

RESOLUTION NO. 79619

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE EXTENDING THE TEMPORARY MORATORIUM TO AUGUST 31, 2020 ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM COVID-19

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

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

WHEREAS, on January 30, 2020, the World Health Organization (“WHO”) declared COVID-19 a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, 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. The proclamation comes as the number of positive California cases rises and following one official COVID-19 death; and

WHEREAS, on March 6, 2020, due to an escalating increase in the number of cases in Santa Clara County, under San José Municipal Code Chapter 8.08, City Manager David Sykes signed a Proclamation of Local Emergency, which determines the legal,

operational and recovery resources available for the City of San José to respond to the COVID-19 public health emergency; and

WHEREAS, as of March 9, 2020, the County reported that there are forty-three (43) cases of persons testing positive for COVID-19, an increase of twenty-three (23) in five days. The County also experienced its first death due to the virus. In response, the County, pursuant to 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 13, 2020, the County issued an Order mandating a countywide moratorium on gatherings of more than 100 persons and a conditional countywide moratorium on gatherings of between 35-100 persons. A “gathering” is any event or convening that brings together people in a single room or single space at the same time, such as an auditorium, stadium, arena, conference room, meeting hall, cafeteria, theater, restaurant, bar, or any other confined indoor or confined outdoor space. California Governor Gavin Newsom also called for bar, wineries, and brewery pubs to close. These restrictions will 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; and

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

commercial evictions; and

WHEREAS, on March 17, 2020, the City Council adopted urgency Ordinance No. 30381 and approved Ordinance No. 30382 enacting a temporary moratorium on evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from COVID-19. The moratorium was extended through May 31, 2020; and

WHEREAS, on March 24, 2020, the County of Santa Clara Board of Supervisors adopted an uncodified urgency ordinance imposing a temporary moratorium through May 31, 2020 on evictions in Santa Clara County for non-payment of rent by residential and commercial real property tenants directly impacted by the COVID-19 pandemic; and

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

WHEREAS, on April 29, 2020, the County issued an updated Order, effective May 4th through May 31, 2020, to continue the shelter-in-place requirements and restricting certain non-essential businesses from operating through the term of the Order; and

WHEREAS, the County's most recent shelter-in-place Order took effect June 5, 2020, continuing the shelter-in-place requirements, but allowing additional businesses and recreational activities to reopen and resume, but at limited capacities; and

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

WHEREAS, on June 11, 2020, the number of COVID-19 cases in Santa Clara County had increased to 3,063 and 148 deaths. Statewide, as of June 11, 2020, there were over 139,281 reported cases and 4,881 deaths. While the curve of infection rates continues to flatten, reports across the State reveal an increasing rate of infections in June as shelter in place order restrictions loosen; and

WHEREAS, according to the California's Employment Development Department's report on May 22, 2020, in April 2020, California's unemployment rate reached a record 15.5 percent, losing an unprecedented 2,344,700 jobs. This amount equates to ten times the amount of jobs lost compared to March 2020. In the San Jose-Sunnyvale-Santa Clara metropolitan area, the unemployment rate increased from 4% to 12% between March and April 2020; and

WHEREAS, the leisure and hospitality industry have been particularly affected by the shelter-in-place Orders. According to the California's Employment Development Department's report on May 22, 2020, from March to April of this year, 866,000 jobs were lost in this industry in California. According to California's Employment Development Department Labor Market Information Division, the employment rate in the leisure and hospitality industry in the San Jose-Sunnyvale-Santa Clara metropolitan area dropped nearly in half, from 95,300 jobs in March to 50,800 jobs in April. Restaurants alone reveal a 66% decrease in employment from last year; and

WHEREAS, according to the November 2019 ARO Economic Roundtable study on the rent stabilization community, fifty-three (53%) of tenants of rent stabilized properties are

rent-burdened. The loss of jobs and the ability to work due to COVID-19 has likely increased the number of rent burdened families, especially as they increase their debt for unpaid rent resulting from a substantial loss of income; and

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

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

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

WHEREAS, on March 17, 2020, the City Council adopted a COVID-19 Urgency Ordinance ("Urgency Ordinance") and approved a companion ordinance (together, the "Ordinances"), providing for a temporary moratorium on evictions in the City of San José for renters on the basis of nonpayment of rent where the failure to pay rent results from wage loss resulting from the novel coronavirus (COVID-19) pandemic. The City Council also adopted a Resolution activating a 30-day eviction moratorium. The moratorium was extended to May 31, 2020. Under the provisions of the Ordinances, the Council may extend the moratorium beyond thirty days by adoption of a subsequent resolution; and

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

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

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

The moratorium on residential evictions, as set forth in the provisions under the COVID-19 Eviction Moratorium Ordinance No. 30382 adopted by San José City Council on April 7, 2020 in accordance with Charter Section 604, shall hereby be extended through August 31, 2020.

ADOPTED this 23rd day of June, 2020, by the following vote:

AYES: JONES, JIMENEZ, PERALEZ, DIEP, CARRASCO,
DAVIS, ARENAS, FOLEY, KHAMIS; LICCARDO.

NOES: NONE.

ABSENT: ESPARZA.

DISQUALIFIED: NONE



SAM LICCARDO
Mayor

ATTEST:



TONI J. TABER, CMC
City Clerk