



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 1
File #: 20-349

Board Meeting Date: 5/26/2020

Special Notice / Hearing: None
Vote Required: 4/5

To: Honorable Board of Supervisors

From: Supervisor Dave Pine, District 1
Supervisor Warren Slocum, District 4

Subject: Uncodified Urgency Ordinance Extending for 30 Days, Through June 30, 2020, Temporary Moratorium in the Unincorporated Area on Eviction for Non-Payment of Rent by Small Business Commercial Tenants Directly Impacted by the COVID-19 Pandemic

RECOMMENDATION:

Adopt an uncodified urgency ordinance of the County of San Mateo extending for 30 days, through June 30, 2020, temporary moratorium in the unincorporated area on eviction for non-payment of rent by small business commercial tenants directly impacted by the COVID-19 pandemic.

BACKGROUND:

On April 7, 2020, the Board of Supervisors (the "Board") adopted Ordinance No. 4826, an uncodified urgency ordinance establishing a temporary moratorium on evictions for non-payment of rent by small business commercial tenants in the unincorporated area of the County directly impacted by the COVID-19 pandemic. Since then, the number of individuals potentially impacted by the pandemic has only increased.

As of May 20, 2020, the number of confirmed COVID-19 cases worldwide exceeded 5,000,000, more than 1,500,000 of which were in the United States. The number of confirmed cases in California now exceeds 81,000 confirmed cases, with 3,334 COVID-related deaths, and in San Mateo County (the "County") there have been nearly 1,700 confirmed cases and 75 deaths.

The economic impacts are equally as staggering. In the past eight weeks, more than 4 million workers in California, and 36 million workers nationwide, have filed first time claims for unemployment benefits, resulting in unemployment rates not seen since the depths of the Great Depression. In the County, countless business remain shuttered and individuals continue to shelter-in-place, resulting in reduced customer demand, decreases in available workforce, and increased expenses.

These abrupt and severe negative impacts continue to affect the ability of many small businesses to

make rent payments. Without continued action, these small businesses, along with the local communities they serve and the residents they employ, may never recover.

A. Local and State Actions Taken To Date.

On March 3, 2020, and pursuant to Section 101080 of the California Health and Safety Code, the San Mateo County Health Officer declared a local health emergency throughout the County related to COVID-19. The Board ratified and extended this declaration of local health emergency, which remains in effect.

In addition, on March 3, 2020, and pursuant to Section 8630 of the California Government Code and Chapter 2.46 of the San Mateo County Ordinance Code, the San Mateo County Director of Emergency Services proclaimed a local emergency throughout San Mateo County related to COVID-19 (the “Local Emergency”). The Board ratified and extended the Local Emergency, which remains in effect.

On March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency related to COVID-19 effective throughout the State of California (the “State Emergency”).

On March 16, 2020, the Health Officer issued an order that, among other things, directed all individuals currently living within San Mateo County to shelter in their place of residence (“County Shelter-in-Place Order”), and authorized individuals to leave their residences only for certain “Essential Activities,” Essential Governmental Functions,” or to operate “Essential Businesses,” all as defined in the Shelter-in-Place Order.

On March 19, 2020, Governor Newsom issued Executive Order N-33-20, which imposed a statewide shelter-in-place order requiring individuals to remain in their places of residence 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 (“Statewide Shelter-in-Place Order”), and the Statewide Shelter-in-Place Order remains in effect with certain modifications to authorized activities.

On March 24, 2020, the Board adopted Emergency Regulation 2020-001, which places a temporary Countywide moratorium on evictions from residential units for (1) non-payment of rent by tenants directly impacted by the COVID-19 pandemic; and (2) certain no-fault causes unless the eviction is necessary for the health and safety of the tenant, other residents in the tenant’s building, the landlord, or the landlord’s family.

On March 27, 2020, Governor Newsom issued Executive Order N-37-20, which provides certain protections to residential tenants facing eviction, but not to commercial tenants.

On March 31, 2020, April 29, 2020, and May 15, 2020, the Health Officer issued revised County Shelter-in-Place Orders, extending the expiration date of the County Shelter-in-Place Order due to evidence of continued significant community transmission of COVID-19 within the County and throughout the Bay Area.

On April 6, 2020, the Judicial Council of California issued an emergency rule statewide that effectively halted court proceedings related to unlawful detainer actions until 90 days after Governor Newsom lifts the State Emergency, except where necessary to protect public health and safety.

Finally, on April 7, 2020, the Board adopted Ordinance No. 4826, which took effect upon adoption and is currently scheduled to expire on May 31, 2020, unless extended or replaced by the Board.

B. The Continuing Need to Protect Local Small Business Commercial Tenants.

The ongoing existence of local small businesses is essential to the protection of the public peace and the health, safety, life, property, and general welfare of County residents. Although the revised County Shelter-in-Place Order issued on May 15, 2020 allows for the limited resumption of some businesses and activities within the County, it still requires that most businesses and activities remain restricted until further order of the Health Officer.

Thus, it remains necessary to mitigate the ongoing economic impacts of COVID-19 by ensuring that local small businesses survive this current pandemic and continue to operate, both during the Local Emergency and after the restrictions in the Shelter-in-Place Orders are lifted. Extending the temporary moratorium on evictions for non-payment of rent by small business commercial tenants in the County's unincorporated area established by Ordinance No. 4826 helps accomplish that critical public purpose.

DISCUSSION:

Section 25123 of the Government Code authorizes the Board to adopt an urgency ordinance to protect the public peace, health, or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by a four-fifths vote of the Board.

Moreover, Section 8634 of the California Government Code provides that during a local emergency, the governing body of a political subdivision of the State, which includes the County of San Mateo, "may promulgate orders and regulations necessary to provide for the protection of life and property . . ." The law requires that such orders "shall be in writing and shall be given widespread publicity and notice." (*Id.*) Chapter 2.46 of the County Ordinance Code tracks Section 8634 of the Government Code with respect to the adoption to emergency rules and regulations.

Along similar lines, Section 101025 of the Health and Safety Code provides that the Board shall take measures as may be necessary to preserve and protect the public health in the unincorporated territory of the County, including the adoption of ordinances, regulations, and orders.

The legal authority continues to exist for the temporary moratorium on evictions for non-payment of rent by small business commercial tenants in the County's unincorporated area established by Ordinance No. 4826, which is currently scheduled to expire May 31, 2020. With the proposed 30-day extension, the temporary moratorium would remain in effect through **June 30, 2020**, unless further extended by the Board. All other remaining provisions of the temporary moratorium would remain unchanged and continue to operate through the new termination date.

FISCAL IMPACT:

Extension of the urgency ordinance will likely result in a temporary increased workload for the County Manager's Office (CMO) staff and Code Compliance, as it is expected that small business commercial tenants will contact the County with questions as potential violations are reported. County staff will provide information about the urgency ordinance and make referrals to legal resources.