

**CITY OF SAN MATEO
ORDINANCE NO. 2020-2**

Adopting an Emergency Ordinance Imposing a Moratorium on Evictions for Non-Payment of Rent by 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.

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 March 19, the Governor of the State of California, through Executive Order N-33-20, imposed a statewide shelter in place order except as needed to maintain continuity of operations of the federal

critical infrastructure sectors or to access necessities such as food, prescriptions, and health care or other authorized activities; and

WHEREAS, the Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; 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 residents and businesses in San Mateo have experienced or expect soon to experience sudden and unexpected income loss; and

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 and small business tenants vulnerable to eviction; and

(b) these economic impacts may inhibit City residents and small businesses 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 health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City's affordable housing stock, and to prevent housed individuals from falling into homelessness; and

(d) ensuring that all people in the City continue to have access to running water during this public health crisis will enable compliance with public health directives that people regularly wash their hands and shelter in place and will help to prevent the further spread of COVID-19; and

(e) In the interest of public health and safety, 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. A temporary moratorium on eviction for non-payment of rent by small business and nonprofit entity tenants impacted by the COVID-19 crisis is imposed as follows:

(a) During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant in either of the following situations: (1) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay rent or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this Ordinance if the tenant, within 14 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this Ordinance, "in writing" includes email 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. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the date the local emergency is lifted. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance; nor may a landlord seek rent that is delayed for the reasons stated in this Ordinance through the eviction process.

(b) For purposes of this Ordinance, "financial impacts related to COVID-19" include, but are not limited to, loss of income due to any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

(c) For purposes of this Ordinance, "no-fault eviction" refers 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 Code of Civil Procedure sections 1161(1) or 1161(5).

(d) For the purposes of this Ordinance a "small business" is a business entity with gross receipts of less than \$25 million per year.

(e) Violations of this Ordinance shall be punishable as set forth in Chapter 1.04 of the San Mateo Municipal Code. In addition, this Ordinance shall serve as a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance. In the event of a violation of this 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. In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the Landlord acted in knowing violation of or in reckless disregard of this Ordinance. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to court order. The remedies available under this section shall be in addition to any existing remedies which may be available to the tenant under local, state or federal law.

(f) 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.

(g) Pursuant Section 2.16 of the City Charter, this Ordinance shall automatically stand repealed as of the ninety-first day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance if the emergency still exists.

Section 5. Environmental Determination. in accordance with California Environmental Quality Act (CEQA) Guidelines, section 15378(b)(2), this action is not a project under CEQA as general policy-making activity.

Section 6. 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 7. Publication. This Ordinance shall be published in a newspaper of general circulation in accord with Section 2.16 of the City Charter.

Section 8. Legislative History and Effective Date. This ordinance was introduced and adopted on March 23, 2020, and shall be effective immediately upon adoption.

The foregoing ordinance was adopted by the City Council of the City of San Mateo, State of California by the following vote:

AYES: Council Members Goethals, Rodriguez, Bonilla, Lee and Papan

NOES: None

ABSENT: None

ATTEST:


Patrice M. Olds, City Clerk


Joe Goethals, Mayor