

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: October 18, 2021

Reviewed by: NA

**SUBJECT:** Urgency Ordinance No. 2021-10 Revising the Repayment Period for Unpaid Rent and Rent Increases under the Commercial Moratorium on Evictions during COVID-19 Pandemic.

**REPORT BY:** Mala Subramanian, City Attorney

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**SUMMARY**

This urgency ordinance would amend the repayment period under the City's commercial eviction and rent increase moratorium to September 30, 2022.

**STAFF RECOMMENDATION**

By a four-fifths vote, that the Council adopt Urgency Ordinance No. 2021-10 to revise the repayment period for unpaid rent and rent increases under the commercial eviction moratorium during the COVID-19 pandemic and setting forth the facts constituting such urgency.

**BACKGROUND**

In March 2020, federal, state and local government officials issued various declarations of public health states of emergency in response to the global spread of COVID-19. State and local leaders took various actions to address the impacts of the pandemic, including a number of emergency measures to avoid a "wave of evictions." Albany's residential eviction moratorium lapsed on September 30, 2020 pursuant to Ordinance No. 2020-13. Now, the federal and statewide residential eviction moratoria have also ended.

The City of Albany passed a commercial eviction moratorium in March 2020, which was shielded from state law preemption under Executive Order N-08-21 and its predecessor orders. However, Executive Order N-08-21 (paragraph 61) has expired as of September 30, 2021. With the sunset of the Governor's Executive Order, the City of Albany's commercial eviction moratorium has now also expired as of September 30, 2021.

**DISCUSSION**

The repayment period for unpaid rent and rent increases under the City's commercial eviction moratorium provisions was set at twelve months after expiration of the local emergency. (See Ordinance No. 2020-06, Section 3.) Although local conditions with respect to the health crisis appear to be stabilizing, the local emergency due to COVID-19 has not ended. The virus has

not disappeared, new variants are circulating, and more variants may arise. Though conditions are significantly better than when the local emergency was first declared, the City must be ready to immediately respond to unpredictable changes as the economy reopens to pre-pandemic capacity, therefore the City Council may find that it is premature to end the local emergency.

Notwithstanding the continuation of the local emergency, the commercial eviction moratorium has expired with the termination of the Governor's Executive Order. Without the immediate adoption of a date-specific repayment period, a provision the City's commercial moratorium lacks, tenants and landlords will be left without certainty about their rights and obligations now that the moratorium has ended.

The proposed ordinance would revise the repayment period to be September 30, 2022. This will provide commercial tenants with twelve months from the expiration of the City's commercial eviction moratorium to re-pay unpaid rent and rent increases that accrued during the moratorium. Landlords will be prohibited from commencing an eviction during this repayment period so long as the tenant pays the unpaid back rent (or rent increases) by September 30, 2022 and remains current on then-due rent.

It is critical to provide certainty to both landlords and commercial tenants as to the repayment period for back rent, so that all businesses have the ability to recover from the impacts of the COVID-19 pandemic. The City of Albany continues to have a strong interest in facilitating recovery of the local economy during this phase of the COVID-19 pandemic.

### **Attachments**

1. Urgency Ordinance No. 2021-10