



Office of the Mayor

ACTION CALENDAR
February 27, 2023

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Resolution Extending the Covered Period of the COVID-19 Emergency Response Ordinance (Chapter 13.110)

RECOMMENDATION

Adopt a Resolution extending the Covered Period of the COVID-19 Emergency Response Ordinance for 60-days beyond the eventual expiration of the Local Emergency.

FISCAL IMPACT OF RECOMMENDATION

To be determined

CURRENT SITUATION AND ITS EFFECTS

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County declared a local health emergency. The Proclamation of Local Emergency empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such local emergency. Pursuant to Government Code section 8630(b) and Berkeley Municipal Code section 2.88.040.A.1, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

Pursuant to Government Code section 8630(c), the City Council must review the need for continuing the local emergency at least once every sixty (60) days. The Council last reviewed and ratified the Proclamation of Local Emergency on January 31, 2023. The Council therefore must review the continuing need for the local emergency by April 1, 2023, if the Council wishes to continue the local emergency.

If at any time the Council determines that the need for continuing the local emergency has ended, state law directs the Council to terminate the local emergency at the earliest possible date that conditions warrant. (Cal. Gov. Code section 8630(d).)

While COVID-19 remains prevalent in the community, the City has made significant progress in addressing the impacts of COVID-19, including a reduction in the rates of hospitalization and death, as well as a citywide vaccination rate of at least ninety-four percent (94%). Governor Gavin Newsom has announced that the statewide COVID-19 State of Emergency will end on February 28, 2023. At this time it is unknown when conditions will warrant the termination of the City's Local Emergency.

The end of the City's eviction moratorium, which has been in place since March 17, 2020, will be triggered immediately upon the termination of the COVID-19 local emergency unless the City Council extends the Covered Period by resolution. (BMC § 13.110.030.A.)

BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County. On March 10, 2020, the City Council ratified the Proclamation of Local Emergency.

The City Council has subsequently reviewed and ratified the Proclamation of Local Emergency on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, December 14, 2021, February 8, 2022, March 22, 2022, May 10, 2022, June 28, 2022, July 26, 2022, September 20, 2022, November 3, 2022, December 13, 2022, and January 31, 2023.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

RATIONALE FOR RECOMMENDATION

If the City's eviction moratorium ends abruptly, there is a need to provide a transition to ensure that property owners and tenants are aware that the end of the moratorium is forthcoming and to provide a date by which lawful eviction notices can be served and when tenants are fully covered by state and local eviction laws. As such, the Council will consider the adoption of an ordinance creating a transition period in which certain evictions will remain prohibited, including evictions of tenants with a Covered Reason for Delayed Payment. If such legislation is adopted by Council it will require a second reading and 30 days to take effect, during which time it is possible that conditions may

warrant the termination of the Local Emergency. At a minimum, a 60-day period following the end of the Local Emergency would provide crucial time for tenants and landlords to get their affairs in order prior to the filing of unlawful detainer (eviction) cases in Superior Court.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

RESOLUTION NO. –N.S.

RESOLUTION EXTENDING THE COVERED PERIOD OF THE COVID-19
EMERGENCY RESPONSE ORDINANCE (CHAPTER 13.110)

WHEREAS, in accordance with the Emergency Services Act, Government Code sections 8558(c) and 8630, the Director of Emergency Services beginning on March 3, 2020, did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, on March 17, 2020, the City Council adopted the COVID-19 Emergency Response Ordinance, Berkeley Municipal Code Chapter 13.110, prohibiting evictions for the duration of the Local Emergency; and

WHEREAS, on December 15, 2020, the City Council amended the COVID-19 Emergency Response Ordinance to empower the City Council to extend the duration of the “Covered Period” beyond the expiration of the local emergency by resolution; and

WHEREAS, COVID-19 remains prevalent in the community, and while the City has made significant progress in addressing the impacts of COVID-19, including a reduction in rates of hospitalization and death, as well as a citywide vaccination rate of at least ninety-four percent (94%); progress remains to be made in other areas, such as reducing case rates, increasing administration of vaccines to children under 5 (41%) and administration of bivalent boosters (42% citywide); and

WHEREAS, Governor Gavin Newsom has announced that the statewide COVID-19 State of Emergency will end on February 28, 2023; and

WHEREAS, it is unclear to Berkeley tenants and landlords when the Local Emergency may end, which would result in an abrupt end to the COVID-19 Emergency Response Ordinance; and

WHEREAS, the County of Alameda has adopted a COVID-19 Eviction Moratorium that will not expire until 60 days after the termination of the County’s Local Emergency;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that it is hereby proclaimed and ordered that the “Covered Period” in the COVID-19 Emergency Response Ordinance (Chapter 13.110) is hereby extended until 60 days after the termination of the Local Emergency.