

CITY OF SAN MATEO
ORDINANCE NO. 2020-[Click or tap here to enter text.](#)

Adopt an Emergency Ordinance Imposing a Moratorium on Evictions for Non- Payment of Rent by Residential Tenants Impacted by the COVID-19 Pandemic

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”); and

WHEREAS, On March 4, 2020, the Board of Supervisors of the County of San Mateo proclaimed a local state of emergency and the Health Officer of County of San Mateo declared a local health emergency in response to the COVID-19 outbreak; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the San Mateo County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 16, 2020, the County Health Officer issued a further order directing, among other things, that all individuals living in the county to shelter at their place of residence except to provide or receive essential services, or engage in essential activities, and that all businesses and governmental agencies cease non-essential operations at all physical locations in the county; and

WHEREAS, Section 7.04.010 of the Municipal Code of the City of San Mateo appoints the San Mateo County Department of Health and Public Welfare as the Health Officer of the City; and

WHEREAS, Section 7.04.050 of the Municipal Code of the City of San Mateo authorizes the City Council to make such additional rules and regulations as it may deem necessary to secure the prompt and effective control of communicable diseases within the City; and

WHEREAS, on March 16, 2020 the City Council adopted Resolution No. 25 (2020) proclaiming the existence of a local emergency; and

WHEREAS, on March 16, 2020, the Governor of the State of California, through Executive Order N-28-20, suspended the preemptive reach of state statutes imposing substantive limitations on residential and commercial evictions to the extent a local government chooses to impose limitations on evictions for non-payment of rent arising out of a substantial decrease in household or business income or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic or by an local, state or federal government response to COVID-19; and

WHEREAS, on July 1, 2020, the Governor issued Executive Order N-71-20 extending the order suspending the preemptive effect of the state statutes on evictions until September 30, 2020; and

WHEREAS, on March 24, 2020, the San Mateo County Board of Supervisors first adopted an emergency regulations placing a temporary countywide moratorium on evictions from residential units for nonpayment of rent by tenants financially impacted by COVID-19; and

WHEREAS, the Board of Supervisors extended the term of the regulation until August 31, 2020; and

WHEREAS, as a result of the public health emergency, the precautions recommended by state and county health officers, and in compliance with orders issued by those officers, many residential tenants located within the City Mateo continues to experience financial hardship and are unable to pay their rent; and

WHEREAS, housing instability threatens the public peace, health and safety as eviction from one's home can lead to homelessness; loss of community; stress and anxiety; interruption of education of children in the home; increased incidence of families moving into overcrowded conditions creating greater risk for the spread of COVID-19 and a corresponding increased risk to public health and safety; and

WHEREAS, the City Council desires to enact an moratorium on the evictions of residential tenants impacted by COVID-19 and to provide additional time for tenants to pay rent deferred during the local emergency.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SAN MATEO ORDAINS AS FOLLOWS:

Section 1. Incorporation of Recitals. The City Council finds that the foregoing recitals and administrative report presented with this Ordinance are true and correct and are incorporated into this Ordinance by this reference and adopted as findings of the City Council.

Section 2. Findings. The City Council hereby finds, determines, and declares that this emergency ordinance, adopted pursuant to Section 2.16 of the City Charter of the City of San Mateo, is necessary because:

(a) further economic impacts are anticipated as result of COVID-19-related workplace closures, childcare expenditures due to school closures, health care expenses, labor shortages, and other expenditures stemming from compliance with emergency orders, leaving residential tenants vulnerable to eviction; and

(b) these economic impacts may prevent tenants from fulfilling their financial obligations, including rent and public utility payments such as water, sewer, and solid waste collection charges; and

(c) during this local emergency, and in the interest of protecting the public welfare it is essential to avoid unnecessary termination of residential tenancies; and

(d) In the interest of the public welfare, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to its authority to adopt this Ordinance related to the protection of life and property.

Section 3. Urgent Need. Based on the foregoing recitals and findings, all of which are deemed true and correct, this Ordinance is urgently needed for the immediate preservation of the public peace, health, safety, or welfare. This Ordinance shall take effect immediately upon adoption in accordance with Section 2.16 of the City Charter.

Section 4. Prohibited Conduct.

(a) Except as otherwise provided in this Emergency Ordinance, through September 30, 2020, (“Termination Date”), no Landlord shall endeavor to evict a Tenant in either of the following situations: (1) for non-payment of rent if the Tenant demonstrates that inability to pay rent is due to the COVID-19 pandemic or the federal, state or local government response to the COVID-19 pandemic, or (2) for a no-fault termination of tenancy as defined herein unless necessary for the health and safety of the Tenant, other residents of the building at which the Tenant resides, the Landlord, or the Landlord’s Family. Endeavors to evict that are prohibited by this Emergency Ordinance include issuance of a three-day notice to pay rent or quit or a notice of no-fault termination of tenancy after the effective date of this Emergency Ordinance, or attempting to enforce a termination of tenancy through an unlawful detainer filing based on any notice issued but not yet expired prior to the effective date of this Emergency Ordinance.

(b) Prior to taking any action, during the term of this Emergency Ordinance, to endeavor to evict a Tenant for non-payment of rent or under any circumstance that constitutes a no-fault termination of tenancy, the Landlord must first provide the affected Tenant or Tenants with written notice of this Emergency Ordinance using a form developed and approved by the San Mateo City Manager, which form shall include, at a minimum (i) the amount of rent to which the Landlord is legally entitled pursuant to any written or oral agreement and under the provisions of State or local law; (ii) that this rent is due unless the Tenant promptly establishes in writing to the Landlord that the amount of rent due qualifies as a Delayed Payment, as defined in this Emergency Ordinance; and (iii) that the notice from the Tenant to the Landlord referenced in Section (4)(a)(1) regarding Delayed Payment must be provided to the Landlord as soon as reasonably practicable thereafter.

(c) For purposes of this Emergency Ordinance, notice provided by a Tenant to the Tenant’s Landlord within fourteen (14) days of receipt from the Landlord of the written notice required pursuant to this Section shall be presumed to have been provided within a reasonable timeframe, provided that notices provided on a timeframe greater than fourteen (14) days may be deemed reasonable, depending on the totality of the circumstances.

(d) Nothing in this Emergency Ordinance shall relieve the Tenant of the obligation to pay rent as it comes due after the Termination Date or of the liability for the unpaid rent that is a Delayed Payment, payment of which the Landlord may seek after the Termination Date. However, with respect to any Delayed Payment covered by this Emergency Ordinance, a Tenant shall have up to six (6) months after the Termination Date to tender at least one half of the total amount of Delayed Payment, and up to twelve months after the Termination Date to repay, in full, the amount of the Delayed Payment, before the Tenant shall be deemed to be in default of rent payment obligations. Prior to initiating repayment plans of any Delayed Payment(s) with their Tenants protected under this Emergency Ordinance, Landlords shall inform such Tenants of their repayment rights pursuant to this subsection. Further, a Landlord may not charge or collect a late fee for a Delayed Payment as defined in this Emergency Ordinance. Any three-day notices to pay or quit or no-fault termination of tenancy

notices served prior the effective date of this Emergency Ordinance but not yet expired are automatically deemed served the day following the expiration of this Emergency Ordinance.

(e) An action taken by a Landlord to evict a Tenant for a Delayed Payment shall not be considered a violation of this Emergency Ordinance where the action was taken before the Tenant provided the Landlord notice of the Tenant's lost income and inability to pay full rent on the Due Date and provided documentation to the Landlord in accordance with this section, provided that the Landlord ceases further endeavors to evict the Tenant on this basis upon receiving the notice and documentation from the Tenant required in this section.

Section 5. Definitions.

(a) For purposes of this Emergency Ordinance, the following definitions shall apply:

(1) "Delayed Payment" includes a payment made after the time set forth in the rental agreement between a Landlord and a Tenant or Tenants or as otherwise agreed between the parties ("Due Date") as a result of the following: (i) a Tenant lost household income as a result of being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (ii) a Tenant lost household income as a result of a lay-off, loss of hours, loss of business, or other income reduction resulting from COVID-19 or the federal, state or local government response to COVID-19; (iii) a Tenant lost household income due to compliance with the Shelter-in-Place Order or a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others until the Termination Date; (iv) a Tenant lost household income as a result of caring for minor children affected by school, pre-school and/or childcare closures until the Termination Date; (v) a Tenant or a member of Tenant's household incurred substantial medical costs related to COVID-19; and (vi) a Tenant suffered any other substantial financial hardship caused directly by COVID-19 or the governmental response to the COVID-19 pandemic. To qualify as a "Delayed Payment" under this Emergency Ordinance, a Tenant must notify the Landlord in writing within the time frame set forth in Section 4(c). above of the Tenant's lost income and inability to pay full rent on the Due Date and provide documentation to support the claim within that same time frame. If, based on the above documentation provided to the Landlord, the Tenant is able to pay some portion of rent due, that portion of the rent must still be paid and does not qualify as a Delayed Payment. For purposes of this section, "in writing" may include e-mail or text communications to a Landlord or the Landlord's representative with whom the Tenant has previously corresponded by email or text. Any medical or financial information provided to the Landlord shall be held in confidence, and only used for evaluating the Tenant's claim.

(2) "Landlord" shall mean an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Residential Rental Unit, and the agent, representative, or successor of any of the foregoing.

(3) "Landlord's Family" shall mean the Landlord's spouse, domestic partner, children, grandchildren, parents, or grandparents.

(4) "No-fault termination of tenancy" as used in this Emergency Ordinance shall refer to any eviction for which the notice to terminate tenancy is not based on alleged fault by the Tenant, including but not limited to eviction notices served pursuant to California Civil Code Section 1946.2(b)(2) and Code

of Civil Procedure Sections 1161(1) and 1161(5). Notwithstanding the foregoing, “no-fault termination of tenancy” shall not include evictions initiated based on the intent to occupy the residential real property by the Landlord or the Landlord’s Family.

(5) “Residential Rental Unit” shall mean a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, and which household pays rent for the use and occupancy for periods in excess of seven days regardless of whether the actual residential use is legally permitted or conforming under any applicable laws or regulations.

(6) “Tenant” shall mean residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to use or occupancy of a Residential Rental Unit.

Section 6. Application. This Emergency Ordinance applies to eviction notices based on non-payment of rent and no-fault termination of tenancy and unlawful detainer actions based on such notices, served or filed on or after the date of adoption of this Emergency Ordinance through the Termination Date.

Section 7. Remedies.

(a) This Emergency Ordinance provides an affirmative defense to eviction in the event that an unlawful detainer action is commenced in violation of this Emergency Ordinance.

(b) In addition, a knowing violation of this Emergency Ordinance, shall be punishable as set forth in Chapter 1.04 of the San Mateo Municipal Code.

(c) Moreover, in the event of a knowing violation of this Emergency Ordinance, an aggrieved Tenant may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages (including damages for mental or emotional distress as specified below), and any other relief the Court deems appropriate. The prevailing party in such civil proceeding(s) shall be entitled to reasonable attorney’s fees and costs pursuant to court order.

(d) The remedies available under this section shall be in addition to any existing remedies which may be available to the Tenant under local, state

Section 8. Administrative review. The City Manager shall have the authority to review and grant relief to a landlord who experiences undue or excessive hardship as a result of this moratorium. An aggrieved landlord shall file a written request for relief explaining the nature of the hardship. Such request shall be accompanied by documentation supporting the claimed hardship, such as the property owner's interest in the property, price paid or option price, assessed value, tax on the property, mortgage indebtedness, income and expense statements for income-producing property, and the like. Decisions of the City Manager shall be appealable the City Council in the manner prescribed in Sections 7.16.100-110 of the Municipal Code.

Section 9. No Mandatory Duty. Nothing in this Emergency Ordinance is intended to create a mandatory duty on the part of the City, or City employees, to protect persons or property from a violation of the provisions of this Emergency Ordinance.

Section 10. Effective Date. This Emergency Ordinance is effective immediately and shall remain in effect until the Termination Date, except that the deferral of the tenant's obligation to pay rent provided in Section 4(d) shall remain in effect until the completion of the 12 month repayment period.

Section 11. Environmental Determination. In accordance with the California Environmental Quality Act (CEQA) guidelines section 15061(b)(3), adoption of this emergency ordinance is exempt from the provisions of CEQA, because there is no possibility that the implementation of this ordinance may have a significant effect on the environment. This ordinance will apply tenant protections to tenants in existing buildings for a limited period of time.

Section 12. Severability. In the event any section, clause or provision of this ordinance shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 13. Publication. This Ordinance shall be published in a newspaper of general circulation in accord with Section 2.16 of the City Charter.

Legislative History and Effective Date. This ordinance was introduced and adopted on _____, and shall be effective immediately upon adoption.