



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: April 10, 2020

Approved

Date

4/13/20

**SUBJECT: EXTENSION OF THE RESIDENTIAL EVICTION MORATORIUM,
CONSIDERATION OF A RENT FREEZE AND EXPLORATION OF
SOLUTIONS FOR THE RENTAL COMMUNITY IMPACTED BY
COVID-19**

RECOMMENDATION

- (a) Adopt a resolution extending the temporary moratorium to May 31, 2020 on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from COVID-19.
- (b) Direct the City Attorney to draft an Urgency Ordinance and Companion Ordinance placing a temporary rent freeze on all new rent increases for rent stabilized apartments and mobile homes to be considered at the April 21, 2020 Council Meeting.
- (c) Discuss a convening of stakeholders representing landlords and tenants to explore alternative solutions to address the needs of our rental community impacted by COVID-19.

OUTCOME

Approval of the recommended actions will provide housing stability to San José tenants experiencing financial hardship due to the COVID-19 virus. According to guidance released from HUD on March 9, 2020, housing instability and frequent mobility increase the risk of exposure to infectious disease. Limited access to health care services and poor living conditions further compound this risk. The extension of the Eviction Moratorium will provide eviction protections for residents suddenly facing financial hardship. This measure provides housing stability during this volatile period of time, ensuring residents remain housed rather than face the risk of homelessness.

BACKGROUND

The World Health Organization, State of California, and Santa Clara County have recognized that COVID-19 virus is a life-threatening pandemic, and have issued public health declarations from January to March 2020. As a result of the public health declarations, including shelter in place and allowing only essential services, residents impacted by COVID-19 have faced financial challenges to afford rent due to layoffs and unemployment. Thus, the City, County, and State have each enacted Eviction Moratoriums. In addition, the Santa Clara County Courts may not issue a summons on a complaint for unlawful detainer unless it is necessary for public health.

A. Public Health Declarations

In California, the Department of Public Health reports more than 16,957 positive cases and more than 442 deaths as of April 7, 2020.¹ Health officials expect these figures to rise dramatically unless the population adheres to shelter-in-place guidelines and appropriate social distancing. The following public health declarations have been issued:

- On January 30, 2020, the World Health Organization declared COVID-19 a Public Health Emergency of International concern.
- On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency.
- On February 10, 2020, the Santa Clara County announced a local health emergency due to the spread of the novel coronavirus.
- On March 11, 2020, the World Health Organization declared the coronavirus outbreak a pandemic.
- On March 16, 2020, the County of Santa Clara issued a shelter in place order directing all individuals to shelter in their place of residence unless they must obtain or perform vital services. All businesses, except essential businesses, are required to cease all activities at facilities located within the County. The order is effective on March 17, 2020 and will remain in place until April 7, 2020.
- On March 19, 2020, Governor Newsom issued Executive Order N-33-20, requiring all Californians to stay home, subject to certain limited exemptions.
- On March 31, 2020, the County of Santa Clara extended the shelter in place order through May 3, 2020 with stricter stay-at-home rules. The changes include prohibiting residential and commercial construction, closing dog parks and playgrounds, and requires essential businesses enact tighter social-distancing rules for workers and customers.

¹ <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx>

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B. Eviction Moratoriums Enacted

On March 17, 2020, the City Council adopted an Urgency Ordinance and Resolution, setting in place a moratorium on evictions in the City of San José for renters on the basis of nonpayment of rent, when their income has been reduced due to novel coronavirus (COVID-19) pandemic. The Moratorium went into effect March 18, 2020 for a period of 30 days until April 17, 2020. The City Council may extend the Moratorium by Resolution. A copy of the City of San José Urgency Ordinance and Resolution can be viewed [here](#).

On March 24, 2020, Santa Clara County Board of Supervisors passed an Urgency Ordinance establishing a temporary moratorium on “COVID-19 Evictions” countywide, including both incorporated and unincorporated areas. The countywide moratorium for residential and small business commercial rentals began on March 24th and is effective through May 31, 2020, unless extended. The Ordinance applies in cities who have passed their own moratoriums, with the condition that the more protective moratorium term will apply. A copy of the Santa Clara County Eviction Moratorium can be viewed [here](#).

On March 27, 2020, Governor Gavin Newsom issued Executive Order N-37-20, banning the enforcement of evictions by law enforcement or courts for tenants affected by COVID-19 through May 31, 2020. The Executive Order also extends the deadline for such tenants to file a response to an Unlawful Detainer summons in the event an eviction is filed against the tenant. The Executive Order went into effect on March 27th and is in place through May 31, 2020. Under the order, tenants must notify their landlords letting them know they are unable to pay their full rent payment due to COVID-19 before their rent is due or within seven days of the rent due date. The tenant is required to retain documentation, but is not required to submit to landlord in advance. The tenant is still obligated to repay the full amount of rent due once the Executive Order expires. A copy of the State Executive Order can be viewed [here](#).

Staff has reviewed the City of San José, Santa Clara County, and State of California eviction moratoriums and a comparative analysis is included as **Attachment A**. Various components of the local moratoriums are similar while the State’s moratorium has distinct differences. Key areas of differences include the following:

- Coverage, term and expiration, and nonpayment of rent protection,
- How to qualify as an affected tenant, notification by tenant to landlord, rent repayment period, and late fees, and
- Eviction procedures.

On March 30, 2020, Chief Justice Tani G. Cantil-Sakauye issued an order implementing temporary emergency measures that include suspension of the entry of defaults in unlawful detainer actions and suspension of judicial foreclosure actions. For unlawful detainers, the sunset period is for 90 days after the Governor’s State of Emergency is lifted or if Judicial Council repeals its order. During this period, courts cannot issue an eviction summons unless it is necessary to protect public health and safety. Default judgments for failure of defendant to appear may not be entered unless necessary for public health and defendant has not filed a court

response in the 5 day or 60-day deadline, per the Governor's Order. Trial dates cannot be scheduled after 60 days after request for trial, and dates set as of April 1st must be continued for at least 60 days. The Chief Justice's Order can be viewed here.

ANALYSIS

The COVID-19 virus pandemic has grown exponentially since the first case reported in Santa Clara County on January 31, 2020. The rapid transmission rate of COVID-19 has changed the very nature of how we work, live, and protect ourselves against the spread of this virus. With the increased number of layoffs from service industries across San José and County-wide school closures, the implications of the pandemic are debilitating, restricting many resident's ability to afford the basic and fundamental necessities of life including food, housing, and healthcare. Residents across San José require financial and food assistance at levels straining local, state and federal governments resources, with the rising demands unmet. The widespread nature of the crisis is straining health and food providers, and delays in securing funding for relief programs means residents are putting themselves at risk to gain access to these critical services.

As a result, residents whose income is affected by COVID-19 are faced with the same costs of living without a commensurate increase of resources available to close the gaps. Residents are at much greater risk of facing homelessness and an extension of the eviction moratorium ordinance is a temporary measure to help stabilize housing for those impacted in the San José community.

The key areas of analysis are:

- Financial impacts on residents and loss of income due to COVID-19,
- Federal, State, and City financial assistance,
- Extension of the Eviction Moratorium to align with County and State,
- Mechanisms of a rent freeze on new rent increases for rent stabilized apartments and mobilehomes, and
- Convene stakeholders to find alternative solutions.

I. FINANCIAL IMPACTS ON RESIDENTS AND LOSS OF INCOME

The financial impact due to COVID-19 has impacted low-wage households, resulted in an increase of unemployment insurance claims statewide, and notices of terminations continue to be submitted by landlords and property managers for non-payment of rent due to COVID-19. As a result of the financial impacts, there has been an overwhelming need for relief resources for tenants and landlords. Depending on the source of income and immigration status, there will still be a significant gap between when the relief funds will be dispersed to alleviate challenges and for undocumented workers, there will be no relief.

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A. Impact on Low-Wage Households – Depending on residents' work status, they face different challenges in accessing financial assistance. The City of San José is home to essentially three different types of workers most significantly impacted by the COVID-19: 1) workers with W-2s; 2) Independent Contractors; and 3) undocumented workers. Financial assistance from the Federal Government often precludes those without a W-2 and the undocumented community from qualifying for assistance. For these workers and their families, the consequences of not working can be devastating. With resources unavailable to these workers, the challenge for local and state governments continues to be finding resolutions and funding streams available to provide for these vulnerable populations. The extension of the Eviction Moratorium will allow time for funding to be received by qualified residents and will provide time for other forms of assistance to be available to the most vulnerable populations.

B. Over Two Million California Residents Have Filed for Unemployment Insurance – Currently unemployment filings at the local level is unavailable and therefore, an assessment of how many San José residents unemployed due to COVID-19 cannot be determined. However, on a state level, Governor Newsom estimated on April 7th that about 2.3 million people have filed claims for unemployment insurance.² Due to the immense volume of unemployment applications filed to date, the processing time for these applications may be delayed. This will result in a delay of payments to workers. It is also unclear whether the first payment will include all back payments since the worker qualified or if back payments will be spread across multiple payments. Once checks begin to be released, this will inform how long a moratorium or repayment period should be in place.

C. Notices of Terminations Submitted to Housing Department – Under the City Eviction Moratorium, the landlords and property managers must submit copies of the notices of terminations to the Housing Department. From March 18th to April 7th, there were 241 notices of terminations received. Typically, the Housing Department receives over 700 notices a month. Staff is anticipating additional notices filed in the coming week. Additionally, seven tenants who voluntarily submitted documentation of being financially impacted by COVID-19, including a restaurant employee who was laid off and documentation that child care at a pre-school would be closed.

D. Inquiries Received from Impacted Tenants and Landlords – Additionally, through phone calls and emails, staff heard the impact of COVID-19 on tenants and landlords from over 570 residents. Tenants have shared stories of their personal hardships as a result of COVID-19, including:

- Tenant is both a residential and commercial tenant. Her business is not considered an essential service and was required to close during the shelter in place order. As a result, she was unable to generate income and may be unable to afford rent and lose her rental. She is also at risk of being unable to pay for her commercial space and may potentially lose her inventory.

² <https://www.mercurynews.com/2020/04/07/coronavirus-state-extra-600-jobless-payments-amid-economic-meltdown-jobs-layoff-tech/>

- Tenant is self-employed and has a home cleaning service. Her customers have stopped employment services and she no longer has a source of income to pay for rent and living expenses. She does not qualify for unemployment because the tenant does not have a valid social security number or a proper work permit.

Landlords also shared concerns of their hardship, including:

- Landlord and spouse are a retired couple living on fixed income in San José. The landlord received social security and purchased a duplex property as an investment for their retirement to offset living expenses and relies on the rental income to pay the mortgage of their duplex and home. Both tenants residing in the duplex property notified the landlord that they could not pay April's rent. One tenant was laid off and the other tenant was impacted by reduced hours from their employer. The landlord is in jeopardy of defaulting on their mortgage payment and does not have any means to repay a loan.
- The landlord and spouse are a retired couple who own a four-plex in San José. The landlord relies on the rental income of the property to pay for living expenses, as well as property taxes, insurance, utilities and maintenance. The landlord's household has an adult disabled daughter and grandchildren who are financially dependent on the landlord.

II. FEDERAL, STATE, AND CITY FINANCIAL ASSISTANCE

As the economic impacts of the pandemic continue, the Federal government and City of San José has responded by providing residents with financial relief. However, there is a shortage of funds and gaps in timing from the period of processing until residents can receive the benefits. As a result, the Eviction Moratorium can help close the time gap needed to assist residents impacted to remain in their home as they wait for relief and employment to resume. Since March 2020, there have been several relief packages administered from the Federal, State, and City of San José, including:

- **Coronavirus Aid, Relief, and Economic Security Act (CARES)** – On March 27, 2020, Congress passed and the President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a \$2.2 trillion economic relief package aimed at assisting workers, businesses, and governments impacted by the coronavirus pandemic. The CARES Act creates a \$150 billion Coronavirus Relief Fund for state and local governments with cities and counties that have a population of over 500,000 qualifying for direct funding. For example, the City of San José's Community Development Block Grant (CDBG) will receive a \$5.26 million infusion of funding, and receive \$2.68 million under the Emergency Solutions Grant Program. Many residents will receive the benefits of the \$250 billion Unemployment Insurance Expansion, which expanded the type of employment eligible for benefits. The expansion includes an additional 13 weeks of the benefits traditionally granted by states, and adds a \$600/week across-the-board payment increase through the end of July 2020. Additionally, depending on a taxpayer's household income, CARES will provide Direct Cash Assistance with a one-time check that accounts for marriage and head of household status. The bill also

provides relief in the form of cancelled payments for student borrowers with federally-held loans.

- **State Mortgage Relief** – On March 25, 2020, Governor Gavin Newsom announced a relief package that four of the five largest banks in the U.S. have agreed to let California residents defer mortgage payments for 90 days if they have lost their jobs or are struggling financially due to the coronavirus pandemic. JPMorgan Chase, Wells Fargo, Citigroup and U.S. Bancorp, along with about 200 state-chartered banks and credit unions, voluntarily agreed to defer mortgage payments for California residents who are having trouble paying bills. The banks and the credit unions also agreed to a 60-day moratorium on foreclosures. Although some lending institutions have agreed to a temporary mortgage suspension (a forbearance period) or reduced amount owed for a specific period due to the COVID-19 pandemic, the terms of the repayment options are set by the banks and deferment options are subject to a case by case review.
- **State Unemployment Benefits** – The California Employment Development Department (EDD) provides a variety of support services to people who have lost their jobs or have had their hours reduced due to the impacts of COVID-19. Under the EDD, residents must meet the eligibility criteria as defined by California law. For some residents, the unemployment insurance benefits are a fraction of their monthly earned income if they were employed. Recent statewide reports found that for the week ending March 27, 2020 alone, EDD processed 880,000 claims for unemployment.³ Nationwide, surging layoffs have led economists to predict as many as 20 million lost jobs by the end of April, with an unemployment rate predicted to spike to as much as 15% in April, a 4.2% increase from the previous record set during a deep recession in 1982.⁴
- **Demand for the San José Strong** – The extent of the impact of residents due to COVID-19 in San José and Santa Clara County is unprecedented. On March 23, 2020, the Santa Clara County Homelessness Prevention System launched its COVID-19 financial assistance program of \$11 million, with a public-private partnership between organizations, companies, and agencies, including: Destination: Home, Sacred Heart Community Service, Cisco, Adobe, Zoom Video Communications, Inc., Silicon Valley Community Foundation, County of Santa Clara, and City of San José. As an indicator for need here in the local community, San José Strong received 4,400 applications within the first 72 hours of opening. In the twelve days following, an additional 6,000 applications were accepted.

Until the benefits listed above are processed and in place, thousands of workers have no financial relief. The Eviction Moratorium can work as a bridge during this time to help families stay housed while awaiting financial relief. As the economic impacts of the pandemic continue, the City of San José must do all it is able to do to close the gaps in required assistance, providing

³ <https://www.kcra.com/article/5-things-to-know-about-california-unemployment-claims/32025214>

⁴ <https://sanfrancisco.cbslocal.com/2020/04/02/coronavirus-jobs-record-numbers-file-for-unemployment-in-california-nationally/>

necessary relief where possible and assisting residents to extend the eviction moratorium and stabilizing existing housing.

III. EXTENSION OF EVICTION MORATORIUM TO ALIGN WITH COUNTY AND STATE

At this time, the City of San José Eviction Moratorium should be extended until May 31, 2020 to be consistent with the timeframes for the County and State moratorium. The countywide moratorium for residential and small business commercial rentals began on March 24th and is effective through May 31, 2020. The Executive Order went into effect on March 27th and is in place through May 31, 2020. Extending to May 31, 2020 mirrors the timeframe of protection outlined Santa Clara County's Eviction Moratorium and the State's Executive Order N-37-20. By aligning with County and Statewide effective dates, the City would extend the eviction moratorium protections to City residents already afforded to the rest of the County and State.

Extending the City moratorium provides additional benefits to residents. Specifically, the ordinance is clear and both tenants and landlords can reach out to City staff to provide direction on how to implement the moratorium. Relying on the County and State legislation may cause confusion to local residents on how to comply with these measures..

In addition, this extension will provide needed relief for residents who have applied for, but have not yet received financial assistance, by stabilizing their housing. The extension eliminates some of the uncertainty caused by the delay in processing unemployment benefits and other local, state and federal assistance programs residents are waiting to receive. By providing tenants with this measure of security, residents across the City can focus on obtaining financial, food and health services. The extension also aligns with the City's ongoing commitment to mitigate homelessness and preserve housing.

IV. MECHANISMS OF A RENT FREEZE ON NEW RENT INCREASES FOR RENT STABILIZED APARTMENTS AND MOBILEHOMES

On April 7, 2020, City Council brought forth a proposal to suspend rent for three months for families struggling to pay rent due to COVID-19. Due to legal issues raised by the City Attorney, the sponsoring members withdrew their proposal and instead directed staff to return to Council to discuss enacting a temporary rent freeze on rent increases. Council also directed staff to research structure for a rent freeze in San José.

Throughout the State, several cities have enacted eviction moratoriums and strategies to keep vulnerable residents housed. Staff evaluated selected eviction moratoriums and included provisions as follows:

- ***City of Glendale*** approved on March 24, 2020 a prohibition on rent increases/rent freeze until April 30, 2020. Landlords may not issue new rent increases until the expiration of the order. Any rent increases issued between March 25, 2020 and the expiration of the emergency order will need to be reissued upon the expiration of the rent freeze. The

Emergency order applies to all residential units, except for apartments built after February 1, 1995, condominium units, and single family homes.⁵

- **City of Oakland** approved on March 27, 2020 a prohibition to raise rents no more than 3.5% citywide for rent stabilized units until June 30th. In addition, after the eviction moratorium expires on May 31st, landlords are indefinitely prohibited from removing tenants from homes if due to nonpayment of rent due to financial hardship to COVID-19.⁶
- **City of Los Angeles** approved on March 30, 2020 a prohibition to increase the annual allowable rents for tenants living in occupied units subject to the Los Angeles Rent Stabilization Ordinance. It does not apply to single family homes or condominiums or units built after October 1978. The rent freeze will last from the effective date of the order through sixty days after the expiration of the local emergency period.⁷

The purpose of a rent freeze is to further stabilize housing for renters in the San José community during the COVID-19 pandemic, prevent avoidable homelessness, and maintain the public health. The temporary rent freeze will help protect the health, safety, and welfare of San José residents. The following list provides recommended components for the rent freeze ordinance in San José:

- **Residents Covered by the Legislation** – The rent freeze will apply to all tenants renting the 38,000 rent stabilized apartments and residents living in the 10,000 rent controlled Mobilehomes throughout the City of San José.
- **Length of Protections** – The rent freeze will be effective from the time of adoption to 120 days after the Eviction Moratorium expires, consistent with the County Eviction Moratorium. It is expected that tenants during this time would be attempting to repay outstanding rent and additional rent increases would compound their financial challenges.
- **Late Fees** – Late fees or interest may not be charged during the Eviction Moratorium and for 120 days after the expiration of the moratorium.
- **Petitions** – Tenants living in rent stabilized apartments retain their right to petition the Housing Department for improper rent increases, as currently available under the Apartment Rent Ordinance. There is no established petitions process for Mobilehome residents under the Mobilehome Rent Ordinance. However, residents may contact the Housing Department Rent Stabilization Program for assistance and referrals.

V. CONVENE STAKEHOLDERS TO FIND ALTERNATIVE SOLUTIONS

Over the past few weeks, staff has explored several different strategies on how to meet the needs of the San José community during this crisis. Staff held conversations with other cities and key stakeholders from the local community to discuss potential ideas. The City Council provided direction to convene stakeholders to work together to identify solutions addressing the needs of

⁵ <https://www.glendaleca.gov/government/departments/community-development/housing/rent>

⁶ <https://www.oaklandca.gov/topics/rent-adjustment-program>

⁷ <https://www.lamayor.org/sites/g/files/wph446/f/page/file/20200330MayorPublicOrderSuspendingRSORentIncreasesLA.pdf>

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the rental community. Examples of ideas that may be discussed by the stakeholders include but are not limited to:

- **Mediation Program** – Qualifying tenants in rent stabilized apartments may be able to file a joint petition with their landlords to enter into virtual mediation. A mediator will virtually meet with an affected tenant and the landlord to discuss options for payment of rent during the eviction moratorium period.
- **Payment Plan Forms** – Staff may develop tools for tenants and landlords to utilize and make available on our website. These tools will support parties in negotiating the repayment of rent over time.
- **Repayment Period** – Consider a repayment period and the term of the repayment period.
- **Prioritization** – Discuss if certain tenants should be prioritize given the relief packages.

Staff is proposing to convene a virtual workshop during the week of April 20th with landlords and tenants to brainstorm on ideas and solutions to address the mounting needs within the rental community. The workshop will be facilitated by staff from the City Manager's Office of Innovation who will guide participants through a process to develop concrete ideas that can be considered by the City for implementation. Housing staff participation will be limited to providing technical advice, following up on suggestions to ensure conformance with legal requirements and will report back the results of the workshop and in addition to staff recommendations. Staff is proposing to include representatives from the Apartment Association; tenants and landlords from rent stabilized apartments, market-rate, and affordable apartments; and tenant advocacy groups.

CONCLUSION

The nation is bracing for the long-term effects of the COVID-19 pandemic. The Federal government's response, the Coronavirus Aid, Relief, and Economic Security Act, also known as CARES, will alleviate some of the burdens on San José residents by supporting individuals and businesses affected by the pandemic and the resulting economic downturn. The State of California has experienced a spike in unemployment applications. There were 800,000 applications alone in the week ending March 27 and 2.3 million estimated applicants by April 7. Processing those applications and getting funds to residents will take time. Additional time is also needed to distribute the CARES funds and process unemployment applications for residents.

The City of San José is uniquely poised at this critical juncture of the COVID-19 pandemic to bring swift relief to its residents. While the very nature of the pandemic is forcing residents to reshape their way of life, the City of San José can continue its bold leadership and leverage the resources at its disposal. The virtual taskforce can begin exploring effective ways to equitably respond to tenant and landlord concerns and support landlord mortgage relief that would provide assistance to both landlords and tenants.

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The uncertainty of where to secure assistance has left many residents at much greater risk of homelessness. Extending the eviction moratorium ordinance is a temporary measure to help stabilize housing for those impacted by COVID-19 in the San José community. By stabilizing housing for residents, the City strengthens its commitment to decrease homelessness, and slows the spread of the virus. If approved, this resolution extension may mitigate the negative housing effects this public health crisis is causing residential tenants. Given the evolving county and state directives on how to best handle the growing threat caused by COVID-19, City Council is urged to review to extend the ordinance terms until May 31, 2020.

EVALUATION AND FOLLOW-UP

The City Manager will track the effectiveness of the rent freeze ordinance, and the continued impact of COVID-19 on the San José community over the coming weeks. If deemed necessary, the ordinance will be brought back to the City Council for consideration of extension. Staff will return on in early May with a report out on the results of the workshop and recommended actions.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more of Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

Since the Eviction Moratorium was effective on March 18, 2020, outreach efforts included sending mailers by e-mail and postcards, hosting webinars, responding to inquiries, and producing media to distribute on social platforms. Information on the Eviction Moratorium is available on www.sanjoseca.gov/EvictionMoratorium. A summary of the San José Eviction Moratorium Outreach Dashboard is included as **Attachment B**. The following efforts include:

- ***15,370 recipients for moratorium related E-blasts*** – Staff leveraged multiple email lists, including notifying all landlords on the Housing Department’s rent registry database.
- ***14,666 informational postcards mailed*** – Staff also mailed notices to landlords and property managers of rental properties citywide, including mobilehome parks, rent stabilized apartments, and affordable apartments.
- ***574 moratorium inquiries and responses*** – During the first 20 days that the moratorium was effective to April 6, 2020, Housing staff assisted tenants, landlords, and organizations with 506 inquiries by email and phone conversation to provide information on the Eviction Moratorium and relief resources from nonprofit partners and agencies.
- ***32,685 social media views for moratorium related posts and 8,363 video views*** – Using social media, staff produced 30 Tweets and 13 Facebook posts in multiple languages. In

addition, six videos in English, Spanish, and Vietnamese were published on various platforms of City department social media accounts to inform landlords and tenants.

- ***1,513 views on 4 Webinars on Zoom and Recorded on YouTube*** – Staff also hosted four webinars on the platform Zoom to explain the Eviction Moratorium. The webinars were later uploaded on YouTube for others to review or were unable to attend the live Zoom webinars.

There has been an increase in participation and utilization of the information provided by the Housing Department, especially given the access to participate in public meetings online and ability to view webinars online. In a given quarter of three months, the Rent Stabilization Program would receive on average 1,000 inquiries. The inquiries regarding the Eviction Moratorium within a month has made up of nearly 50% of the average number of inquiries received in three months. Staff credits the combination of mailers, e-mails, social media, and webinars that allowed the public to be informed in an unprecedented way during the shelter in place order.

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION

This Housing and Community Development Commission meetings have been cancelled due to the COVID-19 pandemic.

FISCAL/POLICY ALIGNMENT

This action is consistent with the City's *Consolidated Plan 2015-2020*, adopted by City Council on May 5, 2015, to provide homes for very low- and extremely low-income households, and with Goal H-2 of the City's *Housing Element 2014-2023*, adopted by City Council on January 27, 2015, to "increase, preserve, and improve San José's affordable housing stock."

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CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/

JACKY MORALES-FERRAND

Director, Housing Department

For questions, please contact Deputy Director, Rachel VanderVeen at (408) 535-8231.

Attachments:

Attachment A – Eviction Moratorium Analysis – Comparison between City of San José,
Santa Clara County, and State Executive Order

Attachment B – San José Eviction Moratorium Outreach Dashboard



Eviction Moratorium Analysis

Comparison between City of San José, Santa Clara County, and State Executive Order

A summary of the key differences between the components of the City of San José Eviction Moratorium, Santa Clara County Eviction Moratorium, and State Executive Order N-37-20 are analyzed below:

- Coverage, term and expiration, and nonpayment of rent protection,
- How to qualify as an affected tenant, notification by tenant to landlord, rent repayment period, and late fees, and
- Eviction procedures.

A. Coverage, Term and Expiration, and Nonpayment of Rent Protection in Table 1

The City of San José eviction moratorium applies to the San José city boundaries. The County Ordinance applies to all 15 cities within Santa Clara and in unincorporated areas. The Statewide Executive Order applies to all residential tenants in California.

The terms and expiration vary across the legislation. San José's Moratorium ends April 17, 2020, but can be extended by 30 day increments. The County moratorium will expire on May 31, 2020 and can also be extended. The State Executive Order also expires on May 31, 2020.

The City Moratorium and State Executive Order only apply to residential tenants, while the County Ordinance applies to both residential and commercial tenants.

Table 1: Summary of Key Differences Between Coverage, Term, and Expiration, and Nonpayment of Rent Protection

	SAN JOSÉ	COUNTY OF SANTA CLARA	STATE EXECUTIVE ORDER
Geographic Limitations	City of San José only	Includes cities in incorporated and unincorporated areas	Protects any tenant in State
Term & Expiration	3/18/2020 until 4/17/2020	3/24/20 until 5/31/20	3/27/2020 until 5/31/2020
Nonpayment of Rent Protection	Residential only	Residential & commercial real property	Residential only

B. How to Qualify as an Affected Tenant, Notification by Tenant to Landlord, Rent Repayment Period, and Late Fees in Table 2

In order to qualify as an affected tenant under the City ordinance, a tenant must provide documentation of a loss in income through job loss, reduction of hours, employer's business closure, missing work due to a minor child's school closure, or other reasons resulting in loss of income due to COVID-19. The County Ordinance and the State Executive Order include a reduction of income, as well as an increase in medical expenses due to COVID-19. The State Executive Order also explicitly includes tenants who are infected with COVID-19 or suspected of being infected.

The City Ordinance, County Ordinance, and State Executive Order differ in the notification obligations tenants have to landlords. Under the City Ordinance, a tenant must notify the landlord of their status as an affected tenant before the expiration of the Notice of Termination. The County does not include this obligation and provides that a tenant may provide documentation at any time prior to the execution of a judgment for possession. By comparison, the State Executive Orders requires a tenant to notify the landlord before rent is due or within a reasonable period of time afterwards, not to exceed seven days. Each have different requirements to provide noticing to the landlord in order to qualify for the protection under their respective laws. The County requires no tenant notice, the City requires notice prior to the notice of termination expiring. The State Executive Order has the strictest requirement of all three. If tenants seek protections under the State’s Executive Order, they must demonstrate compliance with the notification requirements.

Regarding a repayment period for past due rent, the County is the only legislation that includes a repayment period provision. Upon the expiration of the County Ordinance, tenants who demonstrate substantial loss of income or out-of-pocket medical expenses will have 120 days to repay any outstanding rent due. The City Ordinance and State Executive Order are silent on a repayment period.

In addition, the County Ordinance is the only ordinance that addresses late fees by prohibiting landlords from charging or collecting them during the moratorium and for 120 days afterwards. The City and State’s moratoriums do not include a late fees provision. However, the County’s Ordinance applies to the City.

Table 2: How to Qualify as an Affected Tenant, Notification by Tenant to Landlord, Rent Repayment Period, and Late Fees

	SAN JOSÉ	COUNTY OF SANTA CLARA	STATE EXECUTIVE ORDER
How to Qualify as an Affected Tenant	(1) job loss; (2) a reduction of compensated hours of work; (3) employer’s business closure; (4) missing work due to a minor child’s school closure; or (5) other similarly-caused reason resulting in a loss of income due to COVID-19.	(1) Substantial loss of income from (i) job loss (ii) layoffs (iii) a reduction in the number of compensable hours of work (iv) a store, restaurant, office, or business closure (v) a substantial decrease in business income caused by a reduction in opening hours or consumer demand (vi) the need to miss work to care for a home-bound school-age child or family member infected with coronavirus or (vii) other similarly-caused loss of income where the conditions listed in (i) through (vii) resulted from the 2020 COVID-19 pandemic	The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19. The tenant experienced a layoff, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response, or The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.

Notification by Tenant to Landlord	Affected Tenant has notified their landlord of their status as an Affected Tenant before the expiration of the Notice of Termination	No notification required	Tenant notifies landlord in writing before the rent is due or within a reasonable period of time afterwards not to exceed 7 days
Rent Repayment Period	Does not address	120 days from the date of expiration of this Ordinance for tenants who is impacted by COVID-19, as defined in the Ordinance.	Does not address
Late Fees	Does not address late fees	Cannot be charged during the Ordinance and for 120 days after expiration	Does not address late fees

C. Days to Answer an Unlawful Detainer in Table 3

Neither the City of San José Eviction Moratorium nor the County Ordinance are affected by the State Executive Order, which narrowly regulates only procedural deadlines in an unlawful detainer action and stays any enforcement of a sheriff's lockout. The State Executive Order extends the procedural timeline in unlawful detainer actions for respondents to submit an answer, from five days to 60 days for any tenant who is served with a summons and complaint for nonpayment of rent. Only the State has the authority to extend the procedural timeline for unlawful detainer actions under the California Code of Civil Procedure.

Table 3: Days to Answer an Unlawful Detainer

	SAN JOSÉ	COUNTY OF SANTA CLARA	STATE EXECUTIVE ORDER
Days to Answer an Unlawful Detainer	Does not address	Does not address	An extension of the answer period for an Unlawful Detainer of 5 days to 60 days for nonpayment of rent

As of April 10, 2020, this summarizes the key differences between the components of the City of San José Eviction Moratorium, Santa Clara County Eviction Moratorium, and State Executive Order N-37-20.

SAN JOSE EVICTION MORATORIUM OUTREACH DASHBOARD

SOCIAL MEDIA



41,048

Social media views for all moratorium related posts

30 Tweets

21,351 Tweet Views

13 Facebook Posts

11,334 Post Views



6

Videos produced by the RSP team

8,363 Youtube views

WEB



16,242

Page views for moratorium web page

Data is current as of April 7, 2020

RENT STABILIZATION PROGRAM



3

E-blasts related to the moratorium



15,370

Email recipients for e-blasts



506

Moratorium-related calls handled by the Rent Stabilization team



1,513

People who watched moratorium webinars on Zoom & Youtube



14,666

Informational postcards mailed to landlords and residents



241

Notices to Terminate received during moratorium

MEDIA COVERAGE

KPIX TV | [San Jose Approves Moratorium On Evictions As Coronavirus Takes Toll On Economy](#)

KRON TV | [Moratorium on evictions proposed in San Jose due to coronavirus](#)

NBC Bay Area | [San Jose Mayor Calls for Action to Protect Renters Amid Coronavirus](#)

Newsweek | [Here Are All the Cities Who Have Announced Moratoriums On Evictions During Coronavirus Pandemic](#)

San Jose Inside | [Renters beg for some relief](#)

San Jose Mercury News | [San Jose moves forward with moratorium on evictions, proposes financial aid for small businesses](#)

San Jose Spotlight | [San Jose adopts a ban on evictions amid coronavirus outbreak](#)