

FREQUENTLY ASKED QUESTIONS

SAN MATEO COUNTY EMERGENCY REGULATION 2020-002

Establishing Temporary Countywide Moratorium on Rent Increases for Certain Residential Tenancies Due to the COVID-19 Pandemic

*(*Note: These FAQs may be supplemented from time to time with additional information.)*

1. What is Emergency Regulation 2020-002?

Emergency Regulation 2020-002 places a temporary moratorium or hold on rent increases for certain residential tenants who prove they are unable to pay a rent increase as a direct result of the COVID-19 pandemic or the federal, state, or local government response to the COVID-19 pandemic.

2. What residential tenancies are covered by Emergency Regulation 2020-002?

*Emergency Regulation 2020-002 applies to existing tenancies for residential real properties (including mobilehomes and mobilehome spaces) **except** those that are exempt from rent limits under California Civil Code Sections 1947.12 (AB 1482) and 1954.50, et seq. (the Costa-Hawkins Act).*

The following real properties are exempt from the moratorium imposed by the Emergency Regulation:

- *New construction – housing that was issued a certificate of occupancy within the last 15 years;*
- *Housing where the tenant shares a bathroom or kitchen facilities with an owner who uses the housing as his/her principal residence;*
- *Owner-occupied duplex where one of the units is the owner's primary residence;*
- *Single-family homes and condominiums if the owner is not a real estate investment trust, a corporation, or a limited liability company in which at least one member is a corporation;*
- *Affordable housing subject to deed or regulatory restriction or subject to an agreement that provides affordable housing subsidies;*
- *Student dormitories;*
- *Housing subject to more restrictive rent control ordinances;*

3. Is any particular type of rental agreement required under Emergency Regulation 2020-002?

No, the protections provided in Emergency Regulation 2020-002 apply to all form of rental agreements, including month-to-month or fixed term tenancies; subleases; tenancies by sufferance; and tenancies based on any other type of rental agreement, both written and oral.

4. Where does Emergency Regulation 2020-002 apply?

Emergency Regulation 2020-002 covers the entire County of San Mateo, which means it applies in the unincorporated area, as well as all the cities located within the County, including Atherton, Belmont, Brisbane, Burlingame, Colma, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, Redwood City, San Bruno, San Carlos, San Mateo, South San Francisco and Woodside.

5. Does Emergency Regulation 2020-002 prevent landlords from raising rent on all residential tenants?

No, to receive the protections provided by Emergency Regulation 2020-002, a tenant must prove an inability to pay increased rent as a direct result of COVID-19 pandemic or the federal, state, or local government response to the COVID-19 pandemic.

This is how it works:

While the Emergency Regulation is in effect, if a landlord serves a written notice to increase rent as required by law, the landlord must also provide the tenant(s) written notice of this Emergency Regulation using the “Notice Re: Emergency Regulation 2020-002 Establishing a Temporary Countywide Moratorium on Certain Residential Tenancies Due to the COVID-19 Pandemic.”

Once a tenant receives the Notice, the tenant then has up to 14 days to provide the landlord with documentation showing an inability to pay the proposed increased rent as a direct result of the COVID-19 pandemic or the or the federal, state, or local government response to the COVID-19 pandemic. If the tenant complies with this requirement, the landlord cannot raise rent until after the temporary moratorium imposed by Emergency Regulation 2020-002 is no longer in effect, at which point the landlord can serve a new notice to increase rent.

6. Does Emergency Regulation 2020-002 apply to lease renewal offers that include a proposed rent increase?

Yes, Emergency Regulation 2020-002 applies to all notices to increase rent served while the Emergency Regulation is in effect, including lease renewal offers that include a proposed rent increase.

7. How long will Emergency Regulation 2020-002 be in effect?

Emergency Regulation 2020-002 took effect on April 28, 2020 and will remain in effect through May 31, 2020, unless it is extended by the San Mateo County Board of Supervisors.

8. What if a landlord served a notice to increase rent before Emergency Regulation 2020-002 went into effect?

The protections provided by Emergency Regulation 2020-002 apply only to notices to increase rent served on or after April 28, 2020 and until the Emergency Regulation expires. Therefore, it would not prevent a landlord from increasing rent based on a written notice to increase rent properly served before April 28, 2020.

9. Can a landlord collect any portion of a proposed rent increase from a qualifying residential tenant?

No, once a residential tenant qualifies under Emergency Regulation 2020-002, a landlord cannot move forward with any rent increase during the time the Emergency Regulation remains in effect.

10. Does Emergency Regulation 2020-002 excuse qualifying residential tenants from paying their monthly rent that was due when the Emergency Regulation went into effect?

*No, Emergency Regulation 2020-002 only places a temporary moratorium on rent **increases**, not on the payment of rent.*

However, a landlord may be prohibited from evicting a qualifying residential tenant under the County's Emergency Regulation 2020-001. More information about Emergency Regulation 2020-001 can be found at the following website: <https://housing.smcgov.org/covid-19-smc-eviction-regulations>.

11. When can a landlord raise rent again on qualifying residential tenancies under Emergency Regulation 2020-002?

A landlord can serve a new notice to increase rent after Emergency Regulation 2020-002 expires. Under California law, a notice to increase rent must generally be served at least 30 days before the rent increase goes into effect. Therefore, and only by way of example, if the Emergency Regulation ends on May 31, 2020, a landlord could serve a notice to increase rent on June 1, 2020, and the proposed rent increase would generally take effect 30 days later, on July 1, 2020.

12. What form of writing is acceptable for a residential tenant to notify a landlord that the tenant is unable to pay a rent increase under Emergency Regulation 2020-002?

All forms of writing are acceptable, including letter, email or text.

13. What are examples of written proof/documents that a residential tenant could provide a landlord to show the tenant cannot pay a rent increase under Emergency Regulation 2020-002?

- *Letter or note from an employer or a former employer citing the COVID-19 pandemic and related government action as the basis for termination of employment or reduced work;*
- *Paycheck stubs or copies of paychecks from before and after the beginning of the COVID-19 emergency showing that the tenant's income has been reduced;*
- *Letter, text message or e-mail from the tenant's employer asking the tenant not to come to work;*
- *Screenshots from Uber, Lyft, Instacart, DoorDash, etc. applications showing that the tenant has experienced reduced income;*

- *Photo showing the tenant's place of employment is closed due to the COVID-19 pandemic;*
- *Bank statements before and after the COVID-19 pandemic showing that the tenant's income has been reduced;*
- *Letter, e-mail or text message from school in which the tenant has a child enrolled regarding COVID-19-related closures that substantially affected the tenant's income;*
- *Documentation of out-of-pocket medical expenses related to COVID-19; and*
- *Statement under oath attesting to the circumstances of the tenant's inability to pay, for example, a declaration signed under penalty of perjury explaining in detail why the tenant is unable to pay a rent increase as a direct result of the COVID-19 pandemic (i.e., lost or reduced employment, out-of-pocket medical expenses, need to care for a child or other family member, etc.).*

14. Is the landlord required to keep confidential the written proof/documentation received from a tenant showing the tenant's inability to pay a rent increase due to COVID-19?

Yes. However, a landlord may be able to submit the written proof/documentation received from a tenant as evidence in a legal proceeding regarding applicability of the Emergency Regulation.

15. Is the Notice Re: Emergency Regulation 2020-002 Establishing a Temporary Countywide Moratorium on Certain Residential Tenancies Due to the COVID-19 Pandemic available in languages other than English?

Yes, the Notice is also available in Spanish, Chinese, Portuguese, Russian, and Tagalog. If a tenant or landlord would like to receive a copy of the Notice in a language other than English, please call (650) 363-7873 or visit <https://housing.smcgov.org/covid-19-residential-rent-increase-regulations>.

16. What can a qualifying residential tenant do to enforce Emergency Regulation 2020-002 if the tenant believes that the landlord has violated the Emergency Regulation?

The tenant can raise Emergency Regulation 2020-002 as a legal defense to any unlawful detainer action based on the tenant's failure to pay increased rent imposed in violation the Emergency Regulation.

The tenant may also bring a lawsuit against the landlord to stop the landlord from continuing to violate the Emergency Regulation and to recover money damages. If the tenant prevails in such a lawsuit, the tenant can recover reasonable attorney's fees and costs with a court order. If the landlord prevails, the landlord can recover reasonable attorney's fees and costs with a court order.