ORDINANCE NO. 2020-12

AN URGENCY ORDINANCE OF THE CITY OF ALBANY AMENDING URGENCY ORDINANCE 2020-03, AS AMENDED BY URGENCY ORDINANCE NO. 2020-06, TO EXTEND THE TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT AND RENT INCREASES FOR CERTAIN RESIDENTIAL AND COMMERCIAL TENANTS DURING THE COVID-19 PANDEMIC AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. FINDINGS

A. The findings set forth in Ordinance No. 2020-03 and No. 2020-06 are still applicable and incorporated herein by reference.

B. On June 30, 2020, the California Governor issued Executive Order N-71-20, Paragraphs 2 and 3, extending the timeframe for the protections in Executive Order N-28-20, Paragraphs 1 and 2 (previously extended via Executive Order N-66-20, Paragraphs 20 and 21), thereby extending authorization for local governments to limit evictions for residential and commercial tenants impacted by the COVID-19 pandemic through September 30, 2020.

C. The unemployment rates in Alameda County have increased dramatically due to the COVID-19 pandemic. According to the California Employment Development Department, Alameda County’s unemployment rate in May 2020 was 13.5 percent, which is an increase of almost eleven percent compared to the year-ago estimate for May 2019 of 2.6 percent.

D. The City Council desires to extend the Albany residential and commercial eviction moratoria of urgency ordinance No. 2020-03 and 2020-06 to prevent widespread housing displacement, unemployment and loss of business during the COVID-19 pandemic, which could increase homelessness, loss of health care among workers, and further the spread of COVID-19.

E. Public health is served by allowing businesses to follow the public health orders to close or limit operations without fear of imminent eviction.

F. The City Council desires to maintain economic infrastructure so that all businesses have the ability to recover from the impacts of the COVID-19 pandemic outbreak and continue to
provide employment and so that economic recovery is possible after the emergency is over, all of which are in the interest of the public peace, health, safety and welfare.

G. The City Council desires to extend the commercial and residential eviction moratorium to prevent uncertainty and confusion for tenants associated with multiple state and county regulations governing evictions during the COVID-19 pandemic and to provide certainty for tenants on the processes in place to repay deferred rent.

H. This Ordinance is adopted pursuant to the City's police powers and powers afforded to the city in the time of a national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and Section 2-16 of the Albany Municipal Code to protect the peace, health, and safety of the public. The Albany City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of businesses and workers working within the City and finds urgency to approve this ordinance immediately based on the facts described herein and detailed in the staff report. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of health, life and property.

SECTION 2. MORATORIUM EXTENSION

Section 9 (DURATION; SUSPENSION) of Ordinance 2020-03, as amended by Ordinance No. 2020-06, is amended to read as follows:

“In accordance with the Governor of the State of California’s Executive Orders N-28-20, N-66-20, and N-71-20, Ordinance No. 2020-03 shall remain in effect until September 30, 2020. In order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of any provision in this ordinance in the event that the President of the United States, Congress, Governor of the State of California or California State Legislature or other body with jurisdiction adopts an order or legislation that similarly prohibits evictions for failure to pay rent by individuals impacted by the COVID-19 crisis.”
SECTION 3. EFFECT.

Except as provided by Section 2 of this Ordinance, all provisions of Ordinance No. 2020-03, as amended by Ordinance No. 2020-06, shall remain in full force and effect.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or word of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

SECTION 5. ENVIRONMENTAL REVIEW.

The City Council finds that adoption and implementation of this ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo and extend the existing urgency ordinance for an additional two months. No new development will result from the proposed action. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Albany, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

SECTION 6. URGENCY DECLARATION; EFFECTIVE DATE.

The City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as the City and public would suffer potentially irreversible displacement of residential and commercial tenants and loss of employment resulting from
evictions for failure to pay rent during the COVID-19 crisis. During this local emergency, it is essential to avoid unnecessary housing displacement, to protect the City’s affordable housing stock, and to prevent housed individuals from falling into homelessness during a time of public health crisis and abnormal economic conditions, especially given state and county directives to stay at home. In the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary loss of business and jobs which could lead to housed individuals falling into homelessness during a time of abnormal economic conditions. Promoting stability amongst commercial tenancies is also conducive to public health by allowing businesses to follow the advice and directives of public health officials to close or limit operations and allowing employees to avoid or limit public contact during times of a public health crisis without fear of imminent eviction or foreclosure. Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent. The length of the period of federal, state and local emergency is unknown at this time and it is prudent to revisit these emergency response measures as the unprecedented situation and legal landscape evolve. By extending the Local Eviction Moratorium Ordinance through September 30, 2020 the City Council desires to provide stability for residential and commercial tenants while orders of the Alameda County Public Health Officer continue to mandate significant limitations and closures of businesses and to provide certainty to landlords on the processes in place to repay deferred rent after the initial period of moratorium. The Urgency Ordinance is already in place and these amendments require immediate action so the ordinance does not expire. Under Government Code Section 8634 and Section 2-16 of the Albany Municipal Code, this ordinance is necessary to provide for the protection of life and property for the reasons set out herein. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.
SECTION 7. CERTIFICATION

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this 20th day of July 2020.

AYES: Council Members Barnes, Maass, McQuaid, Nason and Mayor Pilch
NOES:
ABSENT:
ABSTAIN:

NICK PILCH, MAYOR
ORDINANCE NO. 2020-12

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF

ALBANY, The 20th day of July, 2020, by the following votes:

AYES: Council Members Barnes, Maass, McQuaid, Nason and Mayor Pilch

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this


Anne Hsu
CITY CLERK