



**Buchalter**

# **California Commercial Building Reopening Protocols and Eviction Moratoriums**

**Presented by**

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# Agenda

- 1. Status of Re-Opening mandates; State and County**
- 2. Preparing for the return of tenants/employees**
  - **Landlord vs. Tenant Responsibilities**
  - **Communicating with responsible parties.**
  - **Maintaining Covid-Clean buildings**
  - **Reviewing Insurance Coverages**
- 3. Eviction Moratorium and Rent Relief Ordinances**
- 4. Effect on new leases and LOIs**

# California Reopening Tier Classification

<p><b>WIDESPREAD</b></p> <p>Many non-essential indoor business operations are closed</p>	<p><b>SUBSTANTIAL</b></p> <p>Some non-essential indoor business operations are closed</p>	<p><b>MODERATE</b></p> <p>Some indoor business operations are open with modifications</p>	<p><b>MINIMAL</b></p> <p>Most indoor business operations are open with modifications</p>
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## Current Bay Area County Tiers

Alameda County	San Francisco County	San Mateo County	Santa Clara County
<p><b>MODERATE</b></p> <p>Some indoor business operations are open with modifications</p>	<p><b>MINIMAL</b></p> <p>Most indoor business operations are open with modifications</p>	<p><b>SUBSTANTIAL</b></p> <p>Some non-essential indoor business operations are closed</p>	<p><b>MODERATE</b></p> <p>Some indoor business operations are open with modifications</p>

# Building Signage Requirements

State of California	San Francisco County	San Mateo County	Santa Clara County
<p>Employers must post signage at all entrances and in highly visible locations reminding workers to use masks, practice social distancing, and wash hands frequently</p> <p>No signage templates are provided</p>	<p>All businesses available for indoor activities must post signage at all public entrances regarding social distancing, masks, and hygiene</p> <p>Signage templates are provided</p>	<p>All businesses must post (1) a self-certification placard at all public entrances; (2) the Social Distancing Protocol; (3) social distancing and face mask signs; and (4) an office specific health and safety plan</p> <p>Signage templates are provided</p>	<p>All businesses must post signage at public entrances regarding social distancing, masks, and hygiene. These signs include the Social Distancing Protocol, COVID-19 Prepared and Social Distancing Protocol Visitor Information Sheet, all of which are included in the confirmation e-mail following uploading of the Social Distancing Protocol to the County online portal</p> <p>Signage templates are provided</p>

# Temperature Monitoring of Tenants and Visitors

State of California	San Francisco County	San Mateo County	Santa Clara County
<p>Requirement is that all tenants, visitors, guests, and vendors must conduct either (a) temperature and/or symptom testing upon entering an office workspace; or (b) a self-screening done at home prior to entering a building or office workspace, each in accordance with CDC Guidelines</p>	<p>Temperature monitoring is not required, but all personnel going to a building or office must answer complete the three question self-assessment contained in the Personnel Screening Form daily.</p> <p>There are no additional screening requirements beyond state regulations, but the County does offer a recommended form of assessment for all visitors to office buildings</p>	<p>No additional screening needed beyond state regulations</p>	<p>No additional screening needed beyond state regulations</p>

# Janitorial Guidelines

State of California	San Francisco County	San Mateo County	Santa Clara County
<p>All high-traffic areas are to be frequently cleaned, ventilation is to be increased following California DPH recommendations, air cleaners are to be installed where possible, and cleaning products approved on the EPA list should be used in office buildings</p>	<p>All high touch surfaces in common areas must be cleaned and personnel must wash hands frequently. Individual workspaces should be cleaned after leaving for the day.</p> <p>For buildings in excess of 50,000 square feet, additional heightened cleaning requirements go into effect on November 8, including conference rooms, doors, and shipping/receiving areas. All cleaning standards must be posted in areas where employees regularly receive daily instructions and on public bulletin boards used to communicate official notices to staff.</p>	<p>All high touch surfaces in common areas are to be cleaned and all personnel are to wash hands frequently. Hand sanitizer and soap are to be provided in high-frequency interaction areas and at entrances</p>	<p>All high touch surfaces in common areas are to be cleaned and all personnel are to wash hands frequently. Hand sanitizer and soap are to be provided in high-frequency interaction areas and at entrances</p>

# Social Distancing Requirements

State of California	San Francisco County	San Mateo County	Santa Clara County
<p>Offices must develop measures to ensure social distancing, including reconfiguring office spaces, restricting certain common areas, limiting individuals riding on elevators, and discouraging person-to-person contact</p>	<p>All businesses and buildings must complete a Social Distancing Protocol and Health and Safety Plan, as developed and promulgated by the County, and post it at all public entrances. A copy must also be provided electronically</p> <p>A County mandated form is provided online</p>	<p>All businesses must complete, post, and distribute a Social Distancing Protocol that shows compliance with state guidance. The Protocol is to be posted at all public entrances</p> <p>A County mandated form is provided online</p>	<p>All businesses must complete, post, and distribute a Social Distancing Protocol and must provide the Protocol to the County online</p> <p>A County mandated form is provided online</p>

# Positive COVID-19 Test Reporting

State of California	San Francisco County	San Mateo County	Santa Clara County
All employers are required to notify their local health departments if there are three (3) positive COVID cases within a two-week period. Employers are also encouraged to contact their local health departments if they are aware of a laboratory-confirmed COVID case. An employer must report all serious injuries, illnesses or deaths to Cal/OSHA within 8 hours of knowledge, but a positive COVID case does not qualify for the above	All employers are required to notify SFPD if there are three (3) positive COVID cases within a two-week period. If there is a positive test, contact tracing for those in close contact should be performed and those individuals should be quarantined as well. Cleaning and disinfecting measures must be performed in accordance with CDC guidelines	All employers are required to notify SMDPH if there are three (3) positive COVID cases within a two-week period. If a positive testing employee has been at a site within the last seven days, close operations until disinfecting according to CDC and state guidelines has been completed	All positive test cases must be reported to SCDPH via the County's online portal within four (4) hours after learning of the positive case. If there is a positive test, contact tracing for those in close contact should be performed and those individuals should be quarantined as well. Cleaning and disinfecting measures should be performed in accordance with CDC guidelines

NOTE: Although not required by any County or State of California regulation, landlords should consider requiring tenants to inform them of positive tests so that appropriate cleaning and contact tracing may be done



# Bay Area Commercial Eviction Moratoriums

## County of Alameda

- Current moratorium for all commercial and industrial tenants in unincorporated areas in effect through December 31, 2020
- Landlords of qualified tenants must provide a copy of the moratorium and a specific notice as set forth in the ordinance when serving a notice of termination
- Thereafter, tenants have 15 days following receipt of such notice to notify their landlords they have suffered a “qualifying loss” (i.e. a substantial loss in income resulting from COVID-19)
- Tenants shall have at least 90 days to repay past due rent following the earlier of (1) December 31, 2020 or (2) the Local Health Emergency is no longer in effect (the practical effect here is that Landlords must enter into repayment agreements giving tenants a minimum repayment time, but no maximum repayment time is provided)

<http://www.acgov.org/cda/redevelop/meetings/Ordinance-CommercialEvictionMoratorium.pdf>

[https://library.municode.com/ca/alameda\\_county/ordinances/code\\_of\\_ordinances?nodeId=1034094](https://library.municode.com/ca/alameda_county/ordinances/code_of_ordinances?nodeId=1034094)

<https://www.acgov.org/cda/ecd/documents/BoardLetterforCEMExtension.pdf>

# Bay Area Commercial Eviction Moratoriums

## City of Oakland

- Current moratorium for qualified commercial tenants runs concurrently with any extensions or suspensions of the Governor's Executive Order N-29-20 regarding the ability of local municipalities to enact eviction moratoriums
- All rent demand notices from Landlords of qualified tenants must provide specific notice as set forth in the ordinance notifying such tenants of the eviction moratorium
- Qualified tenants are all small businesses as defined in California Government Code Section 14837(d)(1)(A) and all nonprofit organizations
- No repayment period for past due rent is set forth in the moratorium

<http://oakland.legistar.com/gateway.aspx?M=F&ID=aa0ae8b1-af27-44d0-803a-7e368375593c.pdf>

# Bay Area Commercial Eviction Moratoriums

## City and County of San Francisco

- Current moratorium for qualified small businesses has been extended to November 30, 2020
- Landlords of qualified tenants must provide written notice to tenants and provide at least one (1) month from the date of notice to cure the default. This cure period may be extended by additional thirty (30) day periods, until the expiration of the moratorium order, so long as the tenant provides notice to its landlord that it is still suffering financial hardship due to COVID-19
- Regardless of whether or not a tenant is qualified, landlords of buildings with less than 25,000 square feet may evict tenants for non-payment of rent if the landlord can show that failing to do so will create a significant financial hardship for the landlord
- Landlords may take any other remedy at law or in equity against a qualified tenant other than evicting such tenant for non-payment of rent
- To be qualified, the tenant must have worldwide gross revenues of less than \$25 million in 2019, or prorated appropriately if the business began after January 1, 2019.

[https://sfmayor.org/sites/default/files/28th Supplement 092920.pdf](https://sfmayor.org/sites/default/files/28th_Supplement_092920.pdf)

# Bay Area Commercial Eviction Moratoriums

## County of San Mateo

San Mateo does not have any current moratorium for evictions for commercial tenancies. The San Mateo Courts, which previously had prohibited unlawful detainer actions, began allowing pre-trial conferences on October 8 and trials began on October 13.

[https://www.sanmateocourt.org/documents/court\\_news\\_and\\_notices/100220.pdf](https://www.sanmateocourt.org/documents/court_news_and_notices/100220.pdf)

# Bay Area Commercial Eviction Moratoriums

## County of Santa Clara

- Current moratorium for qualified small businesses has been extended to November 30, 2020
- Landlords of qualified tenants must provide written notice to tenants and provide a list of resources for rental assistance programs
- Qualified tenants will have up until 6 months after the expiration of the moratorium to pay back 50% of rents and up to 12 months after the expiration to pay back the entirety of past due rent
- Tenants may not waive any of their rights under the moratorium and the moratorium only applies for nonpayment of rent
- To be qualified, the tenant must be of a commercial space that meets the standard for a “small business in the industry in which that entity operates as defined in the United States Small Business Association’s table of size standards by industry, 13 C.F.R. 121.201”

<https://www.sccgov.org/sites/osh/Documents/County%20Evictions%20Ordinance.pdf>

# State of California Public Health Links

<https://covid19.ca.gov>

<https://files.covid19.ca.gov/pdf/guidance-office-workspaces.pdf>

<https://files.covid19.ca.gov/pdf/checklist-office-workspaces--en.pdf>

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Workplace-Outbreak-Employer-Guidance.aspx>

# County of San Francisco Public Health Links

<https://www.sfdph.org/dph/alerts/files/C19-07-Shelter-in-Place-Health-Order.pdf>

<https://www.sfdph.org/dph/alerts/files/Directive-2020-18-Offices.pdf>

<https://sf.gov/outreach-toolkit-coronavirus-covid-19>

<https://www.sfdph.org/dph/alerts/files/C19-07-Personnel-Screening-Attachment-A-1.pdf>

<https://www.sfcDCP.org/wp-content/uploads/2020/08/COVID19-Guidance-Business-ifCOVID-UPDATED-08.17.2020.pdf>

<https://sfgov.legistar.com/View.ashx?M=F&ID=8848475&GUID=74E04862-E396-4AC3-B4EC-FAE6B9AA1601>

# County of San Mateo Public Health Links

<https://www.smchealth.org/health-officer-updates/order-no-c19-11-health-officer-county-san-mateo-social-distancing-guidelines>

<https://www.smchealth.org/post/covid-19-requirements-resources>

[https://www.smchealth.org/sites/main/files/file-attachments/20200923\\_covid-19\\_exposure\\_in\\_the\\_workplace\\_final.pdf?1602691195](https://www.smchealth.org/sites/main/files/file-attachments/20200923_covid-19_exposure_in_the_workplace_final.pdf?1602691195)

[https://www.smchealth.org/sites/main/files/file-attachments/ho\\_order\\_c19-11\\_appendix\\_a\\_social\\_distancing\\_protocol\\_form.pdf?1592515622](https://www.smchealth.org/sites/main/files/file-attachments/ho_order_c19-11_appendix_a_social_distancing_protocol_form.pdf?1592515622)



# County of Santa Clara Public Health Links

<https://www.sccgov.org/sites/covid19/Pages/social-distancing-protocol.aspx>

<https://www.sccgov.org/sites/covid19/Pages/business-guidance.aspx#employee>

<https://www.sccgov.org/sites/covid19/Pages/learn-what-to-do-flyers.aspx>



## Marty Smith

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Mr. Smith is responsible for the oversight of the company's day-to-day operations, the company's third-party management portfolio, and the acquisition of real estate assets for the company's investment portfolio. Prior to joining Alhouse Deaton in 2001, Mr. Smith was with Jones Lang LaSalle for 11 years. Mr. Smith left the company as a senior vice president with the Capital Markets Group in San Francisco, having opened the Jones Lang La Salle CMG San Francisco office and specialized in the execution of disposition assignments throughout the country. Prior to JLL, Mr. Smith spent 8 years at Cushman & Wakefield as a real estate investment and leasing professional. Mr. Smith has been in the real estate industry for more than 30 years, with extensive experience in repositioning assets through effective management and execution of business strategies to maximize the asset's value.



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Manuel Fishman focuses his practice on representing real estate developers and owners in the acquisition, sale, and financing of commercial properties. In addition, he has an active leasing practice representing owners of several major office buildings in San Francisco, including the Transamerica Pyramid, as well as tenants in lease and sublease transactions. His expertise includes letters of intent, tenant improvement work agreements, security deposits/letters of credit, signage rights, expansion and contraction rights, permitted transfers, operating expense audits, and lender and master landlord recognition agreements. Mr. Fishman also has extensive experience in the area of ground leasing and retail leasing and is recognized as a leading attorney in the area of landline and wireless communications and Internet-based services in commercial properties and rooftop installations.