

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF CUPERTINO DECLARING
THE COMMENCEMENT OF A FORTY-FIVE DAY MORATORIUM ON EVICTIONS DUE
TO NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO
PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL
CORONAVIRUS (COVID-19), AND SETTING FORTH THE FACTS CONSTITUTING SUCH
URGENCY

WHEREAS, on February 3, 2020 and pursuant to Section 101080 of the California Health and Safety Code, the Santa Clara County Health Officer (the “Health Officer”) declared a local health emergency throughout Santa Clara County (the “County”) related to the novel coronavirus (“COVID-19”); and

WHEREAS, on February 3, 2020, and pursuant to Section 8630 of the California Government Code, the Santa Clara County Director of Emergency Services proclaimed a local emergency throughout the County related to COVID-19; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom 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; 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, as of March 9, 2020, the County reported that there were 43 cases of persons testing positive for COVID-19 in the County, an increase of 23 in five days. In response, the County, pursuant to its 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 11, 2020, the City Manager for the City of Cupertino (“City”) declared a local emergency throughout the City related to COVID-19; and

WHEREAS, on March 17, 2020, the Council ratified and continued the City Manager’s

declaration of a local emergency; and

WHEREAS, on March 13, 2020, the County issued a new Order mandating a countywide moratorium on gatherings of more than 100 persons and a conditional countywide moratorium on gatherings of between 35-100 persons. California Governor Gavin Newsom also called for bar, wineries, and brewery pubs to close. These restrictions impact how businesses operate that rely on customer patronage and will result in loss revenue for those that cannot continue to operate their businesses during this time or must operate under severe restrictions; and

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

WHEREAS, also on March 16, 2020 the County, along with five other Bay Area counties, issued a sweeping a Shelter in Place Order; and

WHEREAS, the County Superintendent of Schools and all district superintendents in the County decided to close schools to students for three weeks beginning Monday, March 16, 2020. These school closures will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home; and

WHEREAS, on March 19, 2020, Governor Newsom ordered all individuals living in the State of California to stay home or at their place of residence, with limited exceptions, to stop the spread of COVID-19; and

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

WHEREAS, displacement through eviction destabilizes the living situation of tenants and impacts the health of Cupertino'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, housing instability threatens the public peace, health and safety as eviction from one's home can lead to homelessness; loss of community; stress and anxiety caused by the

experience of displacement; interruption of the education of any children in the home; increased incidence of families moving into overcrowded conditions creating greater risk for the spread of COVID-19; and

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

WHEREAS, given the severe consequences to public health and safety throughout the City that would result from evictions of residential tenants during the City-wide local health emergency, the City finds and determines that a temporary moratorium on evictions based on non-payment of rent due to COVID-19 or the government response to COVID-19 and no-fault terminations of tenancy (unless required for the health and safety of the tenant or the landlord) is necessary to curb the spread of COVID-19 across all areas of the City and contain the virus to the greatest extent possible and thereby serve the public peace, health and safety; and

WHEREAS, on March 24, 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 Cupertino 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, and on no-cause evictions. Under the provisions of the Ordinances, the temporary moratorium will not commence until the City Council adopts a resolution setting forth the facts and circumstances for commencement. Upon commencement, the Urgency Ordinance shall expire sixty (60) days after its adoption, unless otherwise extended by approval of the City Council; 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; and

WHEREAS, the City finds that the Ordinances are reasonably related to the protection of life throughout the entire jurisdictional boundaries of the City, given the City-wide nature of the local health emergency; and

WHEREAS, the adoption and implementation of this Resolution is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, “CEQA”) because it has no potential for resulting in physical change in the environment. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action to enact tenant protections would have no or only a de minimis effect on the environment because it helps preserve the status quo and reduce displacement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF

CUPERTINO THAT:

The 45-day moratorium on nonpayment of rent residential evictions, as set forth in the provisions under the COVID-19 Urgency Ordinance passed by Cupertino City Council on March 24, 2020 shall hereby commence. The terms of this moratorium may be extended by Council adoption of a subsequent Resolution.

Introduced and adopted as an ordinance of the City of Cupertino at a special meeting of the City Council held on March 24, 2020, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	_____ Date
APPROVED AS TO FORM: _____ Heather Minner, City Attorney	_____ Date