



COUNCIL AGENDA: 5/19/20
FILE: 20-568
ITEM: 8.3

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: May 8, 2020

Approved

Date

5/11/2020

SUBJECT: AMENDMENTS TO THE EVICTION MORATORIUM ORDINANCE

RECOMMENDATION

- (a) Adopt an Urgency Ordinance and Companion Ordinance modifying provisions of the COVID-19 Eviction Moratorium Ordinance, Ordinance No. 30382, to include the following:
- (1) Extending the time for the tenant to notify their landlord of their status as an Affected Tenant to seven days after the notice of termination is served;
 - (2) Prohibiting retaliation against Affected Tenants;
 - (3) Prohibit a landlord from serving a notice in bad faith, influencing or attempting to influence an Affected Tenant to vacate a Rental Unit through fraud, intimidation, or coercion;
 - (4) Including in the definition of Affected Tenant those who lost income due to being infected with COVID-19 or caring for someone in the household who was infected;
 - (5) Prohibiting late fees, interest, or penalties charged against an Affected Tenant during the moratorium; and
 - (6) Establishing a repayment period until December 31, 2020 for Affected Tenants to repay their past due rent accruing during the moratorium and extend the Ordinance effective date to correspond with this deadline.
- (b) Approve a resolution extending the moratorium on evictions to June 30, 2020.

OUTCOME

The amendments to the COVID-19 Eviction Moratorium Ordinance implements the City Council direction received on April 14, 2020. Approval of the amendments to the eviction moratorium will increase housing stability for San José residents continuing to struggle with the

financial ramifications of the COVID-19 pandemic. The anti-retaliation and harassment provisions will help ensure that landlords serve eviction notices with good faith and not in an attempt to coerce their tenants to vacate the property through unlawful means. Further, extending the noticing period provides additional time for tenants to notify their landlord, more time for tenants to gather information and preventing late fees ensures that vulnerable tenants who may not receive federal benefits do not incur an increasing debt obligation. By establishing a concrete repayment period framework, residents struggling to pay rent will be able make more thoughtful financial plans when this pandemic is over. Staff is also bringing forward a proposed amendment clarifying that late fees, interest and penalties may not be charged on unpaid rent amounts during the Eviction Moratorium.

If the City Council would like to take action to extend the Eviction Moratorium beyond the current expiration date of May 31, 2020, the City Council must take action on May 19, 2020, since this date will be the last regular City Council meeting prior to the expiration date. A resolution extending the Eviction Moratorium to June 30, 2020 has been prepared if the City Council chooses to act to extend the Ordinance.

BACKGROUND

The COVID-19 pandemic continues to produce financial uncertainty, housing instability, and economic upheaval for the City and its residents. As of May 8, 2020, Santa Clara County has confirmed 2,281 cases of persons with the virus and 127 deaths due to the virus.¹ Despite limited testing capacity, the County has reported 1,515 cases in San José alone, more than ten times the amount of any other City in Santa Clara County.² Across California, the Department of Public Health reports more than 60,614 positive cases and more than 2,504 deaths as of May 8, 2020.³ On April 29, 2020, the County of Santa Clara extended shelter in place through May 31, 2020.⁴ The order also eased some restrictions for a limited number of additional essential and outdoor business activities. On a national scale, the Center for Disease Control states that as of May 8, over one million Americans have tested positive for the virus and at least 73,297 have died.⁵ While Governor Newsom proposed a four-stage plan to reopen the State economy⁶, the reality of the situation remains: reopening the economy will be a gradual process, and the state is ill-equipped to provide testing for its nearly 40 million residents, which will only slow the State's and City's economic recovery.

A. Council Actions related to housing and COVID-19

On March 17, 2020, the City Council adopted an Urgency Ordinance and Resolution, setting in place a moratorium on evictions in the City of San José for renters on the basis of nonpayment of

¹ <https://www.sccgov.org/sites/covid19/Pages/dashboard.aspx>

² <https://www.sccgov.org/sites/covid19/Pages/dashboard.aspx>

³ <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx>

⁴ <https://www.sccgov.org/sites/covid19/Pages/order-health-officer-050420.aspx>

⁵ <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>

⁶ <https://www.gov.ca.gov/wp-content/uploads/2020/04/Update-on-California-Pandemic-Roadmap.pdf>

rent, when their income has been reduced due to novel coronavirus (COVID-19) pandemic. The Urgency Ordinance is effective for 60 days after adoption and expires on May 17, 2020. The Companion Ordinance becomes effective on May 8, 2020 for six months. The Moratorium went into effect March 18, 2020 for a period of 30 days until April 17, 2020.

On April 14, 2020, City Council approved a Resolution extending the Eviction Moratorium until May 31, 2020 and directed the City Attorney to return with a draft Urgency and Companion Ordinance implementing a temporary Moratorium on Rent Increases for rent stabilized apartments and rent controlled mobilehomes. The Moratorium on Rent Increases was approved on April 28, 2020 and went into effect on April 29, 2020. The components of the approved Moratorium on Rent Increases include:

- Prohibiting rent increases through December 31, 2020,
- Prohibiting tenant petitions based upon service reduction claims related to closure or elimination of common area amenities resulting from compliance with County or State public health orders related to COVID-19,
- Suspending registration late fees for landlords of rent stabilized apartments and rent controlled mobilehome parks through December 31, 2020, and
- Suspending of building permit fees for all rental properties subject to the Apartment Rent Ordinance as well as mobilehomes subject to the Mobilehome Rent Ordinance.

B. City Council direction to amend the Eviction Moratorium

During the April 14, 2020 Council meeting, the City Council provided direction to the City Attorney to amend the COVID-19 Eviction Moratorium Ordinances to include the following:

1. Prevent landlords from serving an eviction notice on a tenant if they have reason to know that the tenant is currently impacted by COVID-19;
2. Prevent a landlord from evicting a tenant because the tenant has been infected or is suffering from COVID-19, under the pretext of another viable reason for eviction such as owner move-in, breach of agreement, or a COVID-19 related nuisance;
3. After a tenant has been served notice from a landlord, allow tenant up to 7 days to provide a notice informing the landlord that they have been impacted by COVID 19;
4. Protect tenants unable to provide COVID-19-related documentation to landlords from harassment and retaliation under section 17.23.1270 Anti Retaliation Protections of our City's moratorium.

Additionally, staff was directed to:

5. Craft a template affidavit that tenants can submit in cases where tenants are unable to provide any other verifiable evidence of their COVID-19-related impacts, as is often the case with undocumented individuals working in the informal economy.

Finally, the City Council held a lengthy discussion about the proposed duration of both the Moratorium on Rent Increases and the proposed repayment period. After the discussion, the City Council directed staff to use the date of December 31, 2020 for both the duration of the rent increase freeze and the repayment period for Affected Tenants.

A discussion of the amendments is included below, including the ordinance language modification and analysis of the amendments.

ANALYSIS

I. CITY COUNCIL DIRECTED AMENDMENTS TO THE EVICTION MORATORIUM ORDINANCE

Traditional mechanisms to enact legislation during a local emergency required City staff to simultaneously present Council with two separate ordinances on March 17, 2020: an urgency ordinance and a companion ordinance, with each expiring at different times. The first, the Eviction Moratorium Urgency Ordinance (“Urgency Ordinance”), became effective on March 18, 2020, putting into effect immediate eviction protections to tenants across the City. The Urgency Ordinance expires on May 17, 2020, sixty days after its adoption. The second was the Eviction Moratorium Companion Ordinance, which takes effect after the standard period of time for a “non-urgency” ordinance, in this case becoming effective on May 8th for six months. In order to correspond with the Council-directed repayment period timeline, the Companion Ordinance should be extended to December 31, 2020. The Resolution adopted by the City Council acts as the “on and off” mechanism for the Eviction Moratorium. The Resolution initially set the term of the Moratorium through April 30, 2020 and then was amended to extend the term through May 31, 2020. The amendment to the effective period is set forth in Section 3 of the draft Ordinances.

The Ordinance applies to all tenancies, including single-family homes, condominiums, mobilehomes, apartments, and any other tenancy type, including unpermitted dwellings. The Ordinance includes a definition for an Affected Tenant, as a tenant who has suffered a substantial loss of income as a result of COVID-19. In addition, the ordinance provides an affirmative defense for a tenant in an unlawful detainer action resulting from non-payment of rent.

During the April 14, 2020 City Council meeting, the City Attorney was directed to amend the COVID-19 Eviction Moratorium Ordinance. The amendments include additional protections to Affected Tenants that were previously not included in the original Eviction Moratorium Ordinance.

The proposed amendments to the Eviction Moratorium Ordinance are discussed below.

Amendment #1: Expand the definition of “Affected Tenant” To Include Loss of Income Due to Being Infected or Caring for Someone Infected by COVID-19.

Proposed Ordinance Language: *“Affected Tenant” shall mean a Tenant or Tenant Household, Mobilehome Resident, or Mobilehome Owner, whose has, as a result of COVID-19 pandemic, or declaration of the County Public Health Officer, or other local, State or Federal Authority, suffered a substantial loss in income through their employment as a result of any of the following: 1) job loss; 2) a reduction of compensated hours of work; 3) employer’s business closure; 4) missing work due to a minor child’s school closure; 5) loss of income due to being infected by COVID-19 or caring for a person in the Tenant Household who was infected by COVID-19; or 6) other similarly-caused reason resulting in a loss of income due to COVID-19.*

This amendment addresses Councilmember Carrasco’s second directive to protect tenants who have been infected or are suffering from COVID-19. Including a broader definition of an Affected Tenant aligns the City more closely with the County and State's definition of a tenant impacted, infected, or suffering from COVID-19.

Amendment #2: Include protection provisions to prevent landlords from serving a notice in bad faith and protecting tenants from harassment and retaliation

Proposed Ordinance Language: *No Landlord may threaten to bring, or bring, an action to recover possession, cause the Affected Tenant to quit the Rental Unit involuntarily, serve any notice to quit or Notice of Termination, reduce any housing services, report or threaten to report the Affected Tenant, Tenant Household, or individuals the Landlord knows to be associated with the Affected Tenant to the immigration authorities, where the Landlord's intent is retaliation against the Affected Tenant for the Affected Tenant's assertion or exercise of rights under this Ordinance.*

No Landlord, shall in bad faith serve a notice, influence or attempt to influence an Affected Tenant to vacate a Rental Unit through fraud, intimidation, or coercion.

City staff received direction from City Council to include protections against harassment and retaliation based upon a tenant asserting their protected status. This amendment corresponds to Councilmember Carrasco’s direction #1, # 2 and #4.

In addition, the definition of “Affected Tenant” is broadened to include a tenant who is infected by or caring for someone in their household infected by COVID-19. Together with the proposed ordinance language above, these modifications fulfill three City Council directives. These modifications address the concerns that some landlords, who are aware that a tenant is protected from eviction because they are an Affected Tenant, could be inclined to circumvent those protections by attempting to cause an Affected Tenant to vacate by bad faith eviction notices or through fraud, intimidation, or coercion. Several other rent control jurisdictions, including San Francisco, Oakland, Berkeley, and Santa Monica, as well as State law prohibiting fraud, intimidation, or coercion to attempt to have tenants vacate, address this type of bad faith behavior by landlords.

An Affected Tenant will be protected by this amendment from actions by landlords attempting to use bad faith measures to persuade tenants to vacate. Further, it will protect Affected Tenants against retaliatory acts by landlords that is similarly covered in the Tenant Protection Ordinance. These additional protections for tenants will be enforced by the court system and can be used as a defense to the eviction or in a separate legal action.

Amendment #3: Extend tenant notification period to 7 days following service of the notice

***Proposed Ordinance Language:** Nonpayment of Rent. After being provided with written notice of the identity and mailing address of the Landlord, notice of the Moratorium on a form approved by the Director of Housing, and the amount of rent due, the Tenant, has failed to pay rent to which the Landlord is legally entitled pursuant to any written or oral rental agreement and under the provisions of state or local law, unless the Tenant is an Affected Tenant, as defined above, who is unable to pay rent as a result of COVID-19 pandemic, declaration of County Public Health Officer, or other local, State or Federal Authority related to the COVID-19 pandemic, and has notified their Landlord of their status as an Affected Tenant ~~before expiration~~ within seven days of the Landlord serving the Notice of Termination, or has withheld rent pursuant to applicable law, and said failure to pay has continued after service on the Tenant of a written notice setting forth the amount of rent then due and requiring it to be paid, within a period, specified in the notice, of not less than three (3) days.*

Councilmember Carrasco's memorandum directed staff to modify the eviction moratorium to extend a tenant's response period after tenant received a notice of termination. This amendment corresponds to Councilmember Carrasco's direction #3. This extension will provide tenants with additional time to notify their landlord that their income has been substantially impacted by COVID-19. This will protect tenants from the risks of becoming evicted based upon a short window of time to provide their landlord with notice that they have been financially impacted. Currently, an Affected Tenant is required to notify their landlord prior to the expiration of the notice of nonpayment of rent, which is typically no more than three days.

This extension takes into account the challenges facing a bilingual family or individual served with a notice of termination during this pandemic. Three days may be insufficient time for a person or family served with a termination notice to adequately translate that notice, submit a notice of affected tenant status or affidavit of substantial loss of income to their landlord, and begin preparing documentation of substantial loss of income due to COVID-19. The additional time for an Affected Tenant to notify their landlord that their income has been substantially impacted by COVID-19 is likely to decrease displacement.

Amendment #4: Provide repayment period for Affected Tenants

***Proposed Ordinance Language:** Affected Tenants shall have until December 31, 2020 to repay any past due rent accruing during the period of the COVID-19 Eviction Moratorium established by Council Resolution 79446 and further amended by Council. Prior to January 1, 2021, Affected Tenants shall not be subject to eviction for nonpayment of rent for failure to pay the past due rent accruing during the eviction moratorium.*

The City Council discussed and provided additional direction to amend the Eviction Moratorium to include a repayment period through December 31, 2020. Many jurisdictions across the Bay Area and State are providing tenants impacted by COVID-19 with a period of time to repay the past due rent following expiration of the Eviction Moratorium. On March 24, 2020, Santa Clara County passed an Eviction Moratorium.⁷ The County Moratorium includes a provision providing tenants with a 120-day repayment period for unpaid back rent that accrued during the period of the eviction moratorium. The eviction moratorium is scheduled to expire on May 31, 2020. The County moratorium would then provide tenants 120 days from May 31, 2020 to repay rent. A tenant who is facing financial challenges and potentially ongoing unemployment may not be able to pay their upcoming rent on time as well as save enough to begin repaying the rent that accrued during the moratorium and repay the debt within a four-month period.

Cities across California have taken action to enact eviction moratoriums, many including a repayment provision. The Los Angeles County eviction moratorium is in effect until May 31, 2020, and the Board of Supervisors voted to give tenants one year to repay rent that was unpaid due to COVID-19.⁸ The County and City of San Francisco instituted a six month repayment period requiring missed rent payments be paid by November 22, 2020 (subject to change if the moratorium is extended).⁹ The City of Santa Monica extended its moratorium on residential and commercial evictions to June 30, 2020, and extended a tenant's repayment period to twelve months following the expiration of the Eviction Moratorium (June 30, 2021).¹⁰ The City of Mountain View's residential eviction moratorium is in effect until May 31, 2020, subject to extension by City Council, with a 120-day repayment period for unpaid rent after the moratorium ends.¹¹

The City Council direction included a repayment period through December 31, 2020. The December 31, 2020 deadline aligns with the National Emergency Concerning the Novel Coronavirus Disease Outbreak and the Federal Government's protection for individuals under the CARES Act. Furthermore, this deadline takes into consideration the shelter in place orders' impact to this community, the impact to the local job market, and the cost of the rental market in San José. This time period for Affected Tenants to pay their past due rent during the moratorium helps maintain a more stabilized housing community. For example, a tenant who has not been able to pay their \$2,000 rent in April and May due to COVID-19, will have an extended period of time to repay their \$4,000 accrued rent debt through December 31st.

⁷ <https://www.sccgov.org/sites/osh/EvictionMoratorium/Pages/home.aspx>

⁸ <https://covid19.lacounty.gov/tenants-and-landlords/>

⁹ <https://sf.gov/information/about-residential-eviction-moratoriums-due-covid-19>

¹⁰ <https://www.smdp.com/renters-will-have-12-months-to-repay-unpaid-rent-under-new-city-of-santa-monica-order/190304>

¹¹ <https://www.mountainview.gov/depts/comdev/preservation/rentstabilization/evictionmoratorium/default.asp>

II. ADDITIONAL PROPOSED AMENDMENTS TO THE EVICTION MORATORIUM ORDINANCE

Amendment #5: Prohibition on charging and collecting late fees, interest, and penalties

***Proposed Ordinance Language:** Affected Tenants shall not be charged late fees or be required to pay interest or penalties for failure to pay rent during the period of the moratorium.*

City staff propose this amendment to the Eviction Moratorium. While not included in City Council direction on April 14, 2020, staff have received several inquiries from residents regarding this issue. The measure is necessary to ensure that landlords do not charge their tenants late fees, interest or penalties for rent that may be delayed because of the COVID-19 pandemic. Tenants who are unable to pay rent on time are likely to have mounting debt obligations and should not have to face the additional financial burden of late fees accruing during this moratorium. This amendment extends a protection already available to residents through the Santa Clara County eviction moratorium. Section 3(c) (10) of the County moratorium contains the following: “An owner may not charge or collect a late fee for rent that is delayed during this ordinance and for a period of 120 days thereafter.” City staff propose extending this tenant protection against late fees and interest as a way to help mitigate an Affected Tenant’s potentially substantial rent debt owed after the eviction moratorium is lifted while they try to pay it back as quickly as possible.

This proposed amendment aims to provide clarity for San José residents, identifying exactly which new laws are applicable. As governments continue to monitor the evolution of this health crisis and enact measures accordingly, a resident’s ability to clearly understand what rights apply to them is crucial to protecting them during this time.

III. CITY COUNCIL DIRECTED CREATION OF AN AFFIDAVIT OF SUBSTANTIAL LOSS OF INCOME

Staff received direction to draft a template affidavit of substantial loss of income. This affidavit will assist tenants who do not have traditional employment, or receive cash payments, to fulfill the requirements of the Eviction Moratorium by noticing their landlord of their status as an affected tenant. The affidavit was published in English, Spanish and Vietnamese on the City’s Eviction Moratorium website. A copy of the affidavits is included as **Attachment A**.

IV. PROPOSED FEE REDUCTIONS FOR LANDLORDS AND MOBILEHOME PARK OWNERS

On an annual basis, staff prepares a fee analysis to determine the level of fees charged to landlords and mobilehome park owners for the administration of the Rent Stabilization Program. The fees are calculated on a cost-recovery basis, which means the fee must be equal (and not greater) than the cost to administer the Rent Stabilization Program. The fee structure is broken

into three categories: Apartment Rent Ordinance fee, Tenant Protection Ordinance fee and the Mobilehome Ordinance fee. Costs related to the administration of each of these programs is determined in order to set the fee by program.

In response to the COVID-19 pandemic and the City Council's action to move forward with both an Eviction Moratorium and Moratorium on Rent Increases, staff took those actions into consideration when reviewing the fee structure for the 2020-2021 fiscal year. Recognizing that many residents are unable to pay rent leaving property owners with mounting financial obligations, staff wanted to carefully consider the proposed fee levels for 2020-2021. Throughout 2019-2020, the Rent Stabilization Program had vacant positions, resulting in a fund balance in 2019-2020. This fund balance may be used to provide a one-time reduction in fees for the program. This reduction in fees will provide relief for all property owners and mobilehome owners.

The proposed fee amounts will be included in the proposed 2020-2021 Fees and Charges Resolution, which will be considered by City Council in June as a part of the annual budget approval process. The estimated fee amounts are summarized in **Table 1** below:

Table 1: Estimated Proposed 2020-2021 Fee Levels

| | Apartment Rent Ordinance Fee | Tenant Protection Ordinance Fee | Mobilehome Rent Ordinance Fee |
|--|-------------------------------------|--|--------------------------------------|
| 2019-2020 Fee Levels | \$85.04 | \$8.76 | \$24.24 |
| Proposed 2020-2021 Fee | \$55.00 | \$5.45 | \$20.00 |
| Percent Reduction for 2020-2021 | 35% | 37% | 17% |

Utilizing the accumulated fund balances will allow the Rent Stabilization Program fees to be reduced for the coming fiscal year from 17% to over 30% across all fee programs. Considering the economic hardships faced by the entire rental housing community, staff will bring this one-time action forward for the City Council to consider during the annual budget process.

V. PARTNERSHIP WITH THE COUNTY FOR A MEDIATION PROGRAM

City staff have been working closely with partners at the Santa Clara County Office of Mediation and Ombuds Services to launch a mediation program. As the economic impacts of the pandemic continue, the pilot program seeks to facilitate repayment agreements between tenants and landlords that address a repayment period for accrued rent, and potentially decreases the amount of rent the tenant will pay during this pandemic. A tenant interested in participating in a mediation must meet the following qualifications:

- (a) Have notified their landlord that they are an Affected Tenant, as defined by the Eviction Moratorium; and
- (b) Sign a written agreement to participate in a virtual mediation.

Participation in the mediation is voluntary for both parties. Further, the mediation will take place on the Zoom Technology online platform, with parties calling in or using video capability. City staff will conduct the brief intake required by the County before scheduling the mediation with the County mediators. As a gauge of interest and to monitor City and County staff capacity, the program anticipates scheduling ten mediations per week and will conduct a preliminary two-week testing period. At the conclusion of the testing period, staff will make adjustments as necessary.

This program will leverage the City's partnership with Santa Clara County and illustrates the City's commitment to finding creative solutions to the growing concerns within our rental housing community.

VI. CONSIDERATION OF AN EXTENSION OF THE EVICTION MORATORIUM ORDINANCE

The Eviction Moratorium is set to expire on May 31, 2020 consistent with the expiration date of the County of Santa Clara's Eviction Moratorium. Both moratoriums may be extended for a longer period of time if facts and circumstances warrant the extension. Due to the Memorial Day holiday, a regular City Council meeting will not be held on May 26, 2020. As such, the City Council may determine to extend the moratorium on evictions beyond May 31, 2020 by adopting the proposed resolution extending the moratorium to June 30, 2020. The approval of an extension of the Eviction Moratorium for thirty additional days will result in eviction protections for residents until June 30, 2020.

CONCLUSION

The COVID-19 pandemic continues to disrupt nearly every facet of our community, and the consequences of the ongoing social and financial impacts of the virus remain to be seen. As the State braces for its entry into phase two of Governor Newsom's four stage plan to reopen the economy in the coming weeks, the City must continue its efforts to promote the health and welfare of its residents and set a sustainable financial path forward for its large residential tenant and landlord population.

The proposed amendments, and the actions taken by the City Council thus far, accomplish several City-wide objectives: (a) stabilizing housing (b) decreasing homelessness by enacting measures that decrease financial instability for thousands of individuals and families struggling during the pandemic to pay their bills and feed their families, and (c) promoting public peace, health, safety, and public welfare in the rental community by decreasing displacement through eviction.

EVALUATION AND FOLLOW-UP

The City Manager will track the effectiveness of the ordinance and the continued impact of COVID-19 on the San José community over the coming weeks.

CLIMATE SMART SAN JOSÉ

The recommendation in this memo aligns with one or more of Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

Since the Eviction Moratorium was effective on March 18, 2020, outreach efforts include leveraging existing email lists, including notifying all landlords on the Housing Department's rent registry database. Housing Department held stakeholder meetings on May 1, 2020 with landlord and tenant representatives. The following is a summary of input in **Table 2**:

Table 2: Summary of Feedback from Landlord and Tenant Representatives

| Components | Landlord Representative Feedback | Tenant Representative Feedback |
|---|---|--|
| 1. Extend the repayment period | <ul style="list-style-type: none">• Additional financial burden and challenge particularly for landlords who have not received rent for weeks or months• Landlords and tenants should still work out a repayment period before 12/31 | <ul style="list-style-type: none">• Consider extending this time period beyond 12/31/2020 to allow tenants more time to repay rent |
| 2. Include protection provisions for tenants from harassment and retaliation | <ul style="list-style-type: none">• Concerns for how to prove it and it would erode the tools out there to deal with problems in rental property• Complicates the termination process | <ul style="list-style-type: none">• Provide clarification for a tenant to understand "lack of good faith"• Include in the staff memo and even in the ordinance to add further clarification |
| 3. Prohibit late fees or interests | <ul style="list-style-type: none">• Needs to be a balance for tenants and landlords who are impacted financially• City Council did not direct this recommendation | <ul style="list-style-type: none">• Include language that would waive both late fees and penalties• Clarify if landlords can charge additional late |

| | | |
|--|---|---|
| | | fees after the moratorium is lifted |
| 4. Extend tenant notification period from 3 to 7 days following service of the notice | <ul style="list-style-type: none"> • May incur additional costs from dismissal of filed Unlawful Detainer case when tenants respond by the 7th day • A landlord has the right to do a summons and complaint after 3 days | <ul style="list-style-type: none"> • Particularly beneficial for tenants who need time to translation and to understand next steps within a 3-day period |
| 5. Craft template of the affidavit | <ul style="list-style-type: none"> • Ensure that this form is used properly and lawfully • Concerns that tenants will default to this form and not show documentation to demonstrate impact of COVID-19 by claiming only cash employment • May incur unnecessary legal expenses when it is revealed in the court process that the form was used improperly by the tenant | <ul style="list-style-type: none"> • No comments provided |
| 6. Extend the Ordinance for the Eviction Moratorium | <ul style="list-style-type: none"> • Do not extend to align with County of Santa Clara and State deadline on May 31, 2020 | <ul style="list-style-type: none"> • No comments provided |

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office, and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

This action is consistent with the City's *Consolidated Plan 2015-2020*, adopted by City Council on May 5, 2015, to provide homes for very low- and extremely low-income households, and with Goal H-2 of the City's *Housing Element 2014-2023*, adopted by City Council on January 27, 2015, to "increase, preserve, and improve San José's affordable housing stock."

HONORABLE MAYOR AND CITY COUNCIL

May 8, 2020

Subject: Amendments to the Eviction Moratorium Ordinance

Page 13

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

/s/

JACKY MORALES-FERRAND

Director, Housing Department

For questions, please contact Deputy Director, Rachel VanderVeen at (408) 535-8231.

ATTACHMENT:

Attachment A: City of San José's Eviction Moratorium Affidavit Form in English, Spanish, and Vietnamese

2020 AFFIDAVIT OF SUBSTANTIAL LOSS OF INCOME PAGE 1

WHO SHOULD BE USING THIS FORM:

Tenants affected by the COVID-19 pandemic, who are unable to provide other objectively verifiable evidence of their COVID-19 related job or income losses may use this form as documentation to demonstrate that you are a tenant who has been financially impacted by COVID-19 and do not have any documentation from your employer on your income, reduction in work hours, or job loss. Tenants who are participating in the non-traditional economy, and who may not have traditional methods of documentation of their status as affected by COVID-19 are encouraged to use this template.

Traditional methods of documentation include paycheck stubs, bank account comparisons illustrating a decrease in income and letters from an employer regarding decrease in hours or a layoff. If a tenant does not have traditional methods of documentation, the tenant may submit this form to landlords in the place of providing the above mentioned objectively verifiable documentation.

Affidavit of Affected Tenant

| | | | | | |
|----------------------|--|-----------|----|---------|--------|
| First Name | | Last Name | | Date | |
| Address of Residence | | City | CA | Zipcode | Unit # |

INCOME SOURCE: _____

Check if Applicable:

☐ Job Loss ☐ Reduction of Hours

Declaration Explaining Substantial Income Loss Due to COVID-19

[illegible]

[illegible]

By signing this Affidavit, tenant agrees that no other verifiable documentation of substantial loss of income due to COVID-19 are available. By signing below, I agree that the statements above are true and correct.

Tenant Print Name: _____

Tenant Signature: _____ **Date:** _____



DECLARACIÓN JURADA DE PÉRDIDA SUSTANCIAL DE INGRESOS **PÁGINA 1**

QUIÉN DEBERÍA USAR ESTE FORMULARIO:

Inquilinos afectados por la pandemia de COVID-19, que no pueden proporcionar otra evidencia objetivamente verificable de su trabajo relacionado con COVID-19 o pérdidas de ingresos, pueden usar este formulario como documentación para demostrar que usted es un inquilino que haya sido impactado financieramente por COVID-19 y no tiene ninguna documentación de su empleador sobre sus ingresos, reducción de horas de trabajo o pérdida de empleo. Se recomienda a los inquilinos que participan en la economía no tradicional y que no tienen métodos tradicionales de documentación de su condición de afectados por COVID-19 que usen esta plantilla.

Los métodos tradicionales de documentación incluyen recibos de sueldo, comparaciones de cuentas bancarias que ilustran una disminución en los ingresos y cartas de un empleador con respecto a la disminución de horas o un despido. Si un inquilino no tiene métodos tradicionales de documentación, el inquilino puede enviar este formulario al propietario en lugar de proporcionar la documentación objetivamente verificable mencionada anteriormente.

Declaración jurada del inquilino afectado

| | | | | |
|-------------------------|----------|--------|---------------|-------------|
| Nombre | Apellido | Fecha | | |
| | | CA | | |
| Dirección de residencia | Ciudad | Estado | Código Postal | # de Unidad |

FUENTE DE INGRESOS: _____

Marque si corresponde:

☐ Pérdida de trabajo ☐ Reducción de horas

Declaración que explica la pérdida sustancial de ingresos debido a COVID-19



2020 BẢN KHAI TUYÊN THỆ ĐỂ TUYÊN BỐ THU NHẬP GIẢM TRANG 1

AI CẦN PHẢI SỬ DỤNG ĐƠN NÀY:

Người mượn nhà có thể dùng đơn này để chứng minh bị ảnh hưởng vì bệnh COVID-19 và không thể đưa chứng minh tài chính vì mất việc làm hoặc giảm giờ làm do COVID-19. Người mượn nhà có thể dùng đơn này nếu như chỗ làm không cung cấp chứng minh hoặc đơn giảm giờ làm việc hoặc mất việc.

Những cách chứng minh tài chính thông thường là tiền lương hoặc ngân hàng hoặc thông báo từ chỗ làm giảm việc làm hoặc bị sa thải. Ngoài ra, người mượn nhà nào có thu nhập bằng tiền mặt và không có chứng minh từ chỗ làm cũng có thể dùng đơn này để chứng minh bị ảnh hưởng tài chính vì bệnh COVID-19.

Bản Khai Tuyên Thệ của Người Mướn

| | | | | | | | | | | | | | | | | | | | | | | | | |
|---------|--|--|--|--|-----------|--|--|--|--|-----------|--|--|--|--|--------------------|--|--|--|--|--------|--|--|--|--|
| Họ | | | | | Tên | | | | | Ngày | | | | | | | | | | | | | | |
| CA | | | | | | | | | | | | | | | | | | | | | | | | |
| Địa Chỉ | | | | | Thành Phố | | | | | Tiểu Bang | | | | | Số Mật Mã Bưu Điện | | | | | Căn hộ | | | | |

NGUỒN THU NHẬP: _____

Xin chọn những điều sau đây nếu có áp dụng cho bạn:

☐ Mất Việc Làm ☐ Giảm Giờ Làm

Giải thích cho Bản Khai Tuyên Thệ Để Tuyên Bố Thu Nhập Giảm do COVID-19

[illegible]

Chấp Nhận Hậu Quả khi ký Bản Khai Tuyên Thệ Để Tuyên Bố

Tên của Người mượn nhà: _____

Chữ Ký của Người mượn nhà: _____ Ngày: _____