

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE 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

WHEREAS, in late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China. On January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the likely source of the illness; and

WHEREAS, as infections began to rapidly increase in China and other countries throughout the world, on January 24, 2020 the City of San José (“City”) initiated planning for a possible outbreak of COVID-19 in San José. A Pandemic Management Team was formed to lead the effort. This action put the City at level 1, monitoring, the lowest level of the 5-point City response matrix; and

WHEREAS, on January 30, 2020, the World Health Organization (“WHO”) 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; and

WHEREAS, the County of Santa Clara County (“County”) Public Health Department received confirmation from the Centers for Disease Control and Prevention of two cases of novel coronavirus in the County, one on Friday, January 31, 2020 and the second on Sunday, February 2, 2020. Both cases had traveled to Wuhan, China in the 14 days before they became ill. As a result, the City increased its response level to 2-low risk; and

WHEREAS, on February 28, 2020, the County confirmed its third case of COVID-19 in Santa Clara County, the first transmission with unknown origin. The person does not

have a travel history or any known contact with a traveler or infected person. As a result, the City increased its response level to 3-medium risk; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom (“Governor”) declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for a broader spread of COVID-19. The proclamation comes as the number of positive California cases rises and following one official COVID-19 death; and

WHEREAS, on March 4, 2020, the County issued updated guidance for workplaces and businesses, stating that employers should take steps to make it more feasible for their employees to work in ways that minimize close contact with large numbers of people, including: 1) suspend nonessential employee travel; and 2) minimize the number of employees working within arm’s length of one another, including minimizing or canceling large in-person meetings and conferences. The County also recommended that persons at higher risk of severe illness should stay home and away from crowded social gatherings of people as much as possible such as parades, conferences, sporting events, and concerts where large numbers of people are within arm’s length of one another; and

WHEREAS, on March 6, 2020, due to an escalating increase in the number of cases in Santa Clara County, under San José Municipal Code Chapter 8.08, City Manager David Sykes signed a Proclamation of Local Emergency, which determines the legal, operational and recovery resources available for the City to respond to the COVID-19 public health emergency; and

WHEREAS, as of March 9, 2020, the County reported that there were forty-three (43) cases of persons testing positive for COVID-19, an increase of twenty-three (23) in five

days. The County also experienced its first death due to the virus. In response, the County, pursuant to their authority under California Health and Safety Codes sections 101040, 101085, and 120175, ordered that private mass gatherings attended by one thousand persons are prohibited until March 31, 2020 (the "Order"). This Order was based upon evidence of increasing transmission of COVID-19 within the County, scientific evidence regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect vulnerable members of the public from avoidable risk of serious illness or death resulting from exposure to COVID-19; and

WHEREAS, on March 16, 2020, the County issued an Order instituting a requirement to shelter in place of an individual's residence, permitting leave for essential activities, essential government functions, or to operate essential businesses, as defined in the Order. All businesses, except those essential businesses, are required to cease all activities at facilities located within the County. Further, all public or private gatherings of any number of people occurring outside a household or living unit is prohibited, except in very limited circumstances. As a result of these unprecedented measures, many businesses are having to close or significantly scale back and modify their business operations to comply with the County's Order. These actions in response are having immediate consequences on businesses generating revenue to sustain their business and pay their employees and overhead costs, including rent; and

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20, providing for local government's exercise of their police power to impose substantive limitations on commercial evictions and that state law would not preempt or otherwise restrict a local government from limiting commercial evictions; and

WHEREAS, on March 24, 2020, the County of Santa Clara Board of Supervisors adopted an uncodified urgency ordinance imposing a temporary moratorium through

May 31, 2020 on evictions in Santa Clara County for non-payment of rent by residential and commercial real property tenants directly impacted by the COVID-19 pandemic; and

WHEREAS, on March 31, 2020, the County issued a new, more restrictive Order than the one previously issued on March 16, 2020, tightening social distancing requirements by prohibiting attendance of certain outdoor and recreational facilities, placing restrictions on certain gatherings, and adding requirements of essential businesses. This Order also clarifies what is an essential business and extends the shelter in place requirements through May 3, 2020; and

WHEREAS, due to recommendations of the Governor and state superintendent of schools, Santa Clara County has decided to close schools to students for remainder of the academic school year. These school closures have caused parents with school-age children to stay at home to care for their school-age children thereby making it more challenging, and in some cases impossible, to earn income; and

WHEREAS, California unemployment claims totaled more than 925,000 during the week that ended on April 6, on top of the 1.06 million that filed claims in the state during the week of March 28, and the 186,000 that filed for jobless benefits the week of March 21. A spokesperson for California's Employment Development Department stated that they have received "An avalanche of filings" by companies issuing required warnings of upcoming layoffs and job cuts. Statewide, filings showed 18,998 planned job cuts filed so far in March; and

WHEREAS, on April 9, 2020, the number of COVID-19 cases in Santa Clara County had increased to 1,380 and 46 deaths. Statewide, there were 19,028 reported cases and 503 people have died; and

WHEREAS, displacement through eviction destabilizes the living situation of tenants and impacts the health of San José's residents by uprooting children from schools, disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City; and

WHEREAS, displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing; and

WHEREAS, during the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment are at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted; and

WHEREAS, on March 17, 2020, the City Council adopted a COVID-19 Urgency Ordinance ("Urgency Ordinance") and approved a companion ordinance (together, the "Ordinances"), providing for a temporary moratorium on evictions in the City of San José for renters on the basis of nonpayment of rent where the failure to pay rent results from wage loss resulting from the novel coronavirus (COVID-19) pandemic. The City Council also adopted a Resolution activating a 30-day eviction moratorium. The moratorium is set to expire by April 17, 2020. Under the provisions of the Ordinances, the Council may extend the moratorium beyond thirty days by adoption of a subsequent resolution.

WHEREAS, the Ordinances are temporary and not a general ordinance in force required to be codified pursuant to Section 606 of the City Charter; and

WHEREAS, pursuant to Section 605 of the City Charter, the Urgency Ordinance must be "adopted as and declared by the Council to be an urgency measure necessary for

the immediate preservation of the public peace, health or safety, containing a statement of the facts constituting such urgency”; and

WHEREAS, the Ordinances are a temporary moratorium intended to promote stability and fairness within the residential rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The moratorium on nonpayment of rent residential evictions, as set forth in the provisions under the COVID-19 Urgency Ordinance passed by San José City Council on March 17, 2020 in accordance with Charter Section 605(d), shall hereby be extended to May 31, 2020.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk