

**SPECIAL CITY COUNCIL MEETING
TUESDAY, APRIL 7, 2020**

PRESENTATIONS

ITEM #4 LB 20-016

**REPEAL AND REPLACEMENT OF TEMPORARY
MORATORIUM ON EVICTIONS:
REPEAL OF EXISTING MORATORIUM AND
ADOPTION OF EMERGENCY ORDINANCE
ESTABLISHING A TEMPORARY MORATORIUM
ON RESIDENTIAL AND COMMERCIAL
EVICTIONS IN THE CIYOF HAYWARD FOR
NON-PAYMENT OF RENT OR MORTGAGE
PAYMENTS CAUSED BY THE CORONAVIRUS
(COVID-19) PANDEMIC TO INCLUDE
PROHIBITIONS ON COMMERCIAL EVICTIONS,
LENDER EVICTIONS OF HOMEOWNERS, AND
RETALIATION AGAINST TENANTS
(REPORT FROM CITY MANAGER MCADOO)**

PRESENTATION

Repeal and Replace Temporary Emergency Moratorium on Evictions Related to COVID-19 to Expand Prohibitions to Include:

- Commercial Evictions
- Lender Evictions of Homeowners
- Retaliation against Tenants

April 7, 2020 City Council Meeting

Background

- **State of Emergency:** Corona Virus (COVID-19) pandemic
 - March 4, 2020 State of California
 - March 11, 2020 City of Hayward
- **Executive Order:** that enable local government to limit evictions, including commercial evictions
 - March 16, 2020 Governor of California
- **Shelter-In-Place Order:**
 - March 17, 2020 Alameda County
 - March 20, 2020 State of California
 - March 31, 2020 Alameda County
- **Results in unexpected loss of wages and business income**
- **Increases risk of loss of jobs, homelessness and displacement**

Background (*cont.*)

- **Temporary Emergency Moratorium on Residential Rental Evictions:**
 - March 24, 2020 City enacted and now effective
- **March 24, 2020 City Council Feedback to Evaluate Expanding Prohibitions:**
 - Commercial evictions
 - Homeowner evictions
 - Other potential revisions over time once implemented
- **April 6, 2020 Judicial Council Adopts Emergency Court Rule that Stops all Evictions and Foreclosures during the State of Emergency plus 90 days after.**

Moratorium on Evictions

Applicability: All residential, including owner-occupied residences with mortgages, and commercial units

Term: 90 days (option to extend)

Prohibitions:

- Evictions for non-payment of rent or mortgage payments related to COVID-19 and associated late fees
- No Fault evictions (except related to health and safety 'red tag' of units)
- Retaliation against tenants and homeowners

Moratorium on Evictions

Requirements:

- Good faith effort to notify landlord
- Able to provide documentation to support claim

Payment of Past Due Rent:

- Tenant liable for unpaid rent
- City expanding mediation services to negotiate repayment for just residential tenants

Terms upon expiration:

- No eviction for non-payment of rent during moratorium period within 90 days after expiration
- Requires meet and confer prior to initiating any action

Emergency Court Rules

- Two emergency rules have been adopted by the courts that delay evictions and foreclosures filed prior to the moratorium.
- Prohibits a court from issuing a summons after a landlord files an eviction case:
 - Tenant will not be under 5-day deadline
 - New time for tenant to respond to a new eviction case will not be until act is lifted
- Court cannot enter **automatic default judgement** unless:
 - Eviction is necessary to protect public health and safety.
 - Tenant fails to respond in the time required by law, including the COVID19 extension
- Requires any trial in an eviction case scheduled as of April to be postponed at least 60 days after the initial trial date.
- The courts are best suited to evaluate health and safety in the context of evictions.

Other Stakeholder Comments

Explicitly exclude evictions related to Ellis Act, such as at sale of unit

- **Staff Response:** Staff does not recommend reducing protections for renters at this time.

Prohibit all evictions, not just evictions related to non-payment of rent or no-fault evictions

- **Staff Response:** Staff does not recommend expanding to prohibit all evictions, as this may incentivize disregard for other important lease terms. That said, the courts are not processing any unlawful detainers.

Other Stakeholder Comments

Extend protections to all eviction notices that expire, are served or filed during or after the effective period of the ordinance

- **Staff Response:** This ordinance already protects eviction notices that are served or filed during the effective period due to COVID-19 crisis; this added language would expand protections to other non-related causes and to eviction notices filed or served prior to the crisis. Staff recommends maintaining nexus to COVID-19 crisis consistent with Governor's Executive Order.

Expand protections to property owners with mortgages that rent their units and do not live in them

- **Staff Response:** The City does not have the authority to regulate financial institutions, just the eviction process. It is also our understanding that the Governor is working with 200+ financial institutions to sponsor a program to prevent foreclosure for borrowers whose ability to pay has a COVID-19 nexus.

Other Stakeholder Comments

Enact a rent freeze

- **Staff Response:** The City's existing rent stabilization ordinance prevents rent gouging and includes specific civil and criminal violation penalties. Additionally, the City Attorney has unique authority to criminally enforce egregious behavior. As a result, staff does not recommend an across-the-board rent freeze at this time.

Recommendation

That the City Council repeals and replaces the temporary emergency ordinance on evictions in the City of Hayward related to the COVID-19 pandemic enacted on March 24, 2020 to expand prohibitions to include:

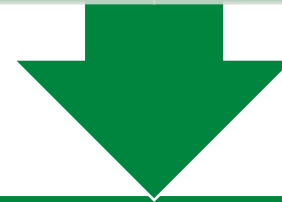
- Commercial evictions
- Lender evictions of homeowners
- Retaliation against tenants and homeowners

Emergency Ordinance Adoptions

Emergency Ordinance

5 affirmative votes

Adopted and effective immediately



Non-Emergency Ordinance

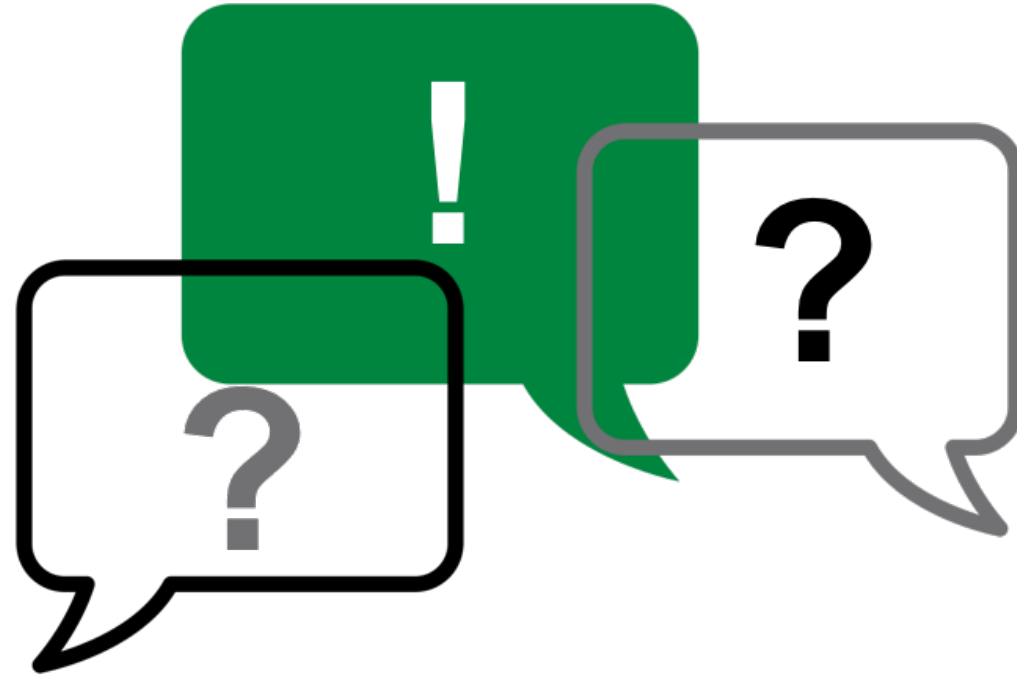
4 affirmative votes

Adopted at next Council Meeting and effective 30 days later

Next Steps

- If approved, work with business associations and other stakeholder groups to publicize moratorium to homeowners with mortgages, businesses and commercial property owners
- Continue implementation of residential rental moratorium, including notices to landlords, expanded mediation, and financial assistance program

Questions

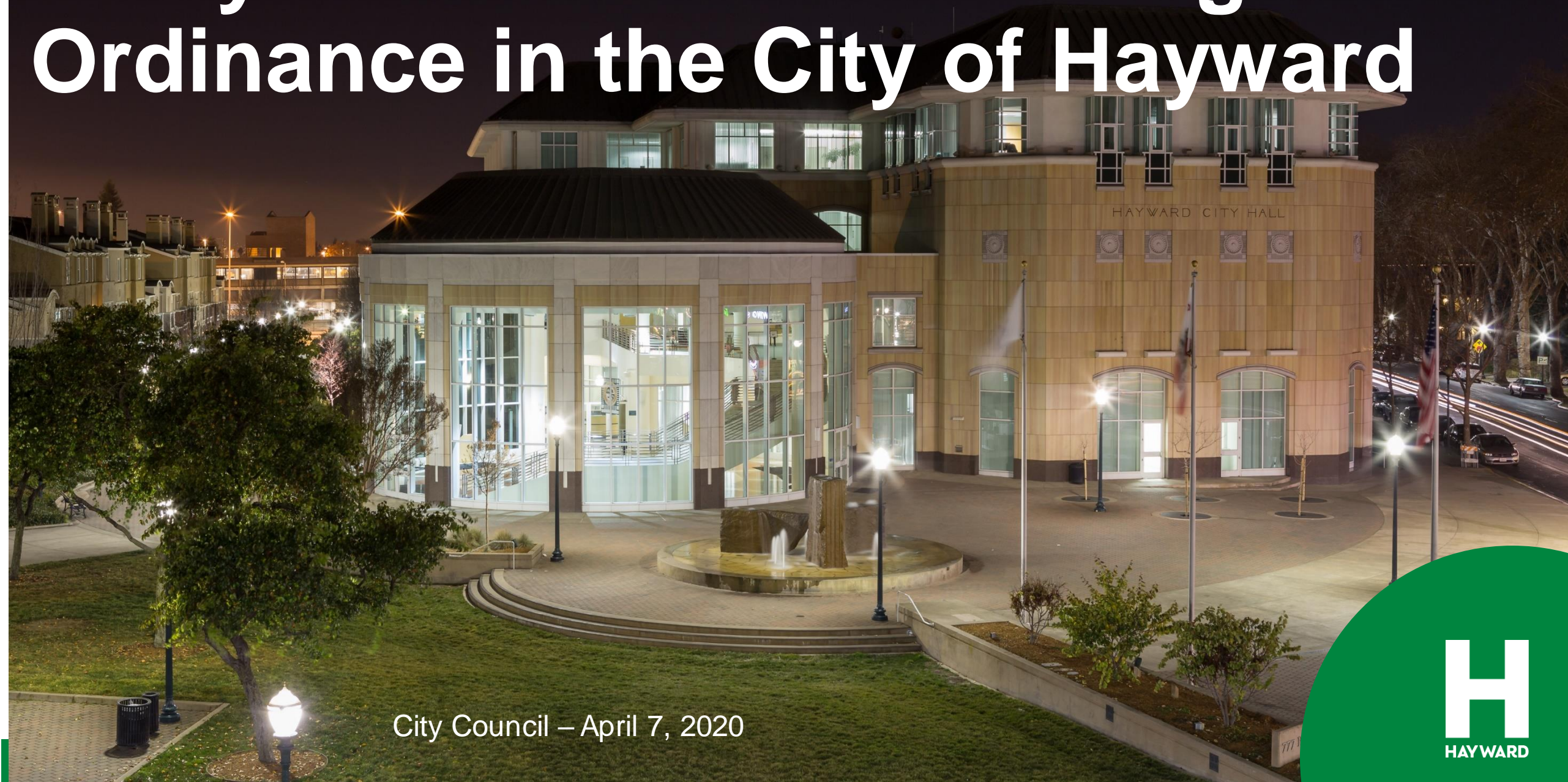


ITEM #5 LB 20-015

**MINIMUM WAGE ORDINANCE:
INTRODUCE AN ORDINANCE TO AMEND
CHAPTER 6 "MINIMUM WAGE ORDINANCE"
OF THE CITY OF HAYWARD MUNICIPAL CODE
DELAYING THE IMPLEMENTATION DATE AND
MODIFYING THE YEARLY ADJUSTMENT DATE
FOR INCREASES IN RESPONSE TO
SIGNIFICANT IMPACTS TO BUSINESSES
CAUSED BY THE COVID-19 PANDEMIC
(REPORT FROM CITY MANAGER MCADOO)**

PRESENTATION

Delay of Local Minimum Wage Ordinance in the City of Hayward



City Council – April 7, 2020



COVID-19 CRISIS ECONOMIC IMPACTS

- Proposed delay is in response to the unprecedented impacts caused by the COVID-19 Pandemic.
- Businesses across the region have had to close their doors; some continue to pay their employees when possible, even without income coming into the business
- Delaying of the start of the Local Minimum Wage will allow Hayward businesses additional time to recover from the extended closures and the significant economic losses many experienced.
- A delay of six months as proposed will have an estimated cost savings of approximately \$3,580 per employee for small and large businesses.

CITY COUNCIL REFERRAL – MARCH 25, 2020

1. A six-month delay of the July 1, 2020 minimum wage increases until January 1, 2021
2. A corresponding delay of future year increases so that they occur also on January 1 in subsequent years.
3. Any other minor adjustments to the ordinance that staff deems necessary to aid in the implementation of the local minimum wage ordinance.

SUMMARY OF EXISTING ORDINANCE

Large Businesses (26 or more employees):

- Beginning **July 1, 2020**, the minimum wage will be an hourly rate of **\$15** for businesses with 26 or more employees
- Every **July 1 thereafter** it will increase based on the Consumer Price Index (CPI)

Small Businesses (25 or fewer employees):

- Beginning **July 1, 2020**, the minimum wage will be an hourly rate of **\$14** for businesses with 25 or less employees
- Every **July 1 thereafter** it will increase based on the CPI until January 1, 2023 when the minimum wage will reach the State of California minimum wage of \$15 and future CPI adjustments will follow the State's schedule.

CURRENT EFFECTIVE DATES AND RATES

Effective Date	Large Employers	Small Employers
July 1, 2020	\$15.00	\$14.00
July 1, 2021	\$15.00 + CPI (\$15.45)	\$14.00 + CPI (\$14.42)
July 1, 2022	+ CPI (\$15.91)	+ CPI (\$14.85)
January 1, 2023		\$15.00 (State Law)
July 1, 2023	+ CPI (\$16.39)	
January 1, 2024		Rate set by State Law

*Rates shown in parenthesis are estimates of CPI adjustments based on historic data of 3%

PROPOSED AMENDMENTS

Section 6-15.12 (b)

Beginning on ~~July 1, 2020~~ **January 1, 2021**, the minimum wage shall be an hourly rate of \$14.00 for small businesses. To prevent inflation from eroding its value, on ~~July 1, 2021 and July 1, 2022~~ **January 1, 2022**, the minimum wage shall increase by an amount corresponding to the Consumer Price Index (CPI), if any, to account for the increase in the cost of living but such increases shall not exceed a total of \$15.00 per hour. Beginning on January 1, 2023, the minimum wage shall be \$15.00 in accordance with current State of California minimum wage law. Beginning on January 1, 2024, and every January 1st thereafter the minimum wage shall increase by an amount corresponding to the CPI in accordance with State law.

Section 6-15.12 (c)

Beginning on ~~July 1, 2020~~ **January 1, 2021**, the minimum wage shall be an hourly rate of \$15.00 for large businesses. To prevent inflation from eroding its value, beginning on ~~July 1, 2021~~ **January 1, 2022**, and each ~~July~~ **January** 1st thereafter, the minimum wage shall increase by an amount corresponding to the Consumer Price Index (CPI) increase, if any, to account for the increase in the cost of living not to exceed five percent.

PROPOSED DATE AMENDMENTS

For large businesses, the City of Hayward will always remain greater than the State mandated minimum wage, however, the adjustment to January yearly increases will simplify the ordinance with only one wage change per year for both small and large businesses and reduce the amount of noticing that the city will have to complete each year.

The table below summarizes the new dates and projected minimum wage rates for both large and small businesses.

Date	Small Businesses Proposed	Large Businesses Proposed	State Wage Small/Large
January 1, 2021	\$14.00	\$15.00	\$13.00/\$14.00
January 1, 2022	\$14.42 (\$14 + CPI)	\$15.45 (\$15 +CPI)	\$14.00/\$15.00
January 1, 2023	\$15.00	\$15.91 (+CPI)	\$15.00/\$15.00

*The wage rates listed above assume a 3% CPI increase. The Governor can pause the increase in State minimum wage due to a recession in the economy.

PROPOSED MINOR AMENDMENTS

Section 6-15.11 Definitions

“Large Business” means a business with 26 or more full or part-time employees **including persons employed outside the city.**

“Small Business” means a business with 25 or fewer full or part-time employees **including persons employed outside the city.**

The additional language added to the definitions of “Large” and “Small” businesses will clarify for those businesses that have multiple locations both inside and outside the City of Hayward.

FISCAL IMPACT

- Local jurisdictions that adopt a minimum wage are required to provide notification to the business community each time the local minimum wage is adjusted.
- Based on the current ordinance, notification is required in April each year. Beginning in January 2023, notices would be required twice a year (April and October) due to the different yearly increase occurring for Large and Small businesses.
- The cost for each notice is approximately \$13,000 for each round of noticing to be completed for a total of cost of \$26,000 in 2023.
- If the proposed amendments are adopted for adjusting all increases to January, the notification costs will remain at approximately \$13,000 each year as only one round of notifications are required.

NEXT STEPS

- If the amendment is approved, staff will begin a notification effort to the business community about the new implementation dates
- If the amendment is not approved, notification for the July implementation will begin immediately per the existing ordinance.