



## **NOTICE RE: SAN MATEO COUNTY TEMPORARY MORATORIUM ON EVICTIONS FOR NONPAYMENT OF RENT BY SMALL BUSINESSES COMMERCIAL TENANTS**

On April 7, 2020, the San Mateo County Board of Supervisors adopted an urgency ordinance placing a temporary moratorium on evictions for non-payment of rent by small business commercial tenants who document an inability to pay rent due to decreased net business income as a direct result of the COVID-19 pandemic or the federal, state, or local government response to the COVID-19 pandemic (the “Urgency Ordinance”).

The Urgency Ordinance took effect on April 7, 2020 and will remain in place until June 30, 2020, unless it is extended by the Board of Supervisors. The Urgency Ordinance applies only in the unincorporated area of the County.

For the purpose of the Urgency Ordinance, qualifying small business commercial tenants are those **(1)** that operate a business within the unincorporated area of the County **(2)** with annual gross receipts, as that term is defined by Section 6012 of the California Revenue & Taxation Code, of not more than \$2,500,000 for the 2019 calendar year. If a business did not operate for the entire 2019 calendar year, including a business that began operating after December 31, 2019, the \$2,500,000 amount is prorated for the amount of time the business operated. Thus, for example, where a business operated for three months, it would qualify as a small business if its gross receipts for that three-month period were no more than \$625,000.

Under the Urgency Ordinance, if a commercial tenant does not make a rent payment when it is due and the property owner wishes to move forward with an eviction for that failure to timely pay rent, the owner must first send the tenant a copy of this “Notice Re: San Mateo County Temporary Moratorium on Evictions for Nonpayment of Rent by Small Business Commercial Tenants”.

After the property owner provides the commercial tenant with a copy of this Notice, to receive the protections of the Urgency Ordinance, the small business tenant has **14 days** to **(1)** notify the owner in writing and provide the owner with documentation that it qualifies as a small business under the Urgency Ordinance; and **(2)** notify the owner in writing and provide the owner with documentation that the inability to pay rent in full and on time is due to a decrease in net business income as a direct result of COVID-19 or the government’s response to COVID-19.

Examples of ways that a small business’s net income may have decreased as a direct result of COVID-19 or the federal, state, or local government response to COVID-19 include:

- A decrease in net business income caused by the tenant’s illness or an inability to work;

- A reduction in, or elimination of, operating hours, available workforce, or consumer demand;
- Increases in the tenant’s health care expenses, including employee health care expenses for which the tenant is responsible, the tenant’s own health care expenses, or the health care expenses of the tenant’s family members;
- Increases in the cost of supplies, services, or other overhead expenses necessary to carry out the tenant’s business; or
- Temporary closure of the tenant’s business.

To be eligible for protection under the Urgency Ordinance, a qualifying small business commercial tenant must make partial monthly rent payments, if able to do so. However, a tenant has **up to 180** days after the Urgency Ordinance expires to pay the full amount of rent payments missed as a direct result of reduced net business income due to COVID-19.

Within **90 days** after the Urgency Ordinance expires, the small business commercial tenant must pay the full amount of missed rental payments, if able to do so. If the tenant is still unable to do so as a direct result of COVID-19, the tenant must provide the owner another written notice and additional documentation to extend the payment date an additional **30 days**. The tenant may provide additional written notices and documentation **every 30 days** to further extend the deadline, **but under no circumstances is the property owner required to extend the deadline beyond 180 days after the Urgency Ordinance expires**. The owner cannot charge or collect a late fee for any missed payment covered by this Urgency Ordinance.

The Urgency Ordinance does **not** relieve the small business commercial tenant of the obligation to pay current rent as it comes due after the Urgency Ordinance expires.

A small business commercial tenant can raise the Urgency Ordinance as an affirmative defense to any unlawful detainer or other action to recover possession of the property initiated by a property owner in violation of the Urgency Ordinance. In addition, if an owner knowingly violates the terms of the Urgency Ordinance, a tenant may bring an action against the owner and seek both injunctive relief and money damages. The Urgency Ordinance makes clear, however, that any action taken by an owner to evict a qualifying small business commercial tenant will not be considered a violation where the action was taken **before** the tenant provided the owner a written notice of inability to pay full rent due and supporting documentation, provided that the owner does not take any further actions to evict the tenant after receiving the written notice and documentation.

A complete copy of Urgency Ordinance can be found at the following link:  
<https://www.smcgov.org/covid19-commercial-evictions>

DATE:

Dear \_\_\_\_\_,

You are receiving this notice because you are a commercial tenant occupying the commercial property located at \_\_\_\_\_. Your monthly rent is \$ \_\_\_\_\_. Rent in the amount of \$ \_\_\_\_\_ is due as of \_\_\_\_\_ for the

month(s) of \_\_\_\_\_ 2020 unless you promptly (1) notify the commercial property owner in writing at the contact information below that the stated amount of rent due or a portion of it is covered by the San Mateo County Urgency Ordinance described in the above Notice; and (2) provide the owner documentation as required in this notice to support that claim. Your written response must be received within 14 days of your receipt of this Notice.

Please consult the "Notice Re: San Mateo County Temporary Moratorium on Evictions for Nonpayment of Rent by Small Business Commercial Tenants" directly above for more information.

**COMMERCIAL PROPERTY OWNER INFORMATION:**

Property Owner Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code : \_\_\_\_\_

Mobile Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

Sincerely,

\_\_\_\_\_