

ORDINANCE NO. O-2020-41

AN ORDINANCE AMENDING SECTIONS 6.120.030 AND 6.120.040 OF THE ALAMEDA COUNTY ORDINANCE CODE TO EXTEND THE TEMPORARY MORATORIUM ON RESIDENTIAL EVICTIONS IN THE COUNTY OF ALAMEDA TO EXPIRE SIXTY DAYS AFTER THE EXPIRATION OF THE LOCAL HEALTH EMERGENCY BUT NOT SOONER THAN SIXTY DAYS AFTER DECEMBER 31, 2020

SECTION I

In enacting this ordinance, the Board of Supervisors of the County of Alameda, State of California hereby reaffirms and incorporates by this reference the findings contained in Section I of Ordinance No. O-2020-32.

SECTION II

NOW, THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

Sections 6.120.030 and 6.120.040 of Chapter 6.120 of the Alameda County Ordinance Code, respectively, are hereby amended to read as follows:

6.120.030 - Moratorium on Evictions During Local Health Emergency.

- A. Beginning on the effective date of this ordinance and expiring sixty (60) days after the expiration of the Local Health Emergency but not sooner than sixty (60) days after December 31, 2020, the County hereby places a moratorium on all evictions from Residential Units in the unincorporated and incorporated areas of the County, subject to the exceptions stated below.
- B. No Landlord or Lender may evict a Resident, or otherwise require a Resident to vacate a Residential Unit, or retaliate against a Resident, while this section is in effect.
- C. Violation of this ordinance is an affirmative defense to any unlawful detainer action or other proceeding to recover possession of a Residential Unit.
- D. It shall be an absolute defense to any unlawful detainer action against a Resident that the Notice of Termination was served or expired, or that the complaint was filed or served, on or after March 24, 2020 and on or before sixty (60) days after the expiration of the Local Health Emergency or sixty (60) days after December 31, 2020, whichever is later, subject to the exceptions stated below. This defense may be raised at any time, including after the end of the Local Health Emergency and after the expiration of this ordinance stated in Section III, provided the notice or complaint at issue in the unlawful detainer action was filed or served during the period stated in this subsection.

- E. Notwithstanding any lease provision to the contrary, no late fees, fines or interest may be imposed for rent that became due during the effective period for this section.
- F. Exceptions. The Landlord or Lender claiming that their proposed eviction is not prohibited by this ordinance shall have the burden of proving that one or more of the exceptions applies. The provisions of this section shall not apply in the following circumstances, which must be stated by in the Notice of Termination and the complaint as the grounds for the eviction:
 - 1) A Landlord is taking the Residential Unit off of the residential rental market in accordance with Government Code sections 7060, *et seq.* (Ellis Act) and in compliance with any applicable local ordinances.
 - 2) The Residential Unit must be vacated to comply with an order issued by a government agency or court.
 - 3) Continued occupancy by the Resident poses an imminent threat to health or safety. For the purposes of this ordinance, the basis for this exception cannot be the Resident's COVID-19 illness or exposure to COVID-19, whether actual or suspected.

6.120.040 - Moratorium on Evictions Based on Nonpayment Caused by COVID-19.

- A. Beginning on the effective date of this ordinance and expiring sixty (60) days after the expiration of the Local Health Emergency but not sooner than sixty (60) days after December 31, 2020, the County hereby places a moratorium on evictions from Residential Units in the unincorporated and incorporated areas of the County resulting from a substantial loss of income, substantial out-of-pocket medical expenses, or extraordinary child care needs, any of which are caused by COVID-19.
- B. No Landlord or Lender may evict an Affected Resident, or otherwise require an Affected Resident to vacate a Residential Unit or retaliate against an Affected Resident for nonpayment of rent or mortgage payments or for nonpayment of late fees, fines or interest based on nonpayment, while this ordinance is in effect.
- C. Violation of this ordinance is an affirmative defense to any unlawful detainer action or other proceeding to recover possession of a Residential Unit.
- D. It shall be an absolute defense to any unlawful detainer action against an Affected Resident based on a failure to timely make rent or mortgage payments that the Notice of Termination was served or expired, or that the complaint was filed or served, on or after March 24, 2020 and on or before sixty (60) days after the expiration of the Local Health Emergency or sixty (60) days after December 31, 2020, whichever is later. This defense may be raised at any time, including after the end of the Local Health Emergency and after the expiration of this ordinance stated in Section III, provided the notice or complaint at issue in the unlawful detainer action was filed or served during the period stated in this subsection.

- E. Notwithstanding any lease provision to the contrary, no late fees, fines or interest may be imposed for rent that became due during the effective period for this section, if the rent was late due to a Qualifying Loss.

SECTION III

This ordinance shall be in force thirty (30) days after its passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for an against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the 4th day of August, 2020, by the following called vote:

AYES: Supervisors Carson, Chan, and President Valle - 3

NOES: None

EXCUSED: Supervisor Haggerty - 1

ABSTAINED: Supervisor Miley - 1

RICHARD VALLE

President of the Board of Supervisors

ATTEST: ANIKA CAMPBELL-BELTON

Clerk of the Board of Supervisors,

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: Heather Littlejohn, Deputy County Counsel