

**CITY OF UNION CITY  
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**ORDINANCE NO. 2020-010**

**AN ORDINANCE TO PREVENT EVICTIONS FOR NON-PAYMENT OF RENT  
RESULTING FROM THE CORONAVIRUS EMERGENCY**

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, a municipality may amend ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

**WHEREAS**, the City of Union City (the “City”) is a municipality as defined by Title 40 of the New Jersey Statutes; and

**WHEREAS**, the Governor of the State of New Jersey declared a Public Health Emergency and State of Emergency in the State of New Jersey on March 9, 2020 due to the spread of the Coronavirus, a highly contagious and potentially fatal respiratory disease caused by SARS-CoV-2; and

**WHEREAS**, many citizens of New Jersey are or will be experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on rent and mortgage payments; and

**WHEREAS**, housing security and stability are important to public health, particularly as homelessness can increase vulnerability to COVID-19; and

**WHEREAS**, removals of residents pursuant to evictions or foreclosure proceedings can increase the risk to those residents of contracting COVID-19, which in turn increases the risks to the rest of society and endangers public health; and

**WHEREAS**, in recognition of this danger, the federal government has passed legislation known as the CARES Act, which suspends foreclosures on all federally-funded mortgages for a minimum of 60 days, grants mortgage relief on such mortgages for six months to one year, and prohibits commencement of eviction proceedings for 120 days; and

**WHEREAS**, On March 19, 2020, Governor Murphy signed the residential eviction and foreclosure moratorium legislation into law to protect New Jersey residents in this critical time; and

**WHEREAS**, on March 21, 2020, the Governor of the State of New Jersey issued Executive Order No. 107 requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions; and

**WHEREAS**, Executive Order No. 107 further required the closing of all non-essential business establishments; and

**WHEREAS**, the economic impacts of COVID-19 are significant, and pose a growing threat to the housing security of many New Jersey residents; and

**WHEREAS**, pursuant to the U.S. Census Bureau, the median household income from 2014-2018 for the residents of the City was \$45,636 with a per capita income of \$22,741, which results in a percentage rate of 21.3% for persons in poverty; and

**WHEREAS**, the County of Hudson residents' median household income from 2014-2018 was \$66,289 with a per capita income of \$38,147 and a percentage rate of 14.3% for persons in poverty; and

**WHEREAS**, the State of New Jersey residents' median household income from 2014-2018 was \$79,363 with a per capita income of \$40,895 and a percentage rate of 9.5% for persons in poverty; and

**WHEREAS**, the City has a population density of 51,796.6 residents per square mile as of 2010, which makes it one of the most densely populated cities in the entire country; and

**WHEREAS**, the County of Hudson has a much lower population density of 13,731.4 residents per square mile as of 2010; and

**WHEREAS**, the State of New Jersey has an even lower population density of 1,195.5 residents per square mile as of 2010; and

**WHEREAS**, according to the U.S. Census Bureau data, the City of Union City is one of the most densely populated cities in the United States with a large percentage of low, and moderate-income residents; and

**WHEREAS**, the City has declared a State of Emergency via resolution dated March 24, 2020; and

**WHEREAS**, on March 24, 2020, the City introduced an ordinance to place a moratorium on rent increases during the State of Emergency to ensure the safety of the public by avoiding mass evictions for non-payment of rent; and

**WHEREAS**, in light of these unprecedented regulations which have resulted in financial hardships, the City seeks to further prevent displacement of tenants and reduce transmission of the novel Coronavirus (COVID-19) by prohibiting evictions for non-payment of rent during the State of Emergency; and

**WHEREAS**, a city's business community is an acknowledged life blood of a municipality in that it provides employment, goods and services and a tax base, all of which are

part of the municipality's public health, safety and welfare affecting all aspects of the society; and

**WHEREAS**, Union City's vibrant business community is primarily comprised of small businesses which are suffering from the effects of COVID-19 so that many of them will be unable to pay their rent during this time, which may in turn cause them to fail; and

**WHEREAS**, the loss of the City's business community would have a devastating impact, not only on the lives of those directly affected, but upon the City's tax base and the very nature of the community; and

**WHEREAS**, pursuant to N.J.S.A. 40:41A-101 this ordinance will take effect immediately upon adoption as it is necessary to ensure the safety of the public.

**NOW, THEREFORE, BE IT ORDAINED** as follows:

#### **SECTION ONE.**

**Recitals.** The Union City Board of Commissioners finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance.

#### **SECTION TWO.**

**Purpose and Intent.** The purpose and intent of this ordinance is to prevent displacement, reduce transmission of the novel Coronavirus (COVID-19), and promote the stability and the health and safety of the residents and businesses of Union City during the State of Emergency declared by the Mayor on March 24, 2020, in response to the COVID-19 pandemic (hereinafter, "State of Emergency").

#### **SECTION THREE.**

**Residential Eviction Moratorium.** Except when the tenant poses an imminent threat to the health or safety of other occupants of the property, and such threat is stated in the notice as the "good cause" grounds for the eviction, it shall be an absolute defense to any such eviction action that the notice or complaint were filed or served during the State of Emergency. Any notice served pursuant to the Anti-Eviction Act on a tenant during the State of Emergency shall include the following statement in bold underlined 12-point font: "**Except to protect the health and safety of other occupants of the property, you may not be evicted during the State of Emergency declared by the City of Union City and the State of New Jersey in response to the COVID-19 pandemic for any reason including non payment of rent.**" This does not relieve you of the obligation to pay back rent in the future." This section shall remain in effect until the expiration of emergency set forth in Governor Murphy's Executive order 106 dated March 24, 2020, unless extended.

#### **SECTION FOUR.**

**Late Fee Moratorium.** Notwithstanding any lease provision to the contrary, for residential tenancies, no late fees may be imposed for rent that became due during the State of Emergency if the rent was late for reasons resulting from the COVID-19 pandemic. This includes, but is not limited to (1) the tenant was sick or incapacitated due to COVID-19, or was complying with a recommendation from a governmental agency to self-quarantine, (2) the tenant suffered a substantial reduction in household income because of a loss of employment or a reduction in hours, or because they were unable to work because they were caring for their child(ren) who were out of school, or a day care facility, or a household or family member who was sick with COVID-19, or because they were complying with a recommendation from a governmental agency to self-quarantine; and (3) the tenant incurred substantial out-of-pocket medical expenses caused by COVID-19. Any notice demanding late fees for rent that became due during the State of Emergency shall include the following statement in bold underlined 12-point font: **“You are not required to pay late fees for rent that became due during the State of Emergency declared by the City of Union City and the State of New Jersey in response to the COVID-19 pandemic if the rent was late for reasons related to the pandemic.”**

#### **SECTION FIVE.**

**No Residential Eviction for Nonpayment of Rent that Became Due During the State of Emergency.** In any action for eviction for non-payment of rent, it shall be a presumption and absolute defense that the unpaid rent which became due during the State of Emergency, was unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus pandemic. Nothing in this subsection shall relieve the tenant of liability for the unpaid rent which the Landlord may pursue against the tenant pursuant to Section Seven of this ordinance.

#### **SECTION SIX.**

**Commercial Eviction Moratorium.** In any action for eviction of a commercial tenant based on non-payment of rent, it shall be an absolute defense if the failure to pay rent during the State of Emergency is the result of a substantial decrease in income (including but not limited to a decrease caused by a reduction in hours or consumer demand) and the decrease in income was caused by the COVID-19 pandemic or by any State of, state, or federal government response to COVID-19, and is documented. In addition, the commercial tenants proofs shall include any application filed with the appropriate agency or institution for loans pursuant to Federal Law including but not limited to the Paycheck Protection Act and that application has not been acted upon or has been rejected which would have allowed the commercial tenant to render current the outstanding rent that accrued during the COVID-19 pandemic. Any notice to a commercial tenant demanding rent shall include the following statement in bold underlined 12-point font: **“If you are a small business or a non-profit organization, you may not be evicted for failure to pay rent if the failure was due to a substantial decrease in income caused by the COVID-19 pandemic, or by any municipal, state, or federal government response to COVID-19, and is documented. This does not relieve you of your obligation to pay rent in the future.”** This section shall remain in effect until the expiration of emergency set forth in Governor Murphy’s Executive order 106 dated March 24, 2020, unless extended.

**SECTION SEVEN.**

**No Relief from Liability for Rent.** Nothing in this Ordinance shall relieve any tenant, whether commercial or residential, of liability for unpaid rent that became due during the State of Emergency. The rent shall become a debt and may be collected as any other debt in the Superior Court of New Jersey, Law Division, but such unpaid rent shall not form the basis of a non-payment proceeding in which a judgment of possession and warrant of eviction may result.

**SECTION EIGHT.**

**Severability.** The provisions of this Ordinance are declared to be severable and, if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION NINE.**

**Repealer.** All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only, however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION TEN:**

In order to avoid accidental repeal of existing provisions, the City Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

**SECTION ELEVEN:**

This Ordinance shall take effect upon passage and publication as required by law.

<b>Commissioners</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain/Present</b>	<b>Absent</b>
Lucio P. Fernandez				
Wendy Grullon				
Celin J. Valdivia				
Maryury A. Martinetti				
Mayor Brian P. Stack				

**I HEREBY CERTIFY** this to be a true and correct Ordinance of the City of Union City Board of Commissioners, introduced on April 16, 2020 and was further considered and adopted after a Public Hearing held on April 28, 2020.

INTRODUCED: April 16, 2020

ADOPTION: April 28, 2020

ATTEST:

\_\_\_\_\_  
Erin M. Knoedler, City Clerk

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Date