

**ORDINANCE NO. NS-9.299**

**AN UNCODIFIED URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA EXTENDING ORDINANCE NO. NS-9.287 (AS EXTENDED AND AMENDED BY ORDINANCE NO. NS-9.288, ORDINANCE NO. NS-9.289, ORDINANCE NO. NS-9.292, AND ORDINANCE NO. NS-9.293) TO THE DATE GOVERNOR NEWSOM'S EXECUTIVE ORDER N-28-20 (AS EXTENDED ON MARCH 4, 2021, BY EXECUTIVE ORDER N-03-21 (OR SIMILAR EXECUTIVE ORDER) EXPIRES, OR AUGUST 18, 2021, WHICHEVER IS EARLIER, RELATING TO A TEMPORARY MORATORIUM ON EVICTIONS FOR NON-PAYMENT OF RENT BY SMALL BUSINESS TENANTS IN SANTA CLARA COUNTY DIRECTLY IMPACTED BY THE COVID-19 PANDEMIC, AND DECLARING THE URGENCY THEREOF**

**Summary**

This Urgency Ordinance extends the temporary moratorium on evictions in Santa Clara County for non-payment of rent by small business tenants due to COVID-19 originally enacted on March 24, 2020, through (1) the date Governor Newsom's Executive Order N-28-20 (as extended on March 4, 2021, by Executive Order N-03-21) (or similar executive order) expires, or (2) to August 18, 2021, whichever is earlier.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:**

**SECTION 1. Findings and Purpose.**

In accordance with California Government Code section 25123, subdivision (d), the Board of Supervisors finds and declares that this Urgency Ordinance is deemed necessary for the following reasons:

1. On March 16, 2020, Gavin Newsom, Governor of the State of California, issued Executive Order N-28-20 that suspends any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions. The protections in that order initially were stated to expire on May 31, 2020.
2. On March 24, 2020, the Board of Supervisors of the County of Santa Clara adopted Ordinance No. NS-9.287, an urgency ordinance which temporarily banned the eviction of residential or small business tenants in Santa Clara County due to inability to

pay rent because of a substantial loss of income, or substantial out-of-pocket medical expense, related to the 2020 COVID-19 pandemic. Ordinance No. NS-9.287 was enacted to protect these local tenants from homelessness or housing insecurity as a means of ensuring the efficacy of the County's shelter in place order and combating community spread of COVID-19. Ordinance No. NS-9.287 stated that it was to expire on May 31, 2020 unless extended by the Board of Supervisors. Similarly, other jurisdictions within the County, such as the Cities of Mountain View, Palo Alto, San José, Santa Clara, and Sunnyvale, as well as the Town of Los Gatos, have enacted eviction moratoriums to protect tenants from eviction.

3. On March 27, 2020, Governor Newsom issued Executive Order N-37-20 banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. On April 6, 2020, the California Judicial Council promulgated emergency rules in response to the 2020 COVID-19 pandemic that temporarily suspended entry of default and trials in eviction proceedings in the Superior Courts.

4. On April 29, 2020, the County Public Health Officer issued an order extending and revising the prior shelter in place order issued on March 31, 2020. The April 29, 2020, order extended the shelter in place requirement for County residents to May 31, 2020, in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services.

5. On May 18, 2020, the County Public Health Officer issued an order extending and revising the prior shelter in place order issued on April 29, 2020. The May 18, 2020 order extended the shelter in place requirement for County residents indefinitely in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services.

6. On May 29, 2020, Governor Newsom issued Executive Order N-66-20, which extended suspension of any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions by 60 days to July 28, 2020.

7. On May 26, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.288, an urgency ordinance that extended Ordinance No. NS-9.287, which imposed a temporary moratorium on evictions in Santa Clara County for non-payment of rent due to COVID-19 and no fault evictions for tenants affected by COVID-19, to the date that Governor Newsom's Executive Order N-28-20 was extended, or August 31, 2020, whichever was earlier.

8. On June 2, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.289, an urgency ordinance that amended Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288, by extending the time period during which rent deferred under Ordinance No. NS-9.287 must be repaid from 180 days to 12 months from

the expiration of the eviction protections in the Ordinance, specifying repayment intervals for deferred rent, and specifying conditions for imposition of late fees on deferred rent.

9. On June 30, 2020, Governor Newsom issued Executive Order N-71-20, which further extended suspension of any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions to September 30, 2020.

10. On July 2, 2020, the County Public Health Officer issued an order revising the prior shelter in place order issued on May 18, 2020. The July 2, 2020 order revised the prior order by permitting most activities, travel, business, and governmental functions, subject to specified restrictions, limitations, and conditions to prevent community spread of COVID-19.

11. On July 13, 2020, Governor Newsom and the California Department of Public Health issued new restrictions on various indoor activities and industries across multiple counties.

12. On August 11, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.291, an urgency ordinance which established a comprehensive civil enforcement program to provide for the peace, health, and safety of the general public through enforcement of State and local public health orders and the County's eviction moratorium ordinance to help combat the spread of COVID-19.

13. On August 13, 2020, citing its role to resolve disputes under the law and not to legislate, the California Judicial Council voted 19-1 to end its emergency rule temporarily suspending entry of default, trials, and issuance of writs of execution for eviction proceedings in Superior Court, effective on September 2, 2020.

14. On August 25, 2020, the Board of Supervisors for the County of Santa Clara adopted Urgency Ordinance No. NS-9.292, an urgency ordinance that amended Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288 and amended by Ordinance No. NS-9.289, by extending the eviction protections for small business tenants therein to the date that Governor Newsom's Executive Order N-28-20 was extended (as extended by his June 30, 2020 Executive Order N-71-20), or to November 30, 2020, whichever was earlier. Urgency Ordinance No. NS-9.292 further amended Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288 and amended by Ordinance No. NS-9.289, by including an "anti-waiver" provision that voided any waiver of rights or protections afforded under the eviction moratorium ordinance as contrary to public policy.

15. On August 28, 2020, Erica S. Pan, M.D., M.P.H., Acting State Public Health Officer for the California Department of Public Health, issued a Statewide Public Health Officer Order. This Order, which is implemented through the California Department of

Public Health’s “Blueprint for a Safer Economy,” utilizes a color-coded tiered framework that progressively permits counties to engage in a broader range of reopening and resuming certain activities guided by risk-based criteria. Under this Order, local health officers may continue to implement or maintain more restrictive public health measures if the local health officer determines that health conditions in that jurisdiction warrant such measures. This Order took effect on August 31, 2020, superseded the July 13, 2020 State Public Health Officer Order, and remains effective until modified by the State Public Health Officer.

16. On August 31, 2020 Governor Newsom signed into law Assembly Bill 3088, which took effect immediately and imposed a temporary statewide eviction moratorium for non-payment of rent for residential tenancies in the State of California, and provided critical protections for residential tenants struggling under the COVID-19 pandemic, but did not provide protections for small business or commercial tenancies. Because of the breadth of Assembly Bill 3088’s protections for residential tenants, and its prohibition on evictions for non-payment of rent due to the COVID-19 pandemic, it preempts many of the residential tenant protections within the County’s eviction moratorium related to non-payment of rent.

17. On September 4, 2020, the United States Centers for Disease Control (CDC) announced an order temporarily halting evictions nationwide for residential tenants. This CDC order, however, did not address or provide protections for small business or commercial tenancies.

18. On September 23, 2020, Governor Newsom issued Executive Order N-80-20, which further extended suspension of any provision of State law that would preempt or otherwise restrict a local government’s exercise of police powers to impose substantive limits on commercial evictions under certain conditions to March 31, 2021.

19. On March 4, 2021, Governor Newsom issued Executive Order N-03-21, which further extended suspension of any provision of State law that would preempt or otherwise restrict a local government’s exercise of police powers to impose substantive limits on commercial evictions under certain conditions to June 30, 2021.

20. On October 5, 2020, the County Public Health Officer issued an order revising the prior risk reduction order issued on July 2, 2020. The October 5, 2020 revised risk reduction order, which went into effect on October 14, 2020 and remains in effect today, lessens the restrictions on activities that were imposed by the July 2, 2020 risk reduction order in light of the County’s increased capacity to detect cases and contain the spread of COVID-19.

21. At its October 20, 2020 meeting, the Board of Supervisors for the County of Santa Clara unanimously approved a referral to County administration to study and report back to the Board of Supervisors on November 18, 2020 and November 20, 2020 on options for establishing a low-interest loan program to help support small businesses that have

been adversely economically impacted by COVID-19. This referral recognized the crucial role small businesses play in the economic health of the County and cited the “devastating impact” the COVID-19 pandemic has had on small businesses and their employees within the County, the barriers small businesses often face to securing capital to keep their businesses open, the lack of available funds and resources for small businesses during this time, and the continued prospects of losses, layoffs, and bankruptcies that small businesses within the County face.

22. At its November 3, 2020 meeting, the Board of Supervisors for the County of Santa Clara unanimously adopted Urgency Ordinance No. NS-9.293, an urgency ordinance that extended the commercial small business eviction moratorium as articulated in Ordinance No. NS-9.287, as extended and amended by Ordinance No. NS-9.288, Ordinance No. NS-9.289, and Ordinance No. NS-9.292, by extending the eviction protections for small business tenants therein to the date that Governor Newsom’s Executive Order N-28-20 was extended (as extended by his September 23, 2020 Executive Order N-80-20), or to April 30, 2021, whichever was earlier.

23. On January 29, 2021, Governor Newsom signed into law California State Senate Bill 91 (“SB 91”), which served as successor legislation to AB 3088 and extended state-level eviction protections for residential tenants. Like AB 3088, SB 91 did not address commercial tenancies and did not extend eviction protections to small business tenants. Also, on January 29, 2021, the U.S. Centers for Disease Control extended its federal eviction moratorium for residential tenancies. This federal order also did not address commercial tenancies or provide protections for small business tenants.

24. Consistent with the concerns expressed by the Board of Supervisors at its October 20, 2020 meeting, recent reporting shows that the City of San José, the largest and most populous city in Santa Clara County, ranks fifth in the nation with the largest number of small business closures since March 1, 2020. Such closures have an adverse impact on the County’s economic health, as well as the economic and housing security of those who own and work for these small businesses.

25. As the COVID-19 pandemic continues, and the economic impacts from the pandemic deepen, the State and federal government have taken steps to provide relief for residential tenants, but to date there is no law or program extending such relief to small business or commercial tenants, leaving small business tenants vulnerable to the economic pressures of the current crisis described herein. Since the beginning of the COVID-19 pandemic, industry analysis estimates that nearly 100,000 small businesses have permanently closed. And while there have been some financial assistance programs to small businesses, most of these funds have been exhausted. This lack of financial resources, combined with the absence of comprehensive State or federal eviction protections, compounds the economic pressures facing small businesses and makes it more difficult for them to survive.

26. The humanitarian crises of homelessness, housing affordability, and housing insecurity in the County that existed at the time Ordinance No. NS-9.287 was enacted persist today. Small business tenants in particular continue to face potentially devastating income losses and may be unable to absorb such losses in the short term, and therefore be forced to shut down. Such shutdowns could impact the ability of the proprietors to provide essential services, and to provide incomes for themselves, their families, and their employees, putting all at risk of homelessness. Thus, extending the small business protections in the Ordinance by the Board is necessary to protect the health, safety, and welfare of its residents and those who drive our local economy.

**SECTION 2. Definitions.**

For purposes of this Ordinance, the term “Ordinance” as used hereinafter shall mean Urgency Ordinance No. NS-9.287, as subsequently amended by Ordinance Nos. NS-9.288, NS-9.289, NS-9.292, and NS-9.293, which generally established, amended, and/or extended the County’s temporary moratorium on small business evictions for non-payment of rent due to the COVID-19 pandemic.

**SECTION 3. Extension of Ordinance No. NS-9.287, As Extended and Amended by Ordinance No. NS-9.288, Ordinance No. NS-9.289, Ordinance No. NS-9.292, and Ordinance No. NS-9.293.**

This Ordinance extends Ordinance No. NS-9.287, as extended and amended by Ordinance No. NS-9.288, Ordinance No. NS-9.289, Ordinance No. NS-9.292, and Ordinance No. NS-9.293 through (1) the date that the Governor’s Executive Order N-28-20 (as extended on March 4, 2021, by Executive Order N-03-21) suspending any provision of State law that would preempt or otherwise restrict a local government’s exercise of police powers to impose substantive limits on commercial evictions under certain conditions (or similar executive order) expires, or (2) to August 18, 2021, whichever is earlier.

**SECTION 4. Compliance with the California Environmental Quality Act.**

This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the CEQA Guidelines (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).

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**SECTION 6. Severability.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases will be held unconstitutional, invalid, or unenforceable.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on MAR 23 2021, by the following vote:

**CHAVEZ, ELLENBERG, LEE**  
AYES: **SIMITIAN, WASSERMAN**

NOES: NONE

ABSENT: NONE

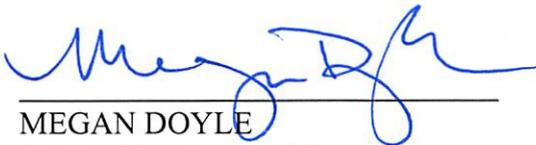
ABSTAIN: NONE



MIKE WASSERMAN, President  
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:



MEGAN DOYLE  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



JAMES R. WILLIAMS  
County Counsel

2381238

**ORDINANCE NO. NS-9.293**

**AN UNCODIFIED URGENCY ORDINANCE  
OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA  
EXTENDING ORDINANCE NO. NS-9.287 (AS EXTENDED AND AMENDED BY  
ORDINANCE NO. NS-9.288, ORDINANCE NO. NS-9.289, AND ORDINANCE  
NO. NS-9.292) RELATING TO A TEMPORARY MORATORIUM ON  
EVICTIONS FOR NON-PAYMENT OF RENT  
BY SMALL BUSINESS TENANTS IN SANTA CLARA COUNTY DIRECTLY  
IMPACTED BY THE COVID-19 PANDEMIC, AND DECLARING THE  
URGENCY THEREOF**

Summary

This Urgency Ordinance extends the temporary moratorium on evictions in Santa Clara County for non-payment of rent by small business tenants due to COVID-19 originally enacted on March 24, 2020, through (1) the date Governor Newsom's Executive Order N-28-20 (as extended on September 23, 2020, by Executive Order N-80-20) (or similar executive order) expires, or (2) to April 30, 2021, whichever is earlier.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
ORDAINS AS FOLLOWS:**

**SECTION 1. Findings and Purpose.**

In accordance with California Government Code section 25123, subdivision (d), the Board of Supervisors finds and declares that this Urgency Ordinance is deemed necessary for the following reasons:

1. On March 16, 2020, Gavin Newsom, Governor of the State of California, issued Executive Order N-28-20 that suspends any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions. The protections in that order initially were stated to expire on May 31, 2020.
2. On March 24, 2020, the Board of Supervisors of the County of Santa Clara adopted Ordinance No. NS-9.287, an urgency ordinance which temporarily banned the eviction of residential or small business tenants in Santa Clara County due to inability to pay rent because of a substantial loss of income, or substantial out-of-pocket medical expense, related to the 2020 COVID-19 pandemic. Ordinance No. NS-9.287 was enacted to protect these local tenants from homelessness or housing insecurity as a means of

ensuring the efficacy of the County's shelter in place order and combating community spread of COVID-19. Ordinance No. NS-9.287 stated that it was to expire on May 31, 2020 unless extended by the Board of Supervisors. Similarly, other jurisdictions within the County, such as the Cities of Mountain View, Palo Alto, San José, Santa Clara, and Sunnyvale, as well as the Town of Los Gatos, have enacted eviction moratoriums to protect tenants from eviction.

3. On March 27, 2020, Governor Newsom issued Executive Order N-37-20 banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. On April 6, 2020, the California Judicial Council promulgated emergency rules in response to the 2020 COVID-19 pandemic that temporarily suspended entry of default and trials in eviction proceedings in the Superior Courts.

4. On April 29, 2020, the County Public Health Officer issued an order extending and revising the prior shelter in place order issued on March 31, 2020. The April 29, 2020, order extended the shelter in place requirement for County residents to May 31, 2020, in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services.

5. On May 18, 2020, the County Public Health Officer issued an order extending and revising the prior shelter in place order issued on April 29, 2020. The May 18, 2020 order extended the shelter in place requirement for County residents indefinitely in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services.

6. On May 29, 2020, Governor Newsom issued Executive Order N-66-20, which extended suspension of any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions by 60 days to July 28, 2020.

7. On May 26, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.288, an urgency ordinance that extended Ordinance No. NS-9.287, which imposed a temporary moratorium on evictions in Santa Clara County for non-payment of rent due to COVID-19 and no fault evictions for tenants affected by COVID-19, to the date that Governor Newsom's Executive Order N-28-20 was extended, or August 31, 2020, whichever was earlier.

8. On June 2, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.289, an urgency ordinance that amended Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288, by extending the time period during which rent deferred under Ordinance No. NS-9.287 must be repaid from 180 days to 12 months from the expiration of the eviction protections in the Ordinance, specifying repayment intervals for deferred rent, and specifying conditions for imposition of late fees on deferred rent.

9. On June 30, 2020, Governor Newsom issued Executive Order N-71-20, which further extended suspension of any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions to September 30, 2020.
10. On July 2, 2020, the County Public Health Officer issued an order revising the prior shelter in place order issued on May 18, 2020. The July 2, 2020 order revised the prior order by permitting most activities, travel, business, and governmental functions, subject to specified restrictions, limitations, and conditions to prevent community spread of COVID-19.
11. On July 13, 2020, Governor Newsom and the California Department of Public Health issued new restrictions on various indoor activities and industries across multiple counties.
12. On August 11, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.291, an urgency ordinance which established a comprehensive civil enforcement program to provide for the peace, health, and safety of the general public through enforcement of State and local public health orders and the County's eviction moratorium ordinance to help combat the spread of COVID-19.
13. On August 13, 2020, citing its role to resolve disputes under the law and not to legislate, the California Judicial Council voted 19-1 to end its emergency rule temporarily suspending entry of default, trials, and issuance of writs of execution for eviction proceedings in Superior Court, effective on September 2, 2020.
14. On August 25, 2020, the Board of Supervisors for the County of Santa Clara adopted Urgency Ordinance No. NS-9.292, an urgency ordinance that amended Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288 and amended by Ordinance No. NS-9.289, by extending the eviction protections for small business tenants therein to the date that Governor Newsom's Executive Order N-28-20 was extended (as extended by his June 30, 2020 Executive Order N-71-20), or to November 30, 2020, whichever was earlier. Urgency Ordinance No. NS-9.292 further amended Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288 and amended by Ordinance No. NS-9.289, by including an "anti-waiver" provision that voided any waiver of rights or protections afforded under the eviction moratorium ordinance as contrary to public policy.
15. On August 28, 2020, Erica S. Pan, M.D., M.P.H., Acting State Public Health Officer for the California Department of Public Health, issued a Statewide Public Health Officer Order. This Order, which is implemented through the California Department of Public Health's "Blueprint for a Safer Economy," utilizes a color-coded tiered framework that progressively permits counties to engage in a broader range of reopening and resuming certain activities guided by risk-based criteria. Under this Order, local health

officers may continue to implement or maintain more restrictive public health measures if the local health officer determines that health conditions in that jurisdiction warrant such measures. This Order took effect on August 31, 2020, superseded the July 13, 2020 State Public Health Officer Order, and remains effective until modified by the State Public Health Officer.

16. On August 31, 2020 Governor Newsom signed into law Assembly Bill 3088, which took effect immediately and imposed a temporary statewide eviction moratorium for non-payment of rent for residential tenancies in the State of California, and provided critical protections for residential tenants struggling under the COVID-19 pandemic, but did not provide protections for small business or commercial tenancies. Because of the breadth of Assembly Bill 3088's protections for residential tenants, and its prohibition on evictions for non-payment of rent due to the COVID-19 pandemic, it preempts many of the residential tenant protections within the County's eviction moratorium related to non-payment of rent.

17. On September 4, 2020, the United States Centers for Disease Control (CDC) announced an order temporarily halting evictions nationwide for residential tenants. This CDC order, however, did not address or provide protections for small business or commercial tenancies.

18. On September 23, 2020, Governor Newsom issued Executive Order N-80-20, which further extended suspension of any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on commercial evictions under certain conditions to March 31, 2021.

19. On October 5, 2020, the County Public Health Officer issued an order revising the prior risk reduction order issued on July 2, 2020. The October 5, 2020 revised risk reduction order, which went into effect on October 14, 2020 and remains in effect today, lessens the restrictions on activities that were imposed by the July 2, 2020 risk reduction order in light of the County's increased capacity to detect cases and contain the spread of COVID-19.

20. At its October 20, 2020 meeting, the Board of Supervisors for the County of Santa Clara unanimously approved a referral to County administration to study and report back to the Board of Supervisors on November 18, 2020 and November 20, 2020 on options for establishing a low-interest loan program to help support small businesses that have been adversely economically impacted by COVID-19. This referral recognized the crucial role small businesses play in the economic health of the County and cited the "devastating impact" the COVID-19 pandemic has had on small businesses and their employees within the County, the barriers small businesses often face to securing capital to keep their businesses open, the lack of available funds and resources for small businesses during this time, and the continued prospects of losses, layoffs, and bankruptcies that small businesses within the County face.

21. Consistent with the concerns expressed by the Board of Supervisors at its October 20, 2020 meeting, recent reporting shows that the San José metro area, which encompasses large portions of Santa Clara County, ranks fifth in the nation with the largest number of small business closures for every 1,000 businesses since March 1, 2020. Such closures have an adverse impact on the County's welfare, as well as the economic and housing security of those who own and work for these small businesses.

22. As the COVID-19 pandemic continues, and the economic impacts from the pandemic deepen, the State and federal government have taken steps to provide relief for residential tenants, but to date there is no law or program extending such relief to small business or commercial tenants, leaving small business tenants vulnerable to the economic pressures of the current crisis described herein. Since the beginning of the COVID-19 pandemic, industry analysis estimates that nearly 100,000 small businesses have permanently closed. And while there have been some financial assistance programs to small businesses, most of these funds have been exhausted. This lack of financial resources, combined with the absence of comprehensive State or federal eviction protections, compounds the economic pressures facing small businesses and makes it more difficult for them to survive.

23. The humanitarian crises of homelessness, housing affordability, and housing insecurity in the County that existed at the time Ordinance No. NS-9.287 was enacted persist today. Small business tenants in particular continue to face potentially devastating income losses and may be unable to absorb such losses in the short term, and therefore be forced to shut down. Such shutdowns could impact the ability of the proprietors to provide essential services, and to provide incomes for themselves, their families, and their employees, putting all at risk of homelessness. Thus, extending the small business protections in the Ordinance by the Board is necessary to protect the health, safety, and welfare of its residents and those who drive our local economy.

## **SECTION 2. Definitions.**

For purposes of this Ordinance, the term "Ordinance" as used hereinafter shall mean Urgency Ordinance No. NS-9.287, as subsequently amended by Ordinance Nos. NS-9.288, NS-9.289, and NS-9.292, which generally established, amended, and/or extended the County's temporary moratorium on residential and small business evictions for non-payment of rent due to the COVID-19 pandemic.

## **SECTION 3. Extension of Ordinance No. NS-9.287, As Extended and Amended by Ordinance No. NS-9.288, Ordinance No. NS-9.289, and Ordinance No. NS-9.292.**

This Ordinance extends Ordinance No. NS-9.287, as extended and amended by Ordinance No. NS-9.288, Ordinance No. NS-9.289, and Ordinance No. NS-9.292, through (1) the date that the Governor's Executive Order N-28-20 (as extended on September 23, 2020, by Executive Order N-80-20) suspending any provision of State law

that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on commercial evictions under certain conditions (or similar executive order) expires, or (2) to April 30, 2021, whichever is earlier.

This extension does not apply to those provisions of the Ordinance that apply to residential properties and are preempted by AB 3088 (2020).

**SECTION 4. Compliance with the California Environmental Quality Act.**

This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the CEQA Guidelines (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 5. Effective Date.**

This Ordinance is an extension of and an amendment to Ordinance No. NS-9.287, as extended and amended by Ordinance No. NS-9.288, Ordinance No. NS-9.289, and Ordinance No. NS-9.292, and shall be in effect immediately upon adoption by a four-fifths vote of the Board of Supervisors as an Urgency Ordinance. This is based on the Board of Supervisors finding that this Ordinance is adopted in compliance with Government Code section 25123, subdivision (d), that it is necessary for the protection of the public peace, health, or safety for the reasons contained in the findings set forth in this Ordinance, which are incorporated by reference herein, and that it is necessary to prevent Santa Clara County from suffering potentially irreversible displacement of its small business tenants resulting from the evictions that this Ordinance and Ordinance No. NS-9.287, as extended and amended by Ordinance No. NS-9.288, Ordinance No. NS-9.289, and Ordinance No. NS-9.292, are designed to prevent. This Ordinance shall expire and shall be repealed as of the earlier of (1) the date that the Governor's Executive Order N-28-20 (as extended on September 23, 2020, by Executive Order N-80-20) suspending any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on commercial evictions under certain conditions (or similar executive order) expires, or (2) to April 30, 2021, unless shortened or extended by the Board of Supervisors based on the existence of a local emergency.

**SECTION 6. Severability.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions,

paragraphs, sentences, clauses, or phrases will be held unconstitutional, invalid, or unenforceable.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on NOV 03 2020, by the following vote:

**AYES:** CHAVEZ, CORTESE, ELLENBERG  
SIMITIAN, WASSERMAN

**NOES:** NONE

**ABSENT:** NONE

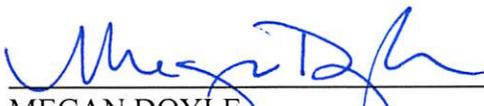
**ABSTAIN:** NONE



CINDY CHAVEZ, President  
Board of Supervisors

~~Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.~~

ATTEST:

  
MEGAN DOYLE  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

for   
JAMES R. WILLIAMS  
County Counsel

2299369

**ORDINANCE NO. NS-9.292**

**AN UNCODIFIED URGENCY ORDINANCE  
OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA  
AMENDING AND EXTENDING ORDINANCE NO. NS-9.287, AS EXTENDED  
BY ORDINANCE NO. NS-9.288 AND AMENDED BY ORDINANCE NO. NS-  
9.289, RELATING TO A TEMPORARY MORATORIUM ON EVICTIONS FOR  
NON-PAYMENT OF RENT BY RESIDENTIAL AND SMALL BUSINESS  
TENANTS IN SANTA CLARA COUNTY DIRECTLY IMPACTED BY THE  
COVID-19 PANDEMIC, AND DECLARING THE URGENCY THEREOF**

Summary

This Urgency Ordinance extends the temporary moratorium on evictions in Santa Clara County for non-payment of rent due to COVID-19 originally enacted on March 24, 2020, through (1) the date Governor Newsom's Executive Order N-28-20 (as extended on June 30, 2020, by Executive Order N-71-20) (or similar executive order) expires, or (2) to November 30, 2020, whichever is earlier. This Urgency Ordinance additionally amends the temporary moratorium on evictions in Santa Clara County to void any waiver of rights or protections afforded under the eviction moratorium ordinance as contrary to public policy.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
ORDAINS AS FOLLOWS:**

**SECTION 1. Findings and Purpose.**

In accordance with California Government Code section 25123, subdivision (d), the Board of Supervisors finds and declares that this Ordinance is deemed necessary for the following reasons:

1. On March 16, 2020, Gavin Newsom, Governor of the State of California, issued Executive Order N-28-20 that suspends any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions. The protections in that order initially were stated to expire on May 31, 2020.
2. On March 24, 2020, the Board of Supervisors of the County of Santa Clara adopted Ordinance No. NS-9.287, an urgency ordinance which temporarily banned the eviction of residential or small business tenants in Santa Clara County due to inability to pay rent because of a substantial loss of income, or substantial out-of-pocket medical expense, related to the 2020 COVID-19 pandemic and governmental restrictions

triggered by the same. Ordinance No. NS-9.287 was enacted to protect these local tenants from homelessness or housing insecurity as a means of ensuring the efficacy of the County's shelter in place order and combating community spread of COVID-19. Ordinance No. NS-9.287 stated that it was to expire on May 31, 2020 unless extended by the Board of Supervisors. Similarly, other jurisdictions within the County, such as the Cities of Mountain View, Palo Alto, San José, Santa Clara, and Sunnyvale, as well as the Town of Los Gatos, have enacted eviction moratoriums to protect tenants from eviction.

3. On March 27, 2020, Governor Newsom issued Executive Order N-37-20 banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. On April 6, 2020, the California Judicial Council promulgated emergency rules in response to the 2020 COVID-19 pandemic that temporarily suspended entry of default and trials in eviction proceedings in the Superior Courts.

4. On April 29, 2020, the County Public Health Officer issued an order extending and revising the prior shelter in place order issued on March 31, 2020. The April 29, 2020, order extended the shelter in place requirement for County residents to May 31, 2020, in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services.

5. On May 18, 2020, the County Public Health Officer issued an order extending and revising the prior shelter in place order issued on April 29, 2020. The May 18, 2020 order extended the shelter in place requirement for County residents indefinitely in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services.

6. On May 29, 2020, Governor Newsom issued Executive Order N-66-20, which extended suspension of any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions by 60 days to July 28, 2020.

7. On May 26, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.288, an urgency ordinance that extended Ordinance No. NS-9.287, which imposed a temporary moratorium on evictions in Santa Clara County for non-payment of rent due to COVID-19 and no fault evictions for tenants affected by COVID-19, to the date that Governor Newsom's Executive Order N-28-20 was extended, or August 31, 2020, whichever was earlier.

8. On June 2, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.289, an urgency ordinance that amended Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288, by extending the time period during which rent deferred under Ordinance No. NS-9.287 must be repaid from 180 days to 12 months from the expiration of the eviction protections in the Ordinance, specifying repayment intervals for deferred rent, and specifying conditions for imposition of late fees on deferred rent.

9. On June 30, 2020, Governor Newsom issued Executive Order N-71-20, which further extended suspension of any provision of State law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions to September 30, 2020.
10. On July 2, 2020, the County Public Health Officer issued an order revising the prior shelter in place order issued on May 18, 2020. The July 2, 2020 order revised the prior order by permitting most activities, travel, business, and governmental functions, subject to specified restrictions, limitations, and conditions to prevent community spread of COVID-19. The July 2, 2020 order remains in effect until it is rescinded, superseded, or amended by the Public Health Officer.
11. On July 13, 2020, Governor Newsom and the California Department of Public Health issued new restrictions on various indoor activities and industries across multiple counties. These July 13, 2020 restrictions, which remain in effect indefinitely and require the continued closure of businesses across the State in an effort to slow and stop community spread of COVID-19, may potentially lead to further loss of income for many County residents.
12. On August 11, 2020, the Board of Supervisors for the County of Santa Clara adopted Ordinance No. NS-9.291, an urgency ordinance which established a comprehensive civil enforcement program to provide for the peace, health, and safety of the general public through enforcement of State and local public health orders and the County's eviction moratorium ordinance to help combat the spread of COVID-19.
13. On August 13, 2020, citing its role to resolve disputes under the law and not to legislate, the California Judicial Council voted 19-1 to end its emergency rule temporarily suspending entry of default, trials, and issuance of writs of execution for eviction proceedings in Superior Court, effective on September 2, 2020.
14. As the COVID-19 pandemic continues, and the economic impacts from the pandemic deepen, State and federal legislators continue to propose and examine relief efforts for residential and commercial tenants. Certain proposed legislation, such as H.R. 6515 at the federal level, and California Senate Bill 1410 and California Assembly Bill 1436, aim to provide rent relief and eviction protection for residential tenants, but have not yet been signed into law. Similar efforts aimed at protecting commercial tenants, such as California Senate Bill 939, have also not yet been signed into law.
15. The humanitarian crises of homelessness, housing affordability, and housing insecurity in the County that existed at the time Ordinance No. NS-9.287 was enacted persist today, as do the struggles of rent-burdened and severely rent-burdened County residents who pay over 30 percent and 50 percent of their income on rent, respectively. These crises, combined with substantial losses in income or substantial out of pocket medical expenses due to the shelter in place restrictions imposed during the COVID-19 pandemic, continue to leave renters in the County with less money to spend on other

necessities, such as food, healthcare, transportation, and education. In addition, small business tenants continue to face potentially devastating income losses and may be unable to absorb such losses in the short term, and therefore be forced to shut down. Such shutdowns could impact the ability of the proprietors to provide essential services, and to provide incomes for themselves and their families, putting them at risk of homelessness. Thus, extending the protections in the Ordinance by the Board is necessary to protect the health, safety, and welfare of its residents, including, but not limited to, the need to keep residents in their homes during the time that they need to shelter-in-place.

**SECTION 2. Extension of Ordinance No. NS-9.287, As Extended by Ordinance No. NS-9.288 and Amended by Ordinance No. NS-9.289.**

This Ordinance extends Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288 and amended by Ordinance No. NS-9.289, through (1) the date that the Governor’s Executive Order N-28-20 (as extended on June 30, 2020, by Executive Order N-71-20) suspending any provision of State law that would preempt or otherwise restrict a local government’s exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions (or similar executive order) expires, or (2) to November 30, 2020, whichever is earlier.

**SECTION 3. Amendment to Add Section 3(c)(12) to Ordinance No. NS-9.287, As Extended by Ordinance No. NS-9.288 and Amended by Ordinance No. NS-9.289.**

Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288 and amended by Ordinance No. NS-9.289, is hereby amended to include Section 3(c)(12), which shall read as follows:

Any waiver of the rights, benefits, or protections provided under this Ordinance shall be void as contrary to public policy. This provision clarifies, and is declarative of, existing law.

**SECTION 4. Compliance with the California Environmental Quality Act.**

This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the CEQA Guidelines (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 5. Effective Date.**

This Ordinance is an extension of and an amendment to Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288 and as amended by Ordinance No. NS-9.289,



**SECTION 6. Severability.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases will be held unconstitutional, invalid, or unenforceable.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on AUG 25 2020, by the following vote:

CHAVEZ, CORTESE, ELLENBERG  
AYES: SIMITIAN, WASSERMAN

NOES: NONE

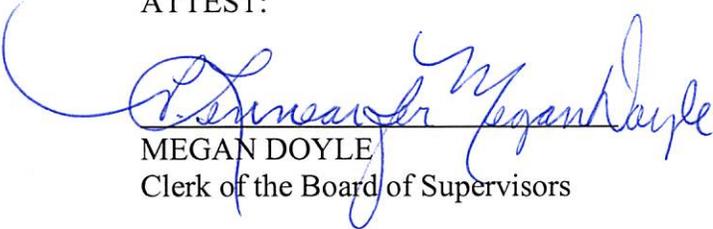
ABSENT: NONE

ABSTAIN: NONE

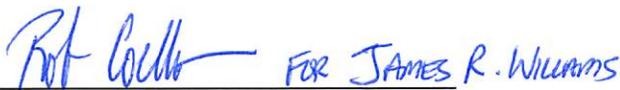
  
CINDY CHAVEZ, President  
Board of Supervisors

~~Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.~~

ATTEST:

  
MEGAN DOYLE  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

  
JAMES R. WILLIAMS  
County Counsel

2261525

**ORDINANCE NO. NS-9.289**

**AN UNCODIFIED URGENCY ORDINANCE  
OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA  
AMENDING ORDINANCE NO. NS-9.287 AS EXTENDED BY ORDINANCE NO.  
NS-9.288 RELATING TO EVICTIONS OF CERTAIN RESIDENTIAL AND  
SMALL BUSINESS TENANTS IN SANTA CLARA COUNTY DIRECTLY  
IMPACTED BY THE COVID-19 PANDEMIC, AND DECLARING THE  
URGENCY THEREOF**

Summary

This Urgency Ordinance amends Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288, by extending the time period during which past-due rent must be repaid to 12 months and specifying repayment intervals.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
ORDAINS AS FOLLOWS:**

**SECTION 1. Findings and Purpose.**

In accordance with California Government Code section 25123, subdivision (d), the Board of Supervisors finds and declares that this Ordinance is deemed necessary for the following reasons:

1. On March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20 that suspends any provision of state law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions. The protections in that order would have expired on May 31, 2020.
2. On March 24, 2020, the Board of Supervisors of the County of Santa Clara adopted Ordinance No. NS-9.287, an urgency ordinance that temporarily banned the eviction of certain residential or commercial tenants in Santa Clara County who suffered a substantial loss of income, or substantial out-of-pocket medical expense, related to the 2020 COVID-19 pandemic. Ordinance No. NS-9.287 was enacted to protect these local tenants from homelessness or housing insecurity as a means of ensuring the efficacy of the County's shelter in place order (as described below) and combating community spread of COVID-19. Ordinance No. NS-9.287 provided that it shall expire on May 31, 2020 unless extended by the Board of Supervisors. Similarly, other jurisdictions within the County, such as the Cities of Mountain View, Palo Alto, San José, Santa Clara, and Sunnyvale, as well as the Town of Los Gatos, have enacted eviction moratoriums to protect tenants from eviction.

3. On March 27, 2020, Gavin Newsom, Governor of the State of California, issued Executive Order N-37-20 banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. On April 6, 2020, the California Judicial Council promulgated emergency rules in response to the 2020 COVID-19 pandemic that temporarily suspended entry of default and trials in eviction proceedings in the Superior Courts.

4. On April 29, 2020, the County Public Health Officer issued an order extending and revising the prior shelter in place order issued on March 31, 2020. The April 29, 2020, order extends the shelter in place requirement for County residents to May 31, 2020, in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services. On May 18, 2020, the County Public Health Officer issued an order extending and revising the previous shelter in place orders that became effective on May 22, 2020, and that will remain in effect until further action by the County Public Health Officer. Because of COVID-19, these orders have resulted in the closure of many local businesses, which in turn has potentially led to loss of income for many County residents.

5. On May 26, 2020, the Board of Supervisors enacted Ordinance No. NS-9.288 which extended Ordinance No. NS-9.287 through: (1) the date that the Governor's Executive Order N-28-20 suspending any provision of state law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions (or similar executive order) is extended, or (2) August 31, 2020, whichever is earlier.

6. On May 29, 2020, Governor Newsom issued Executive Order N-66-20, which extended the applicable provisions of Executive Order N-28-20. This extension expires on July 28, 2020, thereby extending the County's ordinance through July 28, 2020.

7. The humanitarian crises of homelessness, housing affordability, and housing insecurity in the County that existed at the time Ordinance No. NS-9.287 and Ordinance No. NS-9.288 were enacted persist today, as do the struggles of rent-burdened and severely rent-burdened County residents who pay over 30 percent and 50 percent of their income on rent, respectively. These crises, combined with substantial losses in income or substantial out of pocket medical expenses due to the COVID-19 pandemic, continue to leave renters in the County with less money to spend on other necessities, such as food, healthcare, transportation, and education. Thus, the protections in the prior ordinances and this Ordinance are necessary to protect the health, safety, and welfare of its residents, including, but not limited to, the need to keep residents in their homes during the time that they need to shelter in place.

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**SECTION 2. Amendments to Ordinance No. NS-9.287 As Extended by Ordinance No. NS-9.288.**

- a. Section 3(c)(7) of Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288, is hereby amended to read as follows:

Upon expiration or termination of this Ordinance, a Tenant who demonstrated substantial loss of income or substantial out-of-pocket medical expenses as required under Ordinance No. NS-9.287, as extended, shall pay all past-due Rent deferred pursuant to this Ordinance in full within 12 months of the date of expiration or termination of this Ordinance. Additionally, a Tenant who qualifies for protection under this Ordinance shall pay at least 50% of the past-due Rent deferred under this Ordinance within 6 months of the expiration or termination of this Ordinance as extended. Prior to initiating repayment plans with their Tenants protected under this Ordinance, Owners shall inform such Tenants of their repayment rights.

- b. Section 3(c)(10) of Ordinance No. NS-9.287, as extended by Ordinance No. NS-9.288, is hereby amended to read as follows:

Upon expiration or termination of this Ordinance, or any extension thereof, an Owner shall not charge or collect a late fee for Rent that was deferred pursuant to this Ordinance, as long as such Rent is paid in accordance with the timelines established in Section 3(c)(7).

**SECTION 3. Compliance with the California Environmental Quality Act.**

This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the CEQA Guidelines (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 4. Effective Date.**

This Ordinance shall be in effect immediately upon adoption by a four-fifths vote of the Board of Supervisors as an Urgency Ordinance. This is based on the Board of Supervisors finding that this Ordinance is adopted in compliance with Government Code section 25123, subdivision (d), that it is necessary for the protection of the public peace, health, or safety for the reasons contained in the findings set forth at the beginning of this Ordinance, which are incorporated by reference herein, and that it is necessary to prevent Santa Clara County from suffering potentially irreversible displacement of tenants and related negative public health impacts caused by increases in homelessness resulting from the evictions that this Ordinance and Ordinance No. NS-9.287 and Ordinance No. NS-9.288 are designed to prevent.

**SECTION 5. Severability.**

If any section, subsection, paragraph, sub-paragraph, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed each section, subsection, paragraph, sub-paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sub-paragraphs, sentences, clauses, or phrases will be held unconstitutional, invalid, or unenforceable.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on JUN 02 2020, by the following vote:

**CHAVEZ, CORTESE, ELLENBERG**  
AYES: **SIMITIAN, WASSERMAN**

NOES: NONE

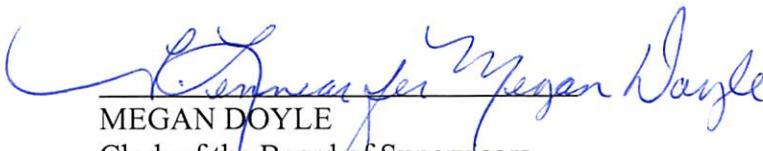
ABSENT: NONE

ABSTAIN: NONE

  
\_\_\_\_\_  
CINDY CHAVEZ, President  
Board of Supervisors

~~Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.~~

ATTEST:

  
\_\_\_\_\_  
MEGAN DOYLE  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
JAMES R. WILLIAMS  
County Counsel

2221877

**ORDINANCE NO. NS-9.288**

**AN UNCODIFIED URGENCY ORDINANCE  
OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA  
EXTENDING A TEMPORARY MORATORIUM ON EVICTIONS  
FOR NON-PAYMENT OF RENT BY RESIDENTIAL AND SMALL BUSINESS  
TENANTS IN SANTA CLARA COUNTY DIRECTLY IMPACTED BY THE  
COVID-19 PANDEMIC, AND DECLARING THE URGENCY THEREOF**

Summary

This Urgency Ordinance extends the temporary moratorium on evictions in Santa Clara County for non-payment of rent due to COVID-19 originally enacted on March 24, 2020, through (1) the date that Governor Newsom's Executive Order N-28-20 suspending any provision of state law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions (or similar executive order) is extended, or (2) August 31, 2020, whichever is earlier.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
ORDAINS AS FOLLOWS:**

**SECTION 1. Findings and Purpose.**

In accordance with California Government Code section 25123, subdivision (d), the Board of Supervisors finds and declares that this Ordinance is deemed necessary for the following reasons:

1. On March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20 that suspends any provision of state law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions. The protections in that order expire on May 31, 2020.
2. On March 24, 2020, the Board of Supervisors of the County of Santa Clara adopted Ordinance No. NS-9.287, an urgency ordinance which temporarily banned the eviction of residential or commercial tenants in Santa Clara County due to inability to pay rent because of a substantial loss of income, or substantial out-of-pocket medical expense, related to the 2020 COVID-19 pandemic. Ordinance No. NS-9.287 was enacted to protect these local tenants from homelessness or housing insecurity as a means of ensuring the efficacy of the County's shelter in place order and combating community spread of COVID-19. Ordinance No. NS-9.287 provides that it shall expire on May 31,

2020 unless extended by the Board of Supervisors. Similarly, other jurisdictions within the County, such as the Cities of Mountain View, Palo Alto, San José, Santa Clara, and Sunnyvale, as well as the Town of Los Gatos, have enacted eviction moratoriums to protect tenants from eviction.

3. On March 27, 2020, Gavin Newsom, Governor of the State of California, issued Executive Order N-37-20 banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020. On April 6, 2020, the California Judicial Council promulgated emergency rules in response to the 2020 COVID-19 pandemic that temporarily suspended entry of default and trials in eviction proceedings in the Superior Courts.

4. On April 29, 2020, the County Public Health Officer issued an order extending and revising the prior shelter in place order issued on March 31, 2020. The April 29, 2020 order extends the shelter in place requirement for County residents to May 31, 2020, in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services. These orders have resulted in the closure of many local businesses, which in turn has potentially led to loss of income for many County residents.

5. The humanitarian crises of homelessness, housing affordability, and housing insecurity in the County that existed at the time Ordinance No. NS-9.287 was enacted persist today, as do the struggles of rent-burdened and severely rent-burdened County residents who pay over 30 percent and 50 percent of their income on rent, respectively. These crises, combined with substantial losses in income or substantial out of pocket medical expenses due to the shelter in place restrictions imposed during the COVID-19 pandemic, continue to leave renters in the County with less money to spend on other necessities, such as food, healthcare, transportation, and education. Thus, extending the protections in the Ordinance by the Board is necessary to protect the health, safety, and welfare of its residents, including, but not limited to, the need to keep residents in their homes during the time that they need to shelter-in-place.

## **SECTION 2. Extension of Ordinance No. NS-9.287.**

This Ordinance extends Ordinance No. NS-9.287 through (1) the date that the Governor's Executive Order N-28-20 suspending any provision of state law that would preempt or otherwise restrict a local government's exercise of police powers to impose substantive limits on residential or commercial evictions under certain conditions (or similar executive order) is extended, or (2) August 31, 2020, whichever is earlier.

## **SECTION 3. Compliance with the California Environmental Quality Act.**

This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the CEQA Guidelines (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



**SECTION 5. Severability.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases will be held unconstitutional, invalid, or unenforceable.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on MAY 26 2020, by the following vote:

AYES: **CHAVEZ, CORTESE, ELLENBERG  
SIMITIAN, WASSERMAN**

NOES: **NONE**

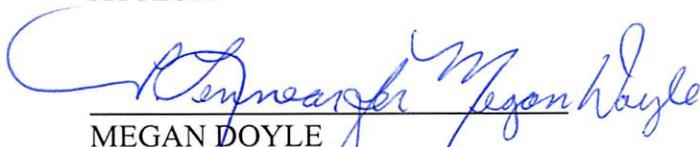
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ABSTAIN: **NONE**

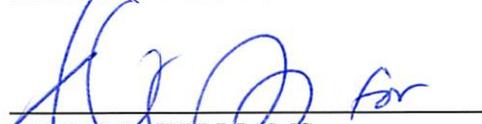
  
\_\_\_\_\_  
CINDY CHAVEZ, President  
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:

  
\_\_\_\_\_  
MEGAN DOYLE  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
JAMES R. WILLIAMS  
County Counsel

2216783

**ORDINANCE NO. NS-9.287**

**AN UNCODIFIED URGENCY ORDINANCE  
OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA  
TEMPORARILY BANNING EVICTIONS FOR NON-PAYMENT OF RENT BY  
RESIDENTIAL AND COMMERCIAL REAL PROPERTY TENANTS IN SANTA  
CLARA COUNTY DIRECTLY IMPACTED BY THE COVID-19 PANDEMIC,  
AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY**

Summary

This Urgency Ordinance imposes a temporary moratorium 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 sets forth the facts constituting such urgency.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
FINDS AND DECLARES AS FOLLOWS:**

**WHEREAS**, in late December 2019, several cases of a novel coronavirus known as COVID-19 emerged in the Hubei province of China;

**WHEREAS**, on January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern;

**WHEREAS**, on January 31, 2020, in the wake of the spread of COVID-19, the United States Secretary of Health and Human Services declared a Public Health Emergency;

**WHEREAS**, on February 3, 2020, the County of Santa Clara (“County”) Health Officer declared a local health emergency, and the County’s Director of Emergency Services proclaimed a local emergency, to respond to the COVID-19 pandemic and manage its spread throughout the County;

**WHEREAS**, on February 10, 2020, the Board of Supervisors ratified the local health emergency and local emergency;

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom (“the Governor”) issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic;

**WHEREAS**, Government Code section 8634 authorizes the County Board of Supervisors to promulgate orders and regulations necessary to provide for the protection of life and property during a local emergency;

**WHEREAS**, on March 16, 2020, the County Public Health Officer issued an order requiring County residents to shelter in place through April 7, 2020, in order to stop community spread of COVID-19, subject to exceptions for the provision and receipt of essential services, and this order may be continued as necessary to address the pandemic;

**WHEREAS**, as of 5:00 p.m. on March 21, 2020, the County confirmed 302 cases of infection and 10 deaths from COVID-19;

**WHEREAS**, the COVID-19 pandemic and associated public health orders from the County Health Officer and from the State Health Officer are expected to result in the closure of many local businesses until at least April 7, 2020, and result in extreme restrictions on other local businesses until then, and likely thereafter;

**WHEREAS**, the COVID-19 pandemic and associated public health orders are expected to result in a significant loss of income to a widespread portion of the local population that depend on wages or business income to pay rent and may also result in substantial medical expenses for certain County residents;

**WHEREAS**, the County is already experiencing a humanitarian crisis of homelessness and is one of the least affordable communities in the world;

**WHEREAS**, the County is also experiencing a housing affordability crisis, which is driving homelessness and displacement of residents;

**WHEREAS**, many of the County's renters are rent-burdened, paying over 30 percent of their income on rent, and some renters are severely rent-burdened, paying over 50 percent of their income on rent, which leaves less money for families to spend on other necessities like food, healthcare, transportation, and education;

**WHEREAS**, in light of the COVID-19 pandemic and his state of emergency Proclamation, on March 16, 2020, the Governor issued an executive order suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions;

**WHEREAS**, without local protection, eviction notices for failure to pay rent are likely to surge as residents and businesses are unable to earn income due to the pandemic, or are forced to pay substantial medical expenses associated with the pandemic;

**WHEREAS**, the Board has determined that it is appropriate to temporarily prohibit evictions, through May 31, 2020, for any tenant (residential or commercial) who can demonstrate that they are being evicted for the failure to pay rent, and that such failure is a direct impact of the COVID-19 pandemic;

**WHEREAS**, the Board has determined that adoption of such a temporary moratorium prohibiting evictions is necessary for the protection of life and property as described herein;

**WHEREAS**, this Order shall serve as an order and regulation also applicable within the cities in Santa Clara County pursuant to Government Code section 8634 and the regulations contained herein shall apply to all cities within Santa Clara County and within unincorporated Santa Clara County; and

**WHEREAS**, there is an urgent need for the County to enact such substantive limitations to protect the health, safety, and welfare of its residents in light of the emergency declared regarding the COVID-19 pandemic, including but not limited to the need to keep residents in their homes during the time that they need to shelter-in-place.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
ORDAINS AS FOLLOWS:**

**PROHIBITION ON EVICTIONS ARISING FROM SUBSTANTIAL INCOME  
LOSS OR MEDICAL EXPENSES RELATED TO THE CORONAVIRUS  
PANDEMIC**

**SECTION 1.        Scope.**

This Ordinance is adopted to prohibit evictions through May 31, 2020, unless extended by action of the Board of Supervisors, which action shall not require amendment of this Ordinance, for any tenant in Santa Clara County who can demonstrate that they have received a notice of eviction or similar action for failure to pay rent, and that such a failure is related to a substantial loss of income or substantial out-of-pocket medical expenses resulting from the 2020 COVID-19 pandemic or any local, State, or federal government response to the pandemic. The regulations in this ordinance shall apply to cities within Santa Clara County and unincorporated Santa Clara County. To the extent that the governing body of a city enacts an ordinance or adopts a regulation that is more protective of residential and commercial tenants, such city ordinance or regulation shall apply in place of this Ordinance.

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**SECTION 2.        Definitions.**

For purposes of this Ordinance, the following definitions shall apply:

- (a) *Commercial Real Property* means any real property that is used for business, income-producing purposes, or any purpose other than for residential use, however organized, that meets the size standard for a small business in the industry in which that entity operates as defined in the U.S. Small Business Administration’s table of size standards by industry, codified at 13 C.F.R. section 121.201;
- (b) *Owner* means any natural person, partnership, corporate or fictitious entity, acting as a lessor or sublessor, whether as a principal or through an agent, who receives or is entitled to receive rent in exchange for the use or occupancy of any residential or commercial real property for rent, and includes a predecessor in interest;
- (c) *Rent* means the financial obligation or monetary payment a tenant owes an owner for the occupancy or use of commercial or residential real property whether by written or oral agreement;
- (d) *Residential Real Property* means any dwelling unit that is intended or used for human habitation;
- (e) *Tenancy* means the lawful occupancy of residential or commercial real property and includes a lease or sublease;
- (f) *Tenant* means the lawful occupant of residential or commercial real property whether by lease or sublease.

**SECTION 3.        Prohibition on evictions stemming from coronavirus pandemic losses.**

- (a) Through May 31, 2020 and any subsequent extensions approved by the Board of Supervisors, the Owner of Residential Real Property or Commercial Real Property shall not terminate a Tenancy for failure to pay rent if the Tenant demonstrates that the failure to pay rent is directly related to a substantial loss of income or substantial out-of-pocket medical expenses associated with the 2020 COVID-19 pandemic or any local, State, or federal government response to the pandemic.

- (b) Through May 31, 2020 and any subsequent extensions approved by the Board of Supervisors, the Owner of Residential Real Property or Commercial Real Property shall not terminate a Tenancy for any no-fault cause for eviction, as those causes are defined in Civil Code Section 1946.2(b)(2), if the Tenant demonstrates that the Tenant has suffered a substantial loss of income or substantial out-of-pocket medical expenses associated with the 2020 COVID-19 pandemic or any local, State, or federal government response to the pandemic.
- (c) For this Section to apply, a Tenant must demonstrate through documentation or other objectively verifiable means:
  - (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 a 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 or related guidance or public health orders from local, State, or federal authorities; or
  - (2) Substantial out-of-pocket medical expenses for themselves or their immediate family members related to the 2020 COVID-19 pandemic.
  - (3) This prohibition shall also apply to an Owner's action that constitutes constructive eviction under California law. The Owner shall immediately correct any conditions of the property that could be considered to constitute cause for a constructive eviction under California law.
  - (4) An Owner's failure to comply with this Ordinance shall render any notice of termination of Tenancy, where the termination would be in violation of this Section, void. Any notice of termination served on a Tenant during the 2020 COVID-19 pandemic must contain the reason for the termination of Tenancy. Any notice of termination served on a Tenant during the 2020 COVID-19 pandemic must also include a notice of Tenant's rights under this Ordinance as well as a notice of emergency rental assistance programs. These notices shall be provided on a form approved by the Santa Clara County Office of

Supportive Housing. An Owner's failure to comply with this Ordinance shall render any notice of termination of Tenancy, where the termination would be in violation of this Section, void.

- (5) This Section may be asserted as an affirmative defense in an unlawful detainer action.
- (6) Nothing in this Ordinance shall relieve a Tenant of the obligation to pay Rent, nor restrict an Owner's ability to recover Rent due.
- (7) Upon expiration or termination of this Ordinance, a Tenant who demonstrated substantial loss of income or substantial out-of-pocket medical expenses as required under this Ordinance shall pay all past-due Rent within 120 days from the date of expiration of this Ordinance.
- (8) An Owner's failure to comply with this Ordinance does not constitute a criminal offense, but will subject an Owner to civil fines and penalties as set forth in Division A1 of the County Ordinance Code.
- (9) Whenever an Owner endeavors to recover possession or recovers possession of Residential Real Property or Commercial Real Property in violation of this Ordinance, retaliates against a Tenant for the exercise of any rights under this Ordinance, or attempts to prevent a Tenant from acquiring any rights herein, the Tenant may institute a civil proceeding for injunctive relief, money damages of not more than three times actual damages (including damages for mental or emotional distress), and whatever other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the Owner acted in knowing violation of or in reckless disregard of the limitations of this Ordinance. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court.
- (10) An Owner may not charge or collect a late fee for Rent that is delayed during this Ordinance and for a period of 120 days thereafter.
- (11) For the purposes of this Ordinance, adequate documentation of lost income or out-of-pocket medical expenses from the 2020 COVID-19

pandemic shall include, but not be limited to: letters from employers citing the 2020 COVID-19 pandemic or related government action as the basis for termination of employment or reduced work, employer paycheck stubs, bank statements, or letters or notifications from schools in which the Tenant has a dependent enrolled regarding COVID-19-related closures that substantially affected the Tenant's income. Any Tenant eligible for protection under this Ordinance can provide documentation of lost income or out-of-pocket medical expenses at any time prior to execution of a judgment for possession of their rental unit to stop such eviction from going forward.

**SECTION 4. CEQA not applicable.**

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 5. Severability.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be held invalid.

**SECTION 6. Effective date.**

This Ordinance shall take effect immediately upon adoption by a four-fifths vote of the Board of Supervisors as an Urgency Ordinance. This is based on the Board of Supervisors finding that this Ordinance is adopted in compliance with Government Code section 25123, that it is necessary for the protection of the public peace, health, or safety for the reasons contained in the findings set forth at the beginning of this Ordinance, which are incorporated by reference herein, and that it is necessary to prevent Santa Clara County from suffering potentially irreversible displacement of tenants resulting from the evictions that this Ordinance is designed to prevent.

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**SECTION 7.        Expiration, Repeal.**

This Ordinance shall expire and shall be repealed as of May 31, 2020, unless shortened or extended by the Board of Supervisors based on the existence of a local emergency.

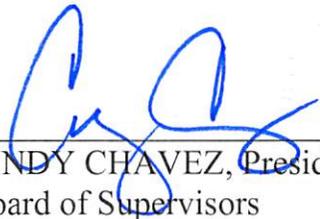
**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on MAR 24 2020 by the following vote:

AYES: **CHAVEZ, CORTESE, ELLENBERG  
SIMITIAN, WASSERMAN**

NOES: **NONE**

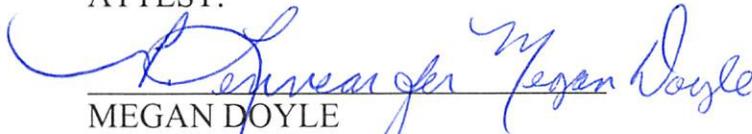
ABSENT: **NONE**

ABSTAIN: **NONE**

  
CINDY CHAVEZ, President  
Board of Supervisors

~~Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.~~

ATTEST:

  
MEGAN DOYLE  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

  
JAMES R. WILLIAMS  
County Counsel

2189425