

1 businesses open indoors and more people from different households mix, the risk of becoming
2 infected increases. The majority of Alameda County residents have not been vaccinated and there
3 are reports of vaccine shortages and distribution issues. In addition, new variants of COVID-19
4 are being studied, and these variants may spread more easily, may carry increased risk of death,
5 or may have mutations which could affect the virus' ability to be recognized by antibodies.

6 F. As of March 23, 2021, the World Health Organization reported a global total of
7 123,419,065 cases of COVID-19, including 2,719,163 deaths; California reported 3,549,101 cases
8 of COVID-19, including 56,596 deaths; Alameda County reported 82,680 cases of COVID-19
9 (with 318 cases in Albany) including 1,369 deaths.

10 G. The City Council desires to extend the Albany commercial eviction moratorium
11 provisions of urgency ordinance Nos. 2020-03, 2020-06, 2020-12 and 2020-13 to prevent
12 widespread unemployment and loss of business during the COVID-19 pandemic, which could
13 increase homelessness, loss of health care among workers, and further the spread of COVID-19.

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

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

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

3 **SECTION 2. DURATION; SUSPENSION**

4 Section 9 of Ordinance 2020-03, as amended by Ordinance Nos. 2020-06, 2020-12 and
5 2020-13, is amended to read as follows:

6 “Section 3, Section 6, Section 8 and Section 9 of Ordinance 2020-03,
7 as amended, shall remain in effect until June 30, 2021; provided,
8 however that this Ordinance shall be automatically extended if
9 Executive Order N-28-20, Paragraph 2, is extended or the
10 commercial tenant protections therein are extended pursuant to
11 another Governor’s Executive Order. In order to prevent
12 inconsistencies, the Director of Emergency Services may suspend the
13 effectiveness of any provision in this ordinance in the event that the
14 President of the United States, Congress, Governor of the State of
15 California or California State Legislature or other body with
16 jurisdiction adopts an order or legislation that similarly prohibits
17 evictions for failure to pay rent by individuals impacted by the
18 COVID-19 crisis.”

13 **SECTION 3. SEVERABILITY.**

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

17 **SECTION 4. ENVIRONMENTAL REVIEW.**

18 The City Council finds that adoption and implementation of this ordinance is not a
19 “project” for purposes of the California Environmental Quality Act (CEQA), as that term is
20 defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of
21 the proposed Ordinance will be to maintain the status quo and extend the existing commercial
22 eviction moratorium for an additional time period consistent with Executive Order N-03-21, and
23 any subsequent extension. No new development will result from the proposed action. No impact
24 to the physical environment will result. The City Council also alternatively finds that the adoption
25 and implementation of this ordinance is exempt from the provisions of CEQA as an
26 administrative activity by the City of Albany, in furtherance of its police power, that will not
27 result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and
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1 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic
2 regulations).

3 **SECTION 5. URGENCY DECLARATION; EFFECTIVE DATE.**

4 The City Council finds and declares that the adoption and implementation of this
5 Ordinance is necessary for the immediate preservation and protection of the public peace, health
6 and safety as detailed above and as the City and public would suffer potentially irreversible
7 displacement of commercial tenants and loss of employment resulting from evictions for failure
8 to pay rent during the COVID-19 crisis. During this local emergency, and in the interest of
9 protecting the public health and preventing transmission of COVID-19, it is essential to avoid
10 unnecessary loss of business and jobs which could lead to housed individuals falling into
11 homelessness during a time of abnormal economic conditions, especially given continuing state
12 and county directives to stay at home. Promoting stability amongst commercial tenancies is also
13 conducive to public health by allowing businesses to follow the advice and directives of public
14 health officials to close or limit operations and allowing employees to avoid or limit public
15 contact during times of a public health crisis without fear of imminent eviction or foreclosure.
16 Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling
17 their financial obligations, including payment of rent. The length of the period of federal, state
18 and local emergency is unknown at this time. By extending the Local Commercial Eviction
19 Moratorium Ordinance through June 30, 2021 and automatically upon further extension of the
20 Governor's Executive Order, the City Council desires to provide stability for commercial tenants
21 while orders of the Alameda County Public Health Officer and the State continue to mandate
22 significant limitations and closures of businesses and to provide certainty to landlords on the
23 processes in place to repay deferred rent after the initial period of moratorium. These amendments
24 require immediate action so that commercial eviction protections do not expire. Under
25 Government Code Section 8634 and Section 2-16 of the Albany Municipal Code, this ordinance
26 is necessary to provide for the protection of life and property for the reasons set out herein. The
27 Council therefore finds and determines that the immediate preservation of the public peace, health
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1 and safety, and protection of life and property, require that this Ordinance be enacted as an
2 urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon
3 adoption by four-fifths of the City Council.

4 **SECTION 6. CERTIFICATION**

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

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8 PASSED, APPROVED AND ADOPTED this 5th day of April 2021.

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11 AYES: Council Members Jordan, McQuaid, Nason, Tiedemann and Mayor Gary

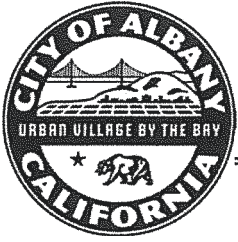
12 NOES:

13 ABSENT:

14 ABSTAIN:

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17 GE'NELL GARY, MAYOR

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City of Albany

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ORDINANCE NO. 2021-05

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 5th day of April, 2021, by the following votes:

AYES: Council Members Jordan, McQuaid, Nason, Tiedemann and Mayor Gary

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 6th
day of April, 2021.

Anne Hsu
CITY CLERK