of an emergency ordinance would require at least five affirmative votes from the City Council. If only four Council members vote for the proposed ordinance, then adoption would occur at the next City Council meeting and the ordinance would go into effect 30 days after adoption.

#### **STRATEGIC ROADMAP**

This agenda item supports the Strategic Priority of Preserve, Protect, & Produce Housing. This item is not specifically related to a project identified in the Strategic Roadmap. Staff is bringing forth this new item because economic impacts of COVID-19 threaten to undermine housing security for Hayward residents. Staff will include this item in the next bi-annual update to Council on the Strategic Roadmap.

#### **FISCAL IMPACT**

There is no fiscal impact associated with the adoption of the extended temporary moratorium ordinance on evictions.

#### **PUBLIC CONTACT**

Staff has notified several key stakeholders of the proposed eviction moratorium extension Ordinance, including the Chamber of Commerce, the Downtown Hayward Improvement District, United Merchants, Downtown Business Association, landlord and broker associations, and residential tenant advocacy groups.

*Prepared and Recommended by:* Christina Morales, Housing Division Manager  
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Approved by:



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Kelly McAdoo, City Manager