



DATE: February 21, 2023

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Adopt a Resolution Ending the Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by Novel (New) Coronavirus (COVID-19)

RECOMMENDATION

That Council adopts a resolution (Attachment II) rescinding Council's March 17, 2020 ratification of a Proclamation that declared a Local Emergency on March 11, 2020 by the City Manager in her capacity as Director of Emergency Services.

SUMMARY

On March 11, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to the ongoing spread of a severe acute respiratory illness in Alameda County caused by a novel coronavirus (COVID -19). In the days that would follow a shelter in place order was issued by the state and many local jurisdictions including the City which began on March 18, 2020. This report requests that the City Council approve a resolution ending the Proclamation of a Local Emergency (Attachment II), doing so will end all departures from policy allowed by such a proclamation and will follow only those enacted following established and applicable statutes.

BACKGROUND AND DISCUSSION

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, including several confirmed cases in Alameda County and many more in the San Francisco Bay Area.

A Proclamation of Local Emergency allows the Director of Emergency Services to make rules and regulations related to the protection of life and property, obtain vital supplies and

equipment needed for the protection of life and property, and require emergency services of City officers and employees in their roles as designated Disaster Services Workers. 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 16, 2020, the Governor of the State of California issued Executive Order N-28-20¹ 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 job loss, displacement, and homelessness. While "essential businesses" such as pharmacies and grocery stores were exempt and restaurants were only allowed to serve customers via take-out and outdoor dining only, the business community is facing severe economic injury. Businesses small and large reported a complete collapse of their revenue streams, reduced sales, and the need to layoff or reduce their workforce's hours. While sales dramatically fell, fixed costs such as rents, health care costs, outstanding loans, and taxes remained on the books.

On March 24, 2020², 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 Council also directed staff to evaluate further the potential of including prohibitions on commercial and homeowner evictions.

On April 7, 2020³, in response to the COVID-19 pandemic and corresponding state and local emergency orders, Council voted to expand the Temporary Moratorium on Evictions to

¹ State of California Executive Order N-80-20 issued March 16, 2020:

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.16.20-Executive-Order.pdf>

² 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=>

³ 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=>

prevent displacement of residential and commercial tenants impacted by the COVID-19 pandemic.

On April 21, 2020, the Alameda County Board of Supervisors adopted amendments to the Countywide Eviction Moratorium⁴ to provide expanded tenant eviction protections Countywide. Subsequently, the Superior Court of Alameda County issued a stay of execution of writs of possession following judgment in an unlawful detainer action until December 31, 2020. On February 5, 2021, the Court extended this stay to June 30, 2021 to align with California's statewide eviction moratorium.

On June 30, 2020⁵, Council adopted an Emergency Ordinance amending the temporary moratorium on residential and commercial evictions in the City for non-payment of rent or mortgage payments caused by the COVID-19 pandemic to extend the moratorium until September 30, 2020 and the repayment period an additional 90 days.

On August 31, 2020, the State enacted AB 3088 that put into place a statewide moratorium on residential evictions until January 31, 2021, and precluded local governments from extending any existing moratoria on residential evictions beyond their already enacted expiration dates. As a result, the City of Hayward could not extend its moratorium on residential evictions beyond September 30, 2020. The State did not enact any protections or place any restrictions on commercial evictions.

On September 22, 2020⁶, Council adopted an Emergency Ordinance amending the temporary moratorium on commercial evictions in the City of Hayward for non-payment of rent caused by COVID-19 to extend the moratorium until January 31, 2021. Also on this date, Council adopted an ordinance, Attachment V, limiting fees related to delivery of food service providers to a maximum of 15% to support restaurants in Hayward.

On January 26, 2021⁷, Council extended the commercial eviction moratorium through June 30, 2021. Furthermore, on January 26, 2021, in anticipation of the sunset of AB 3088 and the termination of the residential eviction moratorium, the Council adopted an emergency ordinance enacting a moratorium on residential evictions through June 30, 2021.

On January 29, 2021, Governor Newsom signed into law SB-91, COVID-19 relief: tenancy: federal rental assistance, which extended the residential statewide eviction moratorium through June 30, 2021, and created the State Rental Assistance Program.

⁴ Alameda County Moratorium:

<http://www.acgov.org/cda/hcd/>

⁵ June 30, 2020 City Council Meeting Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4580377&GUID=12885384-9D38-48A5-885F-4C0C7916C304&Options=&Search=>

⁶ Sept 22, 2020 City Council Meeting Staff Report and Attachments:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4646748&GUID=525441D6-E924-4A3E-AFC5-21B74FEF5B7C&Options=&Search=>

⁷ January 26, 2021 City Council Meeting Staff Report and Attachments

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4762240&GUID=3134D5B8-8823-47AC-A4DE-41D5B915DC84&Options=&Search=>

On March 4, 2021, the Governor of the State of California issued Executive Order N-03-21 extending the timeframe for protections set-forth in Executive Order N-28-20 with respect to commercial evictions through June 30, 2021.⁸ While the State and Alameda County officially lifted most COVID-19 restrictions on June 15, 2021, many individuals continued to struggle to recover from the economic hardships of the prior 18 months and much of the State and County tenant relief funding was slow to be distributed.

On September 13, 2022, Governor Newsom signed into law Assembly Bill (AB) 2449 (Rubio), which became effective on January 1, 2023, and expires on January 1, 2026, unless further legislation is adopted to extend it. The bill amends the Brown Act by providing an exception to the traditional Brown Act teleconferencing requirements that the agenda be posted at each teleconference location and that each teleconference location be accessible to the public.

It has been announced that the Governor of the State of California will end the state of emergency in California on February 28, 2023. In anticipation of the lifting of the state of emergency on February 28, 2023, by Governor Newsom, City staff developed guidance for members of legislative bodies and City staff to comply with AB 2449. The information is available as Attachment IV.

The City Manager was empowered to proclaim a local emergency pursuant to California Government Code Section 8630 and Hayward Municipal Code Section 3-2.12. When a local emergency is proclaimed by the Director of Emergency Services, City Council must ratify the proclamation within seven (7) days, or the proclamation has no further effect. This item requests that the City Council ratify a resolution ending the Local Emergency proclaimed in March 2020 due to COVID-19.

STRATEGIC ROADMAP

This item does not relate to a specific priority on the City's Strategic Roadmap.

FISCAL IMPACT

There is no specific fiscal impact associated with this action.

PUBLIC CONTACT

While COVID-19 has been discussed frequently in public meetings since the onset of the pandemic, this specific item has not had prior public contact, other than compliance with the Brown Act.

NEXT STEPS

If adopted by Council, the Resolution will rescind the ratification of the Proclamation declaring a Local Emergency.

Prepared by: Dustin Claussen, Assistant City Manager
 Michael Vigilia, Senior Assistant City Attorney
 Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager