

**~ FOURTH AMENDED ORDER OF THE DIRECTOR OF EMERGENCY SERVICES
FOR THE CITY OF LIVERMORE REGARDING TEMPORARY MORATORIUM ON
COMMERCIAL EVICTIONS RESULTING FROM LOSS OF INCOME, INCREASED
MEDICAL EXPENSES, OR CHILD CARE NEEDS
RELATED TO COVID-19**

On March 13, 2020, under the authority contained in California Government Code section 8634 and City of Livermore Municipal Code sections 2.56.050 and 2.56.060, I declared the existence of a local emergency in the City of Livermore.

On March 16, 2020, the City Council of the City of Livermore adopted a resolution ratifying the proclamation of the existence of a local emergency in the City of Livermore.

On March 16, 2020, California Governor Gavin Newsom issued Executive Order N-28-20 permitting local governments to exercise their police power to impose substantive limitations on residential and commercial evictions under specified circumstances related to the COVID-19 pandemic or government response to COVID-19. Executive Order N-28-20 has since been extended to be in effect through September 30, 2020.

On March 24, 2020, the Alameda County Board of Supervisors adopted an urgency ordinance No. O-2020-14 establishing a temporary moratorium on evictions resulting from loss of income, increased medical expenses or childcare needs due to COVID-19, in unincorporated County areas. The Board has subsequently adopted several additional urgency ordinances amending and extending the expiration date for urgency ordinance O-2020-14. The current ordinance expires on September 30, 2020 or 60 days after the expiration of the local health emergency, whichever comes later. However, the County is considering whether to extend that expiration date concurrent with its regular ordinance No. O-2020-32 discussed below.

On March 25, 2020, under my authority as the Emergency Services Director, I signed an Order Establishing a Temporary Moratorium on Residential and Commercial Evictions in Livermore.

On March 27, 2020, California Governor Gavin Newsom issued Executive Order N-37-20 providing tenants in California an extension of 60 days to respond to an eviction complaint, if they are unable to pay rent due for specified reasons related to the COVID-19 emergency.

On March 31, 2020, the Alameda County Board of Supervisors adopted an amended urgency ordinance expanding its residential eviction moratorium to apply to all cities in Alameda County, as well as unincorporated areas of the county.

On April 2, 2020, I signed the First Amended Order Establishing a Moratorium on Residential and Commercial Evictions (First Amended Order), to maintain consistency between the City's Order, the County's amended order and the Governor's Executive Orders.

On April 13, 2020, the City Council of the City of Livermore adopted a resolution ratifying the First Amended Order.

On April 21, 2020, the Alameda County Board of Supervisors adopted an urgency eviction moratorium ordinance to suspend residential evictions for any reason, with limited exceptions, during the period of the local health emergency related to COVID-19 and continuing until thirty days after it ends. It further prohibited evictions based on the inability to pay as a result of the COVID-19 emergency and instituted detailed procedures and protections for residential tenants and homeowners in the county.

On May 5, 2020, I signed the Second Amended Order Establishing a Moratorium on Residential and Commercial Evictions (Second Amended Order), to align with the County's eviction moratorium ordinance for residential properties and to provide protections for commercial tenants in Livermore. This order was in effect through June 30, 2020.

On May 25, 2020, California Governor Newsom issued Executive Order N-66-20, which extended Executive Order N-28-20 an additional 60 days, through July 31, 2020.

On June 8, 2020, the City Council of the City of Livermore adopted a resolution ratifying the Second Amended Order. Also on that date, the Council extended the local emergency, finding that emergency conditions were still present in the City as a result of COVID-19.

On June 23, 2020, Alameda County adopted a regular ordinance No. O-2020-32 amending Chapter 6.120 of the ordinance code to modify the temporary moratorium on residential evictions due to and during the COVID-19 emergency in the County of Alameda. The Board has subsequently adopted amendments to regular ordinance, including changes to extend the expiration date. The current ordinance expires on December 31, 2020 or 60 days after the expiration of the local health emergency, whichever comes later.

This ordinance applies to cities within Alameda County, unless they have stronger tenant protections in their own jurisdictions. Livermore will not opt out of the County ordinance. The current regular ordinance expires on December 31, 2020 or 60 days after the expiration of the local health emergency, whichever comes later

On June 30, 2020, California Governor Newsom issued Executive Order N-71-20, which extended Executive Order N-28-20 through September 30, 2020.

On July 27, 2020, the City Council of the City of Livermore adopted a resolution ratifying the Third Amended Order. Also on that date, the Council extended the local emergency, finding that emergency conditions were still present in the City as a result of COVID-19.

On August 31, 2020, Governor Newsom signed AB3088 into law, extending residential eviction protections through January 2021 to residential tenants impacted by CoVID-19 who pay at least 25 percent of the rent due.

On September 14, 2020, the Council extended the local emergency, finding that emergency conditions were still present in the City as a result of COVID-19.

On September 23, 2020, Governor Newsom issued Executive Order N-80-20, which extended Executive Order N-28-20, Paragraph 2, Executive Order N-66-20, Paragraph 21, and Executive Order N-71-20, Paragraph 3, extending the commercial eviction protections through March 31, 2021.

As a result of the Governor's extension of commercial eviction protections in Executive Order N-80-20, the Governor's signing of AB3088 protecting against residential evictions, and the persistence of the local emergency, it is necessary to extend local commercial eviction protections through March 31, 2021 to protect against the devastating economic impacts in the City of Livermore during this time.

Under California Government Code section 8634 and Livermore Municipal Code section 2.56.060.B.1, I am empowered upon the proclamation of a local emergency to make and issue orders and regulations on matters reasonably related to the protection of life and property as affected by such local emergency. These orders and regulations are to be confirmed by the City Council at the earliest practicable time.

THEREFORE, I, Marc Roberts, as Director of Emergency Services, order the following:

1. This Order hereby supersedes the Third Amended Order signed on May 5, 2020 and ratified by the City Council on June 8, 2020.
2. The Alameda County urgency ordinance no. O-2020-14 and regular ordinance no. O-2020-32, as they are amended, and AB3088 shall govern the protections provided to residential tenants and homeowners in the City of Livermore.
3. With regard to commercial tenancies and commercial rental agreements, no landlord or lessor shall endeavor to evict a commercial tenant for nonpayment of rent, limit their physical access to personal property or conduct lien sales, including but not limited to any such provisions under California Civil Code sections 798.56 et seq., 1940 et seq., or 1954.25 et seq., Business and Professions Code section 21700 et seq., if the tenant or lessee demonstrates that the inability to pay rent is due to, or arising out of, a substantial decrease in business income or substantial out of pocket medical expense, or extraordinary child care needs, any of which was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented in writing.
4. "Substantial decrease in business income" includes, but is not limited to, monthly income loss of at least 20 percent as compared to the same month in 2019 caused by work closures, reduction in staff reporting to work, reduction in opening hours, or reduction in customer demand, compliance with government health authority orders, or other similarly-caused reason resulting in loss of business income due to COVID-

19, substantiated with written documentation or other objectively verifiable proof of the same.

5. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure section 1161 or 1162, or Business and Professions Code section 21703 as applicable, file or prosecute an unlawful detainer action based on a three-day notice to pay or quit, conduct a lien sale, or otherwise seek to evict or terminate a rental agreement for nonpayment of rent during the period of the local emergency and while this Order is in place.
6. To remain eligible for the protections afforded by the moratorium, any tenant that cannot pay some or all of the rent temporarily for the reasons set forth above must endeavor to pay partial rent commensurate with their substantial decrease in business income and shall work with their landlord to determine a repayment schedule for the balance of their lease obligations.
7. A landlord is presumed to know of a tenant's inability to pay rent within the meaning of this Order if the tenant at least seven days prior to the date that rent is due, notifies the landlord in writing of tenant's or inability to pay full rent because of a substantial decrease in business income or out of pocket medical expenses caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and provides documentation to support the claim. Any medical or financial information provided to the landlord shall be held in confidence and only used for evaluating the tenant's claim.
8. A landlord is also prohibited from retaliating against a tenant that qualifies for the protections set forth in this order during the term of the moratorium. For example, a landlord, and any of the landlord's employees or agents, is prohibited from terminating utilities or blocking physical access to personal property to a qualified tenant protected by this moratorium.
9. Nothing in this Order relieves the tenant of liability for the unpaid rent, which the landlord may seek after the expiration of this Order or subsequently enacted Ordinance.

This Order shall go into effect immediately and be in effect through at least March 31, 2021, for commercial tenancies, and shall run concurrently with the Governor's Order N-28-20 and any extension thereof, unless terminated sooner by the City. This Order may be extended or supplemented in response to subsequent Executive Orders by the Governor of the State of California on this subject, or orders or ordinances issued or adopted by Alameda County complementing or superseding this Order, or the City Council or the Director of Emergency Services for the City of Livermore.

Dated: 9/28/20



Marc Roberts
Director of Emergency Services

