

RESOLUTION NO. 2020 - 67

BOARD OF SUPERVISORS, COUNTY OF SOLANO, STATE OF CALIFORNIA EMERGENCY REGULATION OF SOLANO COUNTY ESTABLISHING A COUNTYWIDE MORATORIUM ON EVICTION FOR NON-PAYMENT OF RENT BY RESIDENTIAL/COMMERCIAL TENANTS DURING THE COVID-19 LOCAL EMERGENCY

SECTION 1. FINDINGS.

The Board of Supervisors of the County of Solano (the "Board") hereby makes the following findings in support of the immediate adoption and application of this Emergency Regulation (the "Emergency Regulation"):

WHEREAS, on February 27, 2020, Solano County declared a local health emergency ("Local Emergency") throughout Solano County related to the novel coronavirus ("COVID-19"); and

WHEREAS, on March 3, 2020, the Solano County Board of Supervisors ratified and extended this declaration of a local health emergency; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State Emergency due to the spread of COVID-19, and

WHEREAS, Governor Newsom's March 4, 2020 Proclamation of State Emergency waived the requirement in Section 8630 of the California Government Code that the County's declared Local Emergency be reviewed at least once every 60 days until terminated by the Solano County Director of Emergency Services; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20, which grants cities and counties broad authority to enact temporary moratoria on residential and commercial evictions based on a non-payment of rent caused by the COVID-19 pandemic or the federal, state and/or local response to the COVID-19 pandemic; and

WHEREAS, on March 18, 2020, the Solano County Health Officer issued an order that, among other things, prohibited all professional, social, and community gatherings that do not allow for participants to maintain six feet of distance apart occurring outside a single household or living unit ("Shelter-at-Home Order"); and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N33-20, which, among other things, directs all California residents to immediately heed current State public health directives and shelter in their homes, with certain exceptions; and

WHEREAS, on March 30, 2020, the Solano County Health Officer issued a subsequent order that, among other things, extended the March 18th Shelter at Home Order through April 30, 2020 (and a copy of the Shelter at Home Order is attached as Exhibit A to this Emergency Regulation); and

WHEREAS, Section 8634 of the Government Code provides that during a local emergency, the governing body of a political subdivision of the State "may promulgate orders and regulations necessary to provide for the protection of life and property," and that section requires that such orders "shall be in writing and shall be given widespread publicity and notice;" and

WHEREAS, the California Attorney General has opined that when a county has declared a local emergency within its jurisdictional boundaries in an area that includes both unincorporated and incorporated territory, the county may adopt emergency rules and regulations pursuant to Section 8634 of the Government Code that will be effective in both unincorporated and incorporated areas. 62 Ops. Cal. Atty. Gen. 701 (1979); and

WHEREAS, the County of Solano, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserve quality of life for residents throughout the County; and

WHEREAS, as a result of the State of Emergency and the subsequent prohibitions on large gatherings and the issuance of Shelter-at-Home Orders, both locally and state-wide, many County residential tenants have experienced sudden and substantial income loss due to business and school closures, layoffs or reductions in work hours and extraordinary out-of-pocket medical expenses, making it challenging for them to pay rent on time and thus, more likely to face the prospect of eviction; and

WHEREAS, housing instability threatens the public peace, health and safety as eviction from one's home can lead to homelessness, loss of community, stress and anxiety caused by the experience of displacement, interruption of the education of any children in the home, increased incidence of families moving into overcrowded conditions creating greater risk for the spread of COVID-19, as well as increased difficulty in complying with the Health Officer's Shelter-at-Home Order and a corresponding increased risk to public health and safety; and

WHEREAS, it is also necessary to recognize both the measures local property owners have voluntarily taken to protect tenants during this State of Emergency and the economic impacts to those property owners as a result of COVID-19 and a temporary moratorium on evictions; and

WHEREAS, the Board finds that this Emergency Regulation is reasonably related to the protection of life throughout the entire jurisdictional boundaries of the County, given the County-wide nature of the proclaimed State of Emergency; and

WHEREAS, in adopting this Emergency Regulation, the County is taking action pursuant to Executive Order N-28-20 consistent with its authority under Government Code Sections 8630 and 8634 and Chapter 7 of the Solano County Code; and

NOW, THEREFORE, the Board of Supervisors of the County of Solano, State of California, orders as follows:

SECTION 1. JURISDICTION

Pursuant to the County's police powers during a local emergency as set forth in Government Code Sections 8630 and 8634, and Chapter 7 of the Solano County Code, this Emergency Regulation shall apply throughout the entire geographic boundary of the County, including all incorporated cities and unincorporated areas. However, if an incorporated city in Solano County has enacted its own eviction moratorium, the city's moratorium applies within the boundaries of that city, except to the extent this Emergency Regulation provides stronger protections to tenants, in which case the stronger protections of this Emergency Regulation applies.

SECTION 2. LATE FEE MORATORIUM

Notwithstanding any lease or rental agreement provision to the contrary, no late fees or penalties may be imposed for rent that became due during the State of Emergency and for a period of 90 days after the Emergency has been lifted if the rent was late or unpaid for reasons resulting from the COVID-19 pandemic.

Any notice demanding late fees for rent that became due during the Local Emergency shall include the following statement in bold underlined 12-point font: "**You are not required to pay late fees for rent that became due during the State of Emergency declared by the Governor in response to the COVID-19 pandemic if the rent was late for reasons related to the pandemic provided you provide proof of the hardship.**" Evidence of proof may be provided in the form of documentation of job loss, wage loss or medical expenses related to COVID-19.

SECTION 3. NO EVICTION FOR NONPAYMENT OF RENT THAT BECAME DUE DURING THE LOCAL EMERGENCY

A lessor of a residential (including mobile homes) or commercial property shall not commence an action for unlawful detainer under California Code of Civil Procedure section 1161(2) on the basis of rent which became due during the State of Emergency declared by the Governor and for a period of 90 days afterward if the lessee or tenant was unable to pay such rent because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus pandemic. In any action for unlawful detainer filed under California Code of Civil Procedure section 1161(2), it shall be a defense that the unpaid rent became due during the State of Emergency declared by the Governor and was unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the COVID-19 pandemic.

No lessor shall decline to allow a holdover tenant a month to month tenancy because of unpaid rent or late fees that arose during the State of Emergency declared by the Governor and for a period of 90 days after without allowing the lessee or tenant an opportunity to propose a reasonable payment plan. A payment plan is presumptively reasonable if (A) the lessee or tenant would make future rental payments in full as they come due, (B) any arrearage on the lessee's or tenant's account would be paid in full within twelve (12) months of the agreement, and (C) the lessee or tenant has, or there is good cause to believe the lessee or tenant will have, the means to make the required payments according to schedule.

Any notice served on a lessee or tenant demanding rent that became due during the State of Emergency declared by the Governor and for a period of 90 days after the Emergency has been lifted shall include the following statement in bold underlined 12- point type: **"You cannot be evicted for rent that you owed during the State of Emergency declared by the Governor if you became unable to pay your rent due to the COVID-19 pandemic. You must still pay this rent, and you are encouraged to work with your landlord to establish a reasonable payment plan for any rent you were not able to pay due the COVID-19 pandemic.** Nothing in this subsection shall relieve the lessee or tenant of liability for the unpaid rent or limit the lessor's rights to collect such rent short of an action for unlawful detainer.

SECTION 4. LOSS IN INCOME DURING THE STATE OF EMERGENCY PRESUMED TO BE DUE TO COVID-19 PANDEMIC

Any substantial reduction in household income by a tenant or lessee during the State of Emergency declared by the Governor shall be presumed to be caused by the COVID-19 pandemic. This includes, but is not limited to, where, as a result of the COVID-19 pandemic, the tenant or lessee suffered a loss of employment or a reduction in hours, or was unable to work because their children were out of school, or was unable to work because they were sick with COVID-19 or caring for a household or family member who was sick with COVID-19, or they were complying with a recommendation from a government agency to self-quarantine, or they incurred substantial out of pocket medical expenses due to COVID-19. A plaintiff in an action for unlawful detainer under Code of Civil Procedure section 1161(2) for rent unpaid during the State of Emergency declared by the Governor and for a period of 90 days afterward bears the burden to show any nonpayment of rent during this period did not result from the COVID-19 pandemic. Landlords may request evidence of proof be provided in the form of documentation of job loss, wage loss or medical expenses related to COVID-19.

SECTION 5. NO RELIEF FROM LIABILITY FOR RENT.

Nothing in this Emergency Regulation shall relieve any residential or commercial lessee or tenant of liability for unpaid rent. Lessors and tenants are encouraged to work with local agencies that make rental assistance available for qualifying lessees and tenants in accordance with California Civil Code section 1947.3.

SECTION 6. RIGHT TO BREAK RESIDENTIAL LEASE WITH CAUSE

For the duration of the State of Emergency declared by the Governor and for a period of 90 days afterward, notwithstanding any lease or rental agreement provision to the contrary, a residential tenant may terminate a lease or rental agreement with 30 days' notice without penalty if the lessee or tenant has cause for termination which is related to the COVID-19 pandemic. Such cause includes, but is not limited to, changes in household income, the need to care for school-aged children, and the need to care for relatives.

SECTION 7. SEVERABILITY

If any provision of this Emergency Regulation is declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent of the Board that such invalid provisions(s) be severed from the remaining provisions of this Emergency Regulation.

SECTION 8. CEQA

Adoption of this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly).

SECTION 9. NO MANDATORY DUTY

Nothing in this Emergency Regulation is intended to create a mandatory duty on the part of the County, County employees, or any incorporated city within Solano County, to protect persons or property from a violation of the provisions of this Emergency Regulation.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on April 28, 2020 by the following vote:

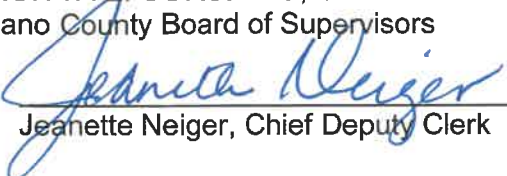
AYES: SUPERVISORS Hannigan, Brown, Sperring, Vasquez and Thomson

NOES: SUPERVISORS None.

EXCUSED: SUPERVISORS None.


ERIN HANNIGAN, Chairwoman
Solano County Board of Supervisors

ATTEST:
BIRGITTA E. CORSELLO, Clerk
Solano County Board of Supervisors

By: 
Jeanette Neiger, Chief Deputy Clerk

ORDER OF THE HEALTH OFFICER No. 2020-04

ORDER OF THE SOLANO COUNTY HEALTH OFFICER DIRECTING INDIVIDUALS TO SHELTER AT HOME EXCEPT THAT THEY MAY LEAVE TO PROVIDE OR RECEIVE CERTAIN ESSENTIAL SERVICES OR ENGAGE IN CERTAIN ESSENTIAL ACTIVITIES AND WORK FOR ESSENTIAL BUSINESSES AND ESSENTIAL GOVERNMENTAL SERVICES; EXEMPTING INDIVIDUALS EXPERIENCING HOMELESSNESS FROM THIS ORDER BUT URGING THEM TO FIND SHELTER AND GOVERNMENT AGENCIES TO PROVIDE IT; DIRECTING ALL BUSINESSES AND GOVERNMENTAL AGENCIES TO CEASE NON-ESSENTIAL OPERATIONS AT PHYSICAL LOCATIONS IN THE COUNTY; PROHIBITING ALL NON-ESSENTIAL GATHERINGS OF ANY NUMBER OF INDIVIDUALS; AND PROHIBITING ALL NON-ESSENTIAL TRAVEL

DATE OF ORDER: MARCH 30, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, *et seq.*)

Pursuant to California Health and Safety Code sections 101040, 120175, and 120175.5 (b), the Solano County Health Officer ORDERS AS FOLLOWS:

Effective immediately and continuing until 11:59 p.m. on April 30, 2020, or until it is extended, rescinded, superseded, or amended in writing by the Health Officer, the following will be in effect in Solano County:

1. All public and private gatherings of any number of people that do not allow for participants to maintain six feet of distance apart, including at places of work, occurring outside a single household or living unit are prohibited. However, nothing in this Order prohibits the gathering of members of a household or living unit.
 - a. This prohibition applies to all professional, social, and community gatherings, regardless of their sponsor, that are not engaged in Essential Activities, as defined below. Gatherings that involve Essential Activities should only be conducted when they cannot be postponed or achieved without gathering, meaning that some other means of communication cannot be used to perform the Essential Activity. For gatherings involving Essential Activities, maintaining a six-foot separation of Social Distancing between persons, except family members, is recommended to the greatest extent possible. Individuals experiencing homelessness are exempt from this Order, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize Social Distancing Requirements in their operation).
 - b. "Essential Activities" include:

- i. All services needed to ensure the continuing operation of government agencies and to provide for the health, safety and welfare of the public;
- ii. Healthcare operations (e.g. hospitals) and essential infrastructure including critical utilities;
- iii. First responders, emergency management personnel, emergency dispatchers, court personnel, and law enforcement personnel;
- iv. Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary for maintaining the safety, sanitation, and essential operation of residences;
- v. Agriculture operations, including food cultivation, farming, livestock, and fishing;
- vi. Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals;
- vii. Newspapers, television, radio, and other media services;
- viii. Gas stations and auto-supply, auto-repair, and related facilities;
- ix. Banks and related financial institutions;
- x. Hardware stores;
- xi. Plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintain the safety, sanitation, and essential operation of residences;
- xii. Businesses providing mailing and shipping services, including post office boxes;
- xiii. Educational institutions - including public and private K-12 schools, colleges, and universities - for purposes of facilitating distance learning or performing essential functions, provided that Social Distancing of six-feet per person is maintained to the greatest extent possible;

- xiv. Laundromats, dry cleaners, and laundry service providers;
- xv. Restaurants and other facilities that prepare and serve food, but only for delivery or carry out. Schools and other entities that typically provide free food services to students or members of the public may continue to do so under this Order on the condition that the food is provided to students or members of the public on a pick-up and takeaway basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site;
- xvi. Businesses that supply products needed for people to work from home;
- xvii. Businesses that supply other essential businesses with the support or supplies necessary to operate;
- xviii. Businesses that ship or deliver groceries, food, goods or services directly to residences;
- xix. Airlines, taxis, and other private transportation providers providing transportation services;
- xx. Home-based care for seniors, adults, or children;
- xxi. Residential facilities and shelters for seniors, adults, and children;
- xxii. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;
- xxiii. Childcare facilities providing services that enable employees exempted in this Order to work as permitted. To the extent possible, childcare facilities must operate under the following mandatory conditions:
 - 1. Childcare must be carried out in stable groups of ten children or fewer.
 - 2. Children shall not change from one group to another.
 - 3. If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other.
 - 4. Childcare providers shall remain solely with one group of children.
- xxiv. Any other essential critical infrastructure as defined by the California

State Public Health Officer or the U.S. Department of Homeland Security.

- c. "Social Distancing" is maintaining a six-foot separation from all persons except for family members.
2. All bars and other establishments that serve alcohol, and do not serve food, shall close consistent with guidance provided by the California Department of Public Health for Retail Food, Beverage, and Other Related Service Venues.
3. All restaurants and other business establishments that serve food shall close all on-site dining consistent with guidance provided by the California Department of Public Health for Retail Food, Beverage, and Other Related Service Venues. All food served shall be by delivery, or through pick-up or drive-thru. Social Distancing shall be required for persons picking up food on site.
4. A strong recommendation is made that all persons who are 65 years and older, or have a serious chronic medical condition (like heart disease, lung disease, and diabetes), or have a compromised immune system remain at home consistent with guidance provided by the California Department of Public Health on Self-Isolation for Older Adults and Those Who Have Elevated Risk.
5. A strong recommendation is made for persons exhibiting mild to moderate symptoms of COVID-19 to self-isolate in their place of residence unless seeking medical care.
6. All businesses shall enact Social Distancing, and increased sanitation standards, and shall make every effort to use telecommuting for their workforce. All businesses shall suspend any policy or procedure requiring doctor verification for sick or other leave approval except that any healthcare operation or health-care related business may continue to enforce any policy or procedure requiring doctor verification for sick or other leave approval.
7. A strong recommendation is made that all residents are to heed any orders and guidance of state and local health officials related to COVID-19.
8. Travel is allowed but only to extent necessary to effectuate the intent of this Order.
9. This Order is necessary to protect and preserve the public health from, and prevent, the increasing transmission of COVID-19 in California and the significant risk of widespread introduction and transmission of COVID-19 into the County.
10. Further, this Order is given because of the propensity of the virus to spread person to person and also because the virus physically is causing property loss or damage due to its proclivity to attach to surfaces.
11. This Order revokes and replaces the Order issued on March 18, 2020 and the

Supplemental Order issued on March 19, 2020. Those Orders are no longer in effect as of the effective date of this Order.

12. Pursuant to Health and Safety Code section 120175.5 (b) all governmental entities in the County shall take necessary measures within the governmental entity's control to ensure compliance with this Order and to disseminate this Order to venues or locations within the entity's jurisdiction where a large gathering may occur.
13. Violation of this Order is subject to fine, imprisonment, or both. (California Health and Safety Code section 120295.)
14. **To the extent necessary and feasible, this Order may be enforced by the Sheriff or chiefs of police pursuant to Government Code sections 26602 and 41601 and Health and Safety Code section 101029.**

As this is a rapidly evolving situation, this Order may be revised at any time.

IT IS SO ORDERED:

Date: March 30, 2020



Dr. Bela Matyas
Solano County Health Officer

EMERGENCY REGULATIONS

As Director of Emergency Services for the County of Solano, I am authorized to promulgate regulations for the protection of life and property pursuant to Government Code Section 8634 and Solano County Code sections 7-12 (a) and (b) and 7-13 (a)(1). The following shall be in effect for the duration of the Solano County Health Officer Order issued above which is incorporated in its entirety by reference:

The Solano County Health Officer Order shall be promulgated as a regulation for the protection of life and property.

Any person who violates or who refuses or willfully neglects to obey this regulation is subject to fine, imprisonment, or both. (Government Code section 8665.)

Date: March 30, 2020



County Administrator, Birgitta E. Corsello