



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** January 22, 2021

Approved

Date

1/22/2021

**SUBJECT: ADOPTION OF 2021 COVID-19 RESIDENTIAL EVICTION  
MORATORIUM FOR TENANTS FINANCIALLY IMPACTED BY  
COVID-19**

## RECOMMENDATION

- (a) Accept the staff report on economic indicators to guide City Council's decision-making regarding the eviction moratorium.
- (b) Adopt an Urgency Ordinance enacting a temporary moratorium on no-cause evictions and evictions due to nonpayment of rent for residential tenants and mobilehome owners who have been financially impacted by COVID-19, to be effective through the period of the local State of Emergency or, if earlier, the effective date of any new State legislation providing eviction protections for tenants affected by COVID-19 that preempts this moratorium.
  - (1) Invoke the urgency provisions in the City Charter, as an emergency measure for immediate preservation of the public peace, health and/or safety, to include additional provisions protecting against eviction of a tenant for nonpayment of rent, if that tenant meets the criteria listed in the ordinance regarding COVID-19.  
PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES (2/3)
- (c) Approve a Companion Ordinance enacting a temporary moratorium on no-cause evictions and evictions due to nonpayment of rent for residential tenants and mobilehome owners who have been financially impacted by COVID-19, to be effective through the period of the local State of Emergency or, if earlier, the effective date of any new State legislation providing eviction protections for tenants affected by COVID-19 that preempts this moratorium.

## EXECUTIVE SUMMARY

The ongoing impact of the COVID-19 pandemic continues to put thousands of San José families' health and housing at risk, with the recent surge of cases threatening public health at unprecedented levels across our community, affecting lives and livelihoods. According to

County data, the City of San José is experiencing an alarming rise in COVID-19 cases, as shown in **Table 1**.

*Table 1: Monthly Cumulative COVID-19 Cases*

<b>November 13, 2020</b>	<b>December 13, 2020</b>	<b>January 13, 2021</b>
18,306	31,606	56,710

As a response to the pandemic, in 2020, the City of San José, Santa Clara County, the State of California and the Federal government each took action to protect renters. The City of San José is subject to the protections detailed in California State law AB 3088 (Chiu), as it affords stronger protections than those provided by the active federal legislation and supersedes the City’s eviction moratoria. The State law enacted a process for when a landlord may evict, how a tenant is protected, and how a landlord may recover unpaid rent debt, providing vital protections for those impacted by COVID-19. These protections expire on January 31, 2021, placing renters at risk as of February 1, 2021. The Federal government, under the new Biden Administration, may take additional action that would serve to extend eviction moratoria nationwide beyond January 31, 2021. So far, there has not been a formal change in the Federal Register indicating the Federal government has extended their eviction moratorium.

On February 1, without additional State action, tenants will be required to pay the full amount of monthly rent due, instead of a reduced amount. As of March 1, 2021, landlords may begin filing Small Claims Court actions against tenants for unpaid rent accrued between March 2020 and January 31, 2021. While State action is anticipated, the proposed recommendation and adoption of an urgency ordinance is intended to continue protections against eviction for affected tenants in case State action is delayed beyond January 31, 2021.

Without immediate legislative action, housing instability and the potential for homelessness will increase in the months to come as tenants balance paying full month’s rent, begin repaying past due rent accrued between March 2020 through January 31, 2021, as well as other living expenses. According to the latest [U.S Household Pulse Survey](#), more than 5 million Californians who are behind on their rent believe it is very or somewhat likely they will have to leave their homes due to eviction in the next two months.

To mitigate these risks, especially as the virus continues to devastate our community, the City may adopt immediate protections in order to protect the health and safety of San José residents at greatest risk of losing their housing during the pandemic.

## **OUTCOME**

Given the current surge in COVID-19 cases and deaths and the unprecedented evolution of the pandemic, enactment of the City’s 2021 COVID-19 Residential Eviction Moratorium aligns with the extension of the Director of Emergency Services’ Proclamation of a Local Emergency. The Eviction Moratorium allows the City to take necessary precautions to implement eviction protections for residential tenants for 60 days until March 4, 2021, or until the State takes

comprehensive action, permits the City to provide eviction protections for renters still financially impacted by COVID-19, and prevents at-risk individuals from falling into homelessness.

## **BACKGROUND**

From the onset of the COVID-19 pandemic in March 2020, City Council has taken swift action to keep residents housed in the effort to slow the coronavirus spread through the adoption of a Residential Eviction Moratorium and its extensions in 2020; these actions are summarized in **Attachment A**. On August 31, 2020, the State of California enacted AB 3088 (Chiu), the Tenant, Homeowner, and Small Landlord Relief Act of 2020, which superseded the City's residential eviction moratorium with a statewide eviction moratorium. The [Housing Department's Information Memorandum](#) summarizes the provisions of the Statewide legislation.

As health experts have confirmed that the County and State are amidst the worst wave to date of the COVID-19 pandemic, it is vital to enact precautions that extend eviction protections for residential tenants beyond the AB 3088 deadline on January 31, 2021. In early December 2020, State health officials announced a Regional Stay at Home Order that would be triggered when hospital Intensive Care Unit (ICU) capacity dropped below 15%. Santa Clara County is included in the Bay Area region. The State enacted the Order on December 10, 2020 and, due to the latest surge in COVID-19 cases and deaths in the Bay Area, the State recently extended the Stay at Home Order indefinitely until the region's ICU capacity is greater than or equal to 15%.<sup>1</sup> Data below in **Table 2** illustrates the dire state of emergency as of January 15, 2021:

*Table 2: Summary of select regional and local COVID-19 data*

Regional Bay Area ICU Capacity	Santa Clara County ICU Bed Availability	Santa Clara County Cumulative COVID-19 Deaths	City of San José Cumulative COVID-19 case count
4.7% <sup>2</sup>	6% <sup>3</sup>	1,028 <sup>4</sup>	58,271 <sup>5</sup>

As a result of the ongoing spread of the disease, the extensions of the Stay at Home Order and re-closure of non-essential services, the City is continuing to experience an unprecedented pandemic-related economic downturn, resulting in increased unemployment and increased challenges to residential tenants in making monthly rent payments. The re-closures, combined with social factors such as limited access to child care and ongoing food needs, continue having significant economic impact on the rental community.

This background will cover: a) summary of Federal, State, and local pandemic relief, b) financial rental assistance provided to landlords and tenants, and c) termination of tenancy trends from

<sup>1</sup> <https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/>

<sup>2</sup> <https://covid19.ca.gov/stay-home-except-for-essential-needs/#icu-capacity> (State last updated information on January 14, 2021)

<sup>3</sup> <https://www.sccgov.org/sites/covid19/Pages/dashboard-hospitals.aspx>

<sup>4</sup> <https://www.sccgov.org/sites/covid19/Pages/dashboard.aspx>

<sup>5</sup> <https://data.sccgov.org/COVID-19/COVID-19-cases-by-city-of-residence/59wk-iusg>

analyzing nonpayment of rent notices and unlawful detainers submitted to the Housing Department.

## **FEDERAL, STATE AND LOCAL PANDEMIC RELIEF**

Government response to the COVID-19 pandemic continues nearly one year since the United States Secretary of Health and Human Services declared a Public Health Emergency on January 31, 2020. The following summaries detail federal, state, and local current and pending action taken to preserve public peace, health and safety.

### **A. Federal Government**

***Federal Eviction Moratorium Extended until January 31, 2021:*** On December 27, 2020, the President signed H.R. 133, the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. H.R. 133 included an extension of the Centers for Disease Control's (CDC) Eviction Moratorium Order to January 31, 2021. On January 20, 2021, the CDC released a statement indicating their intent to extend the CDC's federal eviction moratorium until at least March 31, 2021, but the extension has not been officially issued. Currently, the order temporarily halts evictions for nonpayment of rent between September 4, 2020 through January 31, 2021.

***Pending Federal Pandemic Relief:*** On Friday, January 15, 2021, then President-elect Joe Biden announced a [\\$1.9 trillion COVID-19 relief plan](#), calling on Congress to extend eviction and foreclosure moratoria. In addition, the relief plan proposes a national vaccine program plan; an additional \$25 billion in rental relief, primarily for low- and moderate-income households; and \$5 billion in emergency assistance to stabilize housing for individuals and families. The plan also calls on Congress to include \$1,400 per person in direct checks, an extra \$400 per week and other expansion of unemployment benefits and grants to assist more than 1 million of the hardest-hit small businesses. It is anticipated President Biden will call on Congress to move swiftly to approve the new actions but no firm date for a vote has been announced.

***Recent Federal Action:*** On January 20, 2021, President Joe Biden directed the U.S. Department of Housing and Urban Development (HUD) and other Federal Agencies to extend the federal moratorium on evictions and foreclosures on federally guaranteed mortgages. Subsequently, on January 21, 2021, HUD issued an extension of eviction and foreclosure protections for all FHA-insured mortgages until March 31, 2021.<sup>6</sup> The moratorium temporarily prohibits evictions for individuals and families living in properties secured by FHA-insured mortgages. In addition, the Order prohibits servicers from initiating or proceeding with foreclosures and foreclosure related evictions for HUD insured and guaranteed single-family forward and reverse mortgages to prevent displacement during the ongoing pandemic. In addition, mortgage servicers are required to provide up to six months of COVID-19 forbearance upon request from a borrower experiencing financial hardship, as well as an additional six months extension of the initial forbearance, upon request. The moratorium also applies to foreclosures in process.

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<sup>6</sup> <https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-03hsgml.pdf>

## **B. State Action**

***Current and Pending Statewide Legislation related to Eviction Moratorium:*** On August 31, 2020, the California state legislature passed and the Governor signed AB 3088 (Chiu). The law protects tenants affected by COVID-19 against eviction through January 31, 2021, if they were unable to pay rent owed due to a COVID-19 related hardship. The law outlines two distinct time periods of protection against eviction: rent accrued between March 1, 2020 – August 31, 2020 (the “Protected Time Period”) and rent accrued between September 1, 2020 – January 31, 2021 (the “Transition Time Period”). During the protected time period, a tenant is protected against an eviction if they submit a Declaration of COVID-19 Financial Distress to their landlord within 15 days of receiving a Notice of Termination for non-payment of rent. During the transition time period, a tenant is protected against an eviction for non-payment of rent if they submit to the landlord the Declaration of COVID-19 Financial Distress and pay 25% of past due rent accrued from September 1, 2020 – January 31, 2021.

In the Governor’s January 2021 budget, he called on the legislature to provide an immediate extension of the protections in AB 3088 past January 31, 2021. The main vehicle for this extension is AB 15 (Chiu) is an urgency measure which would extend the tenant protections in AB 3088 through December 31, 2021, going into effect once the Governor signs the bill. Additionally, Senator Levy introduced SB 64, which would protect Mobilehome Residents against eviction and rent increases if the resident was impacted by COVID-19 for 120 days after the termination of the state or local emergency.

## **C. County Action**

***Pending County Eviction Moratorium:*** On January 26, 2021, the Santa Clara County Board of Supervisors will vote on whether to adopt an urgency ordinance temporarily banning evictions for non-payment of rent by residential tenants in Santa Clara County directly impacted by the COVID-19 pandemic. The County agenda language has not indicated an end date to the Moratorium and the Board of Supervisors will likely discuss an expiration date during the January 26 meeting. If passed, the County eviction moratorium will provide eviction protections to affected residents across Santa Clara County, including City of San José residents. On January 5, 2021, the Los Angeles County Board of Supervisors voted to extend their Eviction Moratorium through February 28, 2021.

### ***Expired Santa Clara County Residential Eviction Moratorium 3/24/2020 – 8/31/2020:***

The County residential eviction moratorium, enacted on March 24, 2020, expired on August 31, 2020 due to the enactment of AB 3088. The expiration of the County’s moratorium triggered the beginning of the repayment period for tenants who owed rent that accrued during the moratorium. Affected tenants have six months, or until the end of February 2021, to repay 50% of their accrued rent debt. Tenants have an additional six months, or until August 31, 2021, to repay the remaining 50% of the accrued rent debt. However, tenants who did not pay this balance are protected from eviction under AB 3088 provided tenants submit a Declaration of Hardship to their landlord if served with a Notice for nonpayment of rent.

**D. City Action**

**Expired Rent Increase Moratorium 4/28/2020 – 12/31/2020:** On April 28, 2020, City Council approved a Moratorium on Rent Increases. The moratorium prohibited rent increases for rent stabilized apartments and mobilehome spaces from April 28, 2020 through December 31, 2020, intending to protect already overburdened San José residents from receiving a rent increase. After considerable input from stakeholders, additional protections in the Moratorium included prohibiting service reduction petitions for common area closures due to the pandemic and reduced Rent Stabilization Program FY 20-21 fees. The rent increase moratorium has expired. If City Council wishes to reinstate this moratorium, City Council will need to direct staff to return with an updated Ordinance.

**Expired City Eviction Moratorium 3/18/2020 – 8/31/2020:** The City’s Eviction Moratorium expired on August 31, 2020 when AB 3088 was signed into law by Governor Newsom. The expiration of the City moratorium triggered the start date of the City’s rent repayment period. The City’s eviction moratorium detailed the one-year repayment period for affected tenants who accrued rent debt between March 2020 and August 31, 2020. Affected tenants have six months, or until the end of February 2021, to repay 50% of their accrued rent debt. Tenants have an additional six months, or until August 31, 2021, to repay the remaining 50% of the accrued rent debt. However, AB 3088 provides eviction protection during the “Protected Time Period” from March 1, 2020 – August 31, 2020. Tenants cannot be evicted for failure to pay rent covered under the Protected Time Period so long as they submit a Declaration of Financial Hardship due to COVID-19 to their landlord upon being served with a notice for nonpayment of rent. The timeline below in **Table 3** illustrates the dates of each moratorium.

*Table 3: Summary Timeline of Eviction Moratoriums from City to Federal Level*

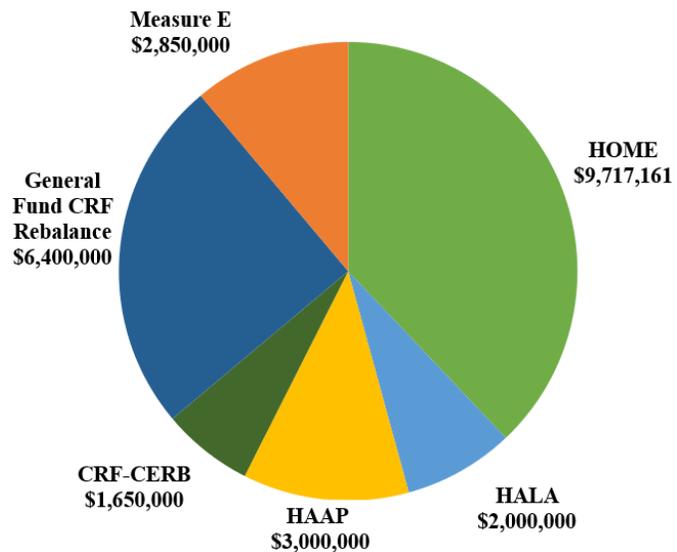
	3/20	4/20	5/20	6/20	7/20	8/20	9/20	10/20	11/20	12/20	1/21	2/21	3/21	
<b>CSJ</b>	<b>3/18/2020 to 8/31/2020</b> <i>Replaced by State’s AB 3088</i>												<b>Action: Jan 26</b> <i>Extend to Mar 4</i>	
<b>SCC</b>	<b>3/24/2020 to 8/31/2020</b> <i>Replaced by State’s AB 3088</i>												<b>Action: Jan 26</b>	
<b>CA</b>							<b>8/31/20 to 1/31/2021 (AB 3088)</b> <i>May take action prior to 1/31/2021</i>							
<b>U.S.</b>							<b>9/4/2020 to 1/31/2021</b> <i>May extend to 3/31/2021</i>					<i>Extend to Mar 31</i>		

**FINANCIAL RENTAL ASSISTANCE PROVIDED TO LANDLORDS AND TENANTS**

As of January 13, 2021, in addition to supporting the County and managing homeless housing programs, the Housing Department and the Community and Economic Recovery Branch of the Emergency Operations Center have allocated funds to respond to the pandemic by providing approximately \$25.6 million towards rental relief programs and direct rental assistance. The majority of the awards continue to be distributed based on evaluation of vulnerability and need of impacted tenants during the intake process. Funding sources are summarized in **Table 4**.

*Table 4: Summary of Funding Distributed by Funding Source*

<b>Funding Source</b>	<b>Amount</b>
<b>HOME</b>	\$9,717,161
<b>HALA</b>	\$2,000,000
<b>HAAP</b>	\$3,000,000
<b>CRF-CERB</b>	\$1,650,000
<b>General Fund CRF Rebalance</b>	\$6,400,000
<b>Measure E</b>	\$2,850,000
	<b>\$25, 617,161</b>



This funding will provide financial support to property owners and relieve tenants impacted by COVID-19 from mounting rent debt. In addition, the Community and Economic Recovery Branch of the Emergency Operations Center is responsible for administration of the projected \$30 million in federal Emergency Rental Assistance funds allocated in the Consolidated Appropriations Act of 2021. The City Council will be updated via informational memorandum about the status of this funding for direct rental assistance, utility relief, and project timeline.

**NOTICES OF TERMINATIONS AND UNLAWFUL DETAINERS SUBMITTED TO THE CITY**

Staff continue to receive, process, and track Notices of Termination received since March 18, 2020. **Table 5** summarizes preliminary data on termination notices related to nonpayment of rent and Unlawful Detainers:

*Table 5: Preliminary Data Housing Department Received Regarding Nonpayment of Rent Notices and Unlawful Detainers*

	<b>2019 – 2020 Quarterly Average Received</b>	<b>March 2020 – August 2020 <i>During Period of City’s Eviction Moratorium</i></b>	<b>September 2020 – January 2021 <i>During Period of State’s Eviction Moratorium</i></b>
<b>Nonpayment of Rent Notices</b>	<b>1,962</b>	<b>2,030</b>	<b>2,032</b>
<b>Total Unlawful Detainers</b>	<b>152</b>	<b>11</b>	<b>34</b>

While local and State Eviction Moratoria have suppressed the number of Unlawful Detainer submissions, staff reviewed Unlawful Detainer notices submitted and found that on average, tenants owed approximately \$13,500 in accrued past due rent from April 2020 to October 2020. In addition, findings included observations that landlords submitted blank Declaration of COVID-19 Related Financial Distress forms, which denotes in part, that the Unlawful Detainer was based on the tenant's alleged failure to submit the Declaration within the 15-day Notice period as required by State law AB 3088.

## **ANALYSIS**

Growing concern over whether State eviction protections will be extended beyond the AB 3088 January expiration date has resulted in an accelerated City response. Following direction from City Council, if State action is delayed and the Statewide Eviction Moratorium expires on January 31, 2021, the City's proposed recommendation and adoption of an urgency ordinance will continue protections against eviction for affected tenants.

Under AB 3088, tenants are protected from eviction through January 31, 2021 if they pay a minimum of 25% of their rent by the end of the month. However, on February 1, 2021, tenants will no longer be protected from eviction if they do not pay February's full rent when due under the rental agreement. The State legislature has introduced two new bills to extend these protections, but there is no guarantee when or if they will pass. Therefore, the recommended actions before the City Council are to enact a moratorium to protect those residents whose income continues to be impacted by COVID-19 due to continued shutdowns, imposed reduced business operations, and surging infections rates.

Similar to the beginning of the COVID-19 pandemic, staff recommends the City Council adopt both an Urgency Ordinance and Companion Ordinance putting into effect a moratorium on no cause evictions and nonpayment of rent evictions for persons financially impacted by COVID-19. According to the City Charter, in order for the City Council to pass emergency legislation that would take effect immediately, the City Council must find that the urgency measure is necessary for the immediate preservation of the public peace, health and/or safety, and the measure includes a statement of the facts constituting such urgency. To pass, the Ordinance must receive affirmative votes from at least two-thirds, or eight, Councilmembers. The Companion Ordinance is also included in the recommendation for the City Council's approval, requiring a simple majority to be approved and a second reading before adoption. The recommended action is to approve both Ordinances to immediately enact protections. The Urgency Ordinance will take effect February 1 and the Companion Ordinance will take effect thirty days after adoption. The reason for both Ordinances is to enable the City Council to take immediate action under the Urgency Ordinance and provide in the longer term a one-year repayment period under the Companion Ordinance to repay the rent accrued during the moratorium.

In the event that the State passes new legislation that extends protections to tenants financially impacted by COVID-19, these Ordinances will terminate if they are preempted by the new law. Under the Ordinance, the moratorium period will continue through the duration of the

[Proclamation of Local Emergency for COVID-19](#). The Proclamation memorandum and Resolution detailed the continued existence of a local emergency and the devastating effects of increased COVID-19 cases throughout the City, County, State, and Federal. In addition, the memorandum outlined the health and economic disparities that our most vulnerable residents continue to face as the pandemic continues. The local emergency is reviewed by the City Council every 60 days and is currently in effect through March 4, 2021.

The adoption of the Urgency Ordinance and the Companion Ordinance will increase housing stability in the midst of the ongoing pandemic. While widespread distribution of a vaccine is forthcoming and offers long-term relief, this process is expected to take several months to reach a majority of residents in San José. Presently, the recent surge of COVID-19 cases and related deaths have forced San José to remain under the State’s regional Stay at Home Order to slow the spread of the coronavirus and has resulted in the continued suppression of economic recovery.

Employment and unemployment data serve as valuable economic indicators, illustrating the effect of the pandemic on the local economy. To help guide decisions related to the City’s Eviction Moratorium, staff reviewed local and national data related to employment and unemployment trends from September through November 2020.

The summary of the analysis will include: a) unemployment in the County of Santa Clara and City of San José, b) job trends by sector by order of job losses and gains, and C) national trends for unemployment.

**A. Unemployment in the County of Santa Clara and City of San José**

The unemployment numbers from September to November 2020 indicate that the net reduction in unemployment lagged behind city wide job recovery (**Table 6**). In comparing the employment and unemployment figures for the County of Santa Clara and City of San José, data reveal that the recovery in unemployment is not keeping pace with the recovery in jobs. By comparison, the unemployment rates from February 2020 (Pre-COVID) to September 2020 for the County increased from 2.6% to 7.4%, and the City’s rates increased from 2.8% to 8.8%.

*Table 6: Summary of Employment Unemployment in Santa Clara County and City of San José*

		Pre-COVID Feb 2020	Sept 2020	Oct 2020	Nov 2020
<b>Santa Clara County</b>	<b>Employment</b>	1,028,100	951,800	997,500	989,600
	<b>Unemployment</b>	27,200 (2.6%)	70,900 (7.4%)	60,800 (6.1%)	53,100 (5.4%)
<b>City of San José</b>	<b>Employment</b>	541,300	501,100	525,200	521,000
	<b>Unemployment</b>	15,100 (2.8%)	44,000 (8.8%)	36,800 (7%)	31,700 (6.1%)

**B. Job Trends by Sector by Order of Job Losses and Gains**

From September 2020 to November 2020, data shows job losses and gains compared to February 2020 (Pre-COVID). **Table 7** summarizes the job losses and gains by industry, as published by the State Employment Development Department (EDD). The prevalence of additional claims varies dramatically between industries, with highest number of reported job losses impacting workers from: 1) leisure and hospitality, 2) others, and 3) information. Meanwhile, the industries with the highest job gains were: 1) transportation and warehousing, 2) business services, and 3) construction.

With many of these businesses opening, closing, then re-opening due to Stay at Home Orders, it is triggering multiple filings for employees impacted by this unpredictable working pattern. In many sectors, the share of additional claims has risen dramatically since the peak of the crisis, and is also higher than pre-crisis levels. This creates a greater challenge for low-income households in our City as residents working in these sectors are more likely to be renters in San José than in other job classes.

*Table 7: Job Trends by Sector by Order of Job Loss and Gains (By San José MSA)*

	Sept 2020	Oct 2020	Nov 2020	% Recovered*	% Not Recovered	Feb - Nov Job Loss/ Gain	Feb - Nov Job Loss/ Gain %
<b>INDUSTRIES WITH GREATEST JOB LOSSES, FROM HIGHEST TO LOWEST</b>							
<b>Leisure &amp; Hospitality</b>	72,600	77,500	80,600	57%	43%	-21,000	-20.7%
<b>Other Services</b>	22,900	24,200	23,700	40%	60%	-6,200	-20.7%
<b>Information</b>	92,100	92,200	92,500		+100%	-11,200	-10.8%
<b>Wholesale Trade</b>	28,500	28,400	28,500	14%	86%	-2,500	-8.1%
<b>Manufacturing</b>	163,500	163,800	163,200	17%	83%	-11,600	-6.6%
<b>Education &amp; Health Services</b>	169,000	170,600	172,200	49%	51%	-7,500	-4.2%
<b>Financial Act.</b>	243,000	244,800	247,000	+100%	-	+3,900	-3.9%
<b>Government</b>	92,000	94,600	95,400		+100%	-3,200	-3.2%
<b>Retail Trade</b>	76,800	78,400	81,900	90%	10%	-1,300	-1.6%
<b>INDUSTRIES WITH GREATEST JOB GAINS, FROM HIGHEST TO LOWEST</b>							
<b>Transportation &amp; Warehousing</b>	15,500	15,800	16,900	+100%	-	+2,000	13.4%
<b>Business Services</b>	243,000	244,800	247,000	+100%	-	+3,900	1.6%
<b>Construction</b>	51,600	52,900	51,400	+100%	-	+200	0.4%

\* The ratio of “jobs gained between April and November” to “jobs lost between February and April 2020”

### **C. National Trends for Unemployment – Black and Hispanic Workers Exceeds National Average**

The National League of Cities recently reported that occupational segregation has resulted in Black and Hispanic people being overrepresented in low-wage jobs that cannot be transitioned to remote work and due to COVID-19 related layoffs, Black and Hispanic people are more likely to experience housing instability.

Unemployment among Black and Hispanic workers have significantly exceeded the national average throughout the pandemic. December 2020 job loss data from the U.S. Bureau of Labor Statistics<sup>7</sup> underscored the deep inequality that has been a defining characteristic of the economic crisis. The low-wage workers who bore the brunt of the job losses in the spring, many of which Black and Hispanic women, did so again in December. Employment rose among men in December 2020 but fell among women, particularly Black and Hispanic women.

- Nationally, the unemployment rate among Hispanics jumped to 9.3%, from 8.4% in November. Hispanics accounted for about 18% of all workers and 28% of food preparation workers in 2019.
- The jobless rate for Black workers decreased in December 2020 but remained higher than it was for any other racial group. Before the coronavirus hit, the Black unemployment rate, at 6% in February 2020, was near the lowest since records began. It nearly tripled to 16.7% in May, as many Black workers were more likely to work in jobs that can't be done remotely.

As labor market volatility continues and communities already vulnerable to housing instability bear the brunt of the impact, the City of San José must continue to prioritize policies that promote public health.

### **CONCLUSION**

Based on the economic analysis detailed above, staff recommends the City Council enact the 2021 COVID-19 Residential Eviction Moratorium through the proclamation of a local state of emergency, as extended. San José residents continue facing a multitude of difficulties during the pandemic: an expiring State eviction moratorium, continued Shelter in Place orders that derail employment opportunities, economic volatility in certain employment sectors such as leisure and hospitality, and for many renters, a financial obligation of repaying rent debt under the City's 2020 eviction moratorium rent-repayment timeline. Together, these issues need a City response if the State does not take legislative action to extend protections afforded by AB 3088.

The Housing Department will continue to track the impact of COVID-19 related housing programs, including tenant and landlord mediation and rent assistance and how they benefit the rental community and report back findings to City Council.

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<sup>7</sup> <https://www.bls.gov/news.release/empsit.nr0.htm>

### **EVALUATION AND FOLLOW-UP**

The proposed recommendation and adoption of an urgency ordinance and companion ordinance is intended to extend protections against eviction for tenants, but only in the absence of continued State protection. The Housing Department will continue to track statewide legislation for possible extensions of the eviction moratorium and review the need to continue the local emergency. Pursuant to San José Municipal Code and California Government Code, the City Council will review the need for a Proclamation of Local Emergency every 60 days and terminate the local emergency if conditions warrant termination.

### **CLIMATE SMART SAN JOSÉ**

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

### **PUBLIC OUTREACH**

The memorandum will be posted for the January 26, 2021 Council agenda.

### **COORDINATION**

Preparation of this report was coordinated with the City Attorney's Office, the Office of Economic Development, the Community and Economic Recovery Branch of the Emergency Operations Center, and the Office of Intergovernmental Relations.

### **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

### **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

January 22, 2021

**Subject: Adoption of COVID-19 Residential Eviction Moratorium**

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**CEQA**

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

/s/

JACKY MORALES-FERRAND

Director, Housing Department

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

**ATTACHMENT:**

**Attachment A:** Summary of City Council Actions Regarding Eviction Moratorium

## Summary of City Council Actions Regarding 2020 Residential Eviction Moratorium

<b>Date</b>	<b>Summary of City Council Actions</b>
<a href="#"><u>March 17, 2020</u></a>	<p><b>Creation of a Temporary Residential Eviction Moratorium</b></p> <ul style="list-style-type: none"> <li>• City Council approved a moratorium on residential evictions for nonpayment of rent.</li> <li>• The moratorium will be in place for 30 days, and it may be extended by the City Council. To stop an eviction under the moratorium, a tenant must document that their income has been reduced due to the COVID-19 pandemic.</li> </ul>
<a href="#"><u>April 14, 2020</u></a>	<p><b>Extension of the Residential Eviction Moratorium</b></p> <ul style="list-style-type: none"> <li>• City Council approved extending the residential eviction moratorium through May 31, 2020.</li> </ul> <p><b>Repayment Period</b></p> <ul style="list-style-type: none"> <li>• City Council directed Housing Department staff to draft an amendment to the moratorium that would include a repayment period to pay unpaid rent accrued during the Residential Eviction Moratorium.</li> </ul>
<a href="#"><u>May 19, 2020</u></a>	<p><b>Extension and Amendments to the Residential Eviction Moratorium</b></p> <ul style="list-style-type: none"> <li>• City Council extended the eviction moratorium through June 30, 2020.</li> <li>• A repayment period was established for tenants to pay any unpaid rent that accrued during the eviction moratorium. Tenants must pay at least 50% of the unpaid rent in the six months following the end of the Residential Eviction Moratorium. The remaining 50% must be paid one year after the Residential Eviction Moratorium.</li> <li>• Affected tenants and landlords may voluntarily negotiate their own repayment plans. Before a repayment plan is signed, the landlord must provide the tenant with a written notice of their rights under the eviction moratorium related to repayment of past due rent.</li> <li>• During the repayment period, landlords may not charge late fees, interest or penalties for the unpaid rent that accrued during the Residential Eviction Moratorium.</li> <li>• Retaliation or harassment against tenants for invoking their rights under the moratorium is prohibited.</li> <li>• If a landlord serves a tenant with a termination notice while the Residential Eviction Moratorium is in effect, the tenant has seven days to notify the landlord that the tenant's income has been impacted by the COVID-19 pandemic.</li> </ul>
<a href="#"><u>June 23, 2020</u></a>	<p><b>Extension of Residential Eviction Moratorium</b></p> <ul style="list-style-type: none"> <li>• City Council Extended the eviction moratorium through August 31, 2020.</li> </ul>
<a href="#"><u>August 25, 2020</u></a>	<p><b>Extension of Residential Eviction Moratorium</b></p> <ul style="list-style-type: none"> <li>• City Council extended the residential eviction moratorium as long as the local emergency declaration is in effect. The local emergency remained in effect through October 17, 2020, although it may be extended.</li> <li>• On August 31, 2020, the Governor signed AB 3088 (Chiu) the "Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020," which superseded the City's local moratorium with a statewide residential eviction moratorium that runs through February 1, 2021.</li> </ul>