

ORDINANCE NO. NS-9.291

AN UNCODIFIED URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA RELATING TO THE ENFORCEMENT OF PUBLIC HEALTH ORDERS AND OTHER LAWS RELATED TO THE COVID-19 PANDEMIC, PROVIDING FOR ADMINISTRATIVE FINES, AND DECLARING THE URGENCY THEREOF

Summary

This Urgency Ordinance establishes an enforcement program and authorizes administrative fines for violations of Health Officer Orders and other laws related to 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 Novel Coronavirus 2019 (“COVID-19”) emerged in the Hubei province of China;

WHEREAS, on January 30, 2020, the World Health Organization 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 10, 2020, the County of Santa Clara (“County”) declared a public health emergency to respond to the COVID-19 pandemic and manage its spread throughout the County;

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, since March 9, 2020, the Health Officer of the County of Santa Clara (“Health Officer”) has issued several orders requiring that businesses and individuals take certain measures to slow the spread of COVID-19;

WHEREAS, on July 2, 2020, the Health Officer issued an Order Establishing Mandatory Risk Reduction Measures Applicable to All Activities and Sectors to Address the COVID-19 Pandemic (“Risk Reduction Order”) to ensure that businesses and individuals take necessary precautions to mitigate the threat posed by the COVID-19 pandemic;

WHEREAS, on June 10, 2020, the Health Officer issued an Order Requiring Certain Health Care Facilities Within the County to Offer COVID-19 Diagnostic Testing to

Symptomatic Persons, Persons Who Have Had Contact with Confirmed COVID-19 Cases, and Persons Who Are at Higher Risk of Exposure (“Testing Order”) requiring that large health care facilities provide testing to any person who has symptoms of COVID-19, has been exposed to a confirmed case of COVID-19, or is at increased risk of exposure to COVID-19;

WHEREAS, the Governor issued Executive Orders N-33-20 and N-60-20 on March 19 and May 4, 2020, respectively, requiring compliance with all State and local public health orders and, in Executive Order N-60-20, expressly recognizing local health officers’ authority to establish and implement public health orders that are more restrictive than those issued by the State;

WHEREAS, on June 29, 2020, Governor Newsom signed the 2020 Budget Act making certain funds available to counties contingent upon County compliance with the State Health Officer orders;

WHEREAS, on March 24, 2020, the Board of Supervisors adopted an Ordinance 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 (“Eviction Moratorium”) placing a moratorium on evictions of residential and certain commercial tenants because of hardships associated with COVID-19. The Board subsequently extended the Ordinance on May 26, 2020 and June 2, 2020;

WHEREAS, all businesses and individuals in the County were and continue to be required to follow the provisions of the Public Health Orders, including those identified above;

WHEREAS, failure to comply with any of the provisions of the Public Health Orders constitutes an imminent threat and menace to public health and is a public nuisance;

WHEREAS, the Board of Supervisors for the County of Santa Clara has determined that it is appropriate to establish a civil enforcement program to enforce the Public Health Orders and combat the spread of COVID-19;

WHEREAS, there is an urgent need for the County to enact a comprehensive civil enforcement program to protect the health, safety, and welfare of its residents in light of the emergency declared regarding the COVID-19 pandemic;

WHEREAS, pursuant to Article XI, section 7 of the California Constitution, and Government Code sections 25845 and 53069.4, the County may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its residents; and

WHEREAS, pursuant to Government Code 8634, and in light of the declared emergency in the County, this Urgency Ordinance and civil enforcement program shall apply both in incorporated and unincorporated areas to ensure robust and consistent enforcement of the Public Health Orders.

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

**ESTABLISHMENT OF AN ENFORCEMENT PROGRAM TO ENFORCE COVID-19
RELATED PUBLIC HEALTH ORDERS**

SECTION 1. Intent, Purpose, and Findings.

The Board of Supervisors of the County of Santa Clara hereby finds and declares all of the following:

- a. Failure to comply with any of the provisions of the Public Health Orders, as defined in Section 2, constitutes an imminent threat and menace to public health and is a public nuisance. The purpose of this Ordinance is to facilitate efficient and widespread enforcement of the Public Health Orders to control the spread of COVID-19 and mitigate its impacts.
- b. This Ordinance provides civil enforcement authority to ensure compliance with the Public Health Orders in addition to other mechanisms available by law. The authority provided by this Ordinance to impose administrative penalties provides a significant deterrent to violating the Public Health Orders and will thereby protect the lives and well-being of County residents.
- c. This Ordinance recognizes the need for comprehensive enforcement of the Public Health Orders using all authority granted under the law. As a civil enforcement mechanism, the administrative penalties authorized by this Ordinance complement, and do not displace, existing civil and criminal enforcement.
- d. This Ordinance incorporates by reference all findings made in the Public Health Orders and is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by the Governor; the February 3, 2020 Proclamation by the Director of Emergency Services Declaring the Existence of a Local Emergency in the County; the February 3, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Officer; the February 10, 2020 Resolution of the Board of Supervisors of the County of Santa Clara Ratifying and Extending the Declaration of a Local Health Emergency; and the February 10, 2020 Resolution of the Board of Supervisors of the County of Santa Clara Ratifying and Extending the Proclamation of a Local Emergency.
- e. This Ordinance is adopted, *inter alia*, to reduce the risk of COVID-19 transmission in the County through enforcement of the Public Health Orders and shall remain in full force and effect until rescinded by this Board. All provisions of this Order must be interpreted to effectuate this intent.

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SECTION 2. Definitions.

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

- a. "Board" means the Board of Supervisors of the County of Santa Clara.
- b. "Business" means any for-profit, non-profit, or educational entity, whether a corporate entity, organization, partnership, or sole proprietorship, and regardless of the nature of the service, the function it performs, or its corporate or entity structure. For clarity, a Business also includes a for-profit, non-profit, or educational entity performing services or functions under contract with a governmental agency.
- c. "County" means the County of Santa Clara, and when referring to territory, refers to all land within Santa Clara County, whether incorporated or unincorporated.
- d. "Days" means calendar days.
- e. "Enforcement Officer" means any sworn peace officer, County employee, or other individual designated by the Health Officer or the Health Officer's designee to enforce the Public Health Orders.
- f. "Hearing Officer" means the Office of the County Hearing Officer established under Division A38 of the County Ordinance Code.
- g. "Notice of Violation" means a notice of violation issued pursuant to this Ordinance.
- h. "Public Health Order(s)" means the following, whether currently in effect, made effective at a later date, or subsequently adopted:
 - 1) All County Health Officer or State Public Health Officer orders relating to the COVID-19 pandemic, including all documents incorporated by reference into such orders. This shall include, by way of example, any business's social distancing protocol, as required by the Risk Reduction Order or any subsequent County Health Officer Order, as well as any mandatory directives or guidance issued by the County or State Health Officer.
 - 2) All industry guidance documents issued by the California Department of Public Health establishing requirements described as mandatory or binding, or that are otherwise presented as enforceable obligations.
 - 3) The Eviction Moratorium adopted by the Board, and any subsequent extension or re-issuance of that ordinance.
- i. "Responsible Party" means an individual or legal entity, or the agent or legal guardian of such individual or entity, whose action or failure to act violated a Public Health

Order. This term specifically means and includes, but is not limited to, any of the following:

- 1) Any person or entity that causes, maintains, permits, or allows a violation of this Ordinance, including any person, Business entity, corporation, unincorporated association, estate, trust, and any other legal entity, including the owners, majority stockholders, officers, general partners, joint venturers, members, executors, administrators, and trustees of any such legal entity.
- 2) Any person or entity that owns, possesses, or controls any parcel of real property in the County upon which a violation of this Ordinance is maintained.
- 3) Any trustee of any trust that holds legal title to any parcel of real property in the County upon which a violation of this Ordinance is maintained.
- 4) Any person or entity that owns, possesses, operates, manages, or controls any business within the County that is responsible for causing or maintaining a violation of this Ordinance.

SECTION 3. Adoption of Public Health Orders as County Law.

All Public Health Orders are hereby deemed orders and regulations pursuant to Government Code section 8634, shall constitute the law of the County within both unincorporated and incorporated areas, and are determined to be necessary for the protection of life and property during the local emergency declared in connection with the COVID-19 pandemic. Any violation of a Public Health Order shall constitute an immediate danger to public health and safety pursuant to Government Code section 53069.4 and shall constitute a public nuisance. Nothing in this Ordinance shall be interpreted to make any conduct that does not violate a Public Health Order a violation of this Ordinance.

SECTION 4. Violation and Enforcement.

- a. Notices of Violation; Each Day a Separate Violation. This Ordinance may be enforced at any location within the County by an Enforcement Officer through the issuance of a Notice of Violation, as described more fully in Section 6 below. Each and every day, or portion thereof, that a violation of this Ordinance exists constitutes a separate and distinct offense.
- b. Powers of Enforcement Officer. As set forth more fully in Section 6 below, the Enforcement Officer shall have the authority and powers necessary to determine whether a violation exists and take appropriate action to gain compliance with the law and abate any violation. The Enforcement Officer shall further have authority to issue Notices of Violation and any other notices and orders necessary to obtain compliance and cost recovery, as well as the power to inspect public and private

property as provided by law, impose fines and fees, and use the administrative remedies that are available under state law, this Ordinance, and other applicable provisions of the County Ordinance Code.

- c. Obstruction. Any person who willfully resists, delays, or obstructs any Enforcement Officer, Health Officer, or Hearing Officer in the discharge or attempt to discharge any duty of his or her office or employment in connection with this Ordinance shall be guilty of a misdemeanor, punishable by a fine not exceeding \$1,000, or by imprisonment in a County jail not to exceed one year, or by both that fine and imprisonment.
- d. False Statements. Any person who willfully states anything which that person knows to be false in any oral or written statement to an Enforcement Officer or Hearing Officer regarding the subject of an investigation, Notice of Violation, or hearing occurring pursuant to this Ordinance shall be guilty of a misdemeanor, punishable by a fine not exceeding \$1,000, or by imprisonment in a County jail not to exceed one year, or by both that fine and imprisonment.
- e. Power to Arrest. Pursuant to Penal Code section 836.5 and Ordinance Code section A18-32, the Public Health Officer or his or her designees may arrest a person without a warrant whenever he or she has reasonable cause to believe that the person has violated this Ordinance in his or her presence. In any case in which a person is arrested pursuant to the provisions of this section, and the person arrested does not demand to be taken before a magistrate, the Public Health Officer or his or her designees shall prepare a written notice to appear and release the person on his or her promise to appear as prescribed by the Penal Code.
- f. Authority of the County Counsel.
 - 1) The County Counsel shall have the authority and power to enforce the Public Health Orders under this Ordinance.
 - 2) The County Counsel is hereby authorized to file a civil action on behalf of the County to enjoin any violation(s) of this Ordinance and to obtain other appropriate relief needed to cease and abate such violations, as well as to recover all associated County costs, attorneys' fees, and any fines or penalties imposed.

SECTION 5. Nonexclusivity and Election of Proceedings.

- a. Election of Proceedings. This Ordinance provides for enforcement proceedings that are supplemental to all other enforcement proceedings authorized by local, state, or federal law, whether administrative, civil, or criminal in nature. Any election to proceed under this Ordinance shall be without prejudice to the County choosing to also proceed simultaneously or subsequently by pursuing different or additional means of enforcing the same violation. Election to issue a Notice of Violation or take

any other action authorized by this Ordinance shall be at the sole discretion of the Enforcement Officer, and nothing in this Ordinance shall be interpreted to mandate that an Enforcement Officer take certain steps in response to potential violations of Public Health Orders or to preclude an Enforcement Officer from engaging in informal oral or written correspondence to gain compliance.

- b. Effect on Authority. Nothing in this Ordinance alters or diminishes the authority of the Sheriff, the County Counsel, or the District Attorney to address any such violations. Nothing in this Ordinance or decisions made hereunder, including decisions not to take any enforcement action authorized in this Ordinance, shall create any liability for the County or any Enforcement Officer.

SECTION 6. Notices of Violation; Penalties and Fees; Public Disclosure.

- a. Issuance. An Enforcement Officer may issue a Notice of Violation to any Responsible Party violating any provision of a Public Health Order. The Enforcement Officer may issue a Notice of Violation for a violation not committed in their presence if they determine through investigation, including but not limited to credible input from County staff, that the Responsible Party did commit or is otherwise responsible for the violation.
- b. Penalties. Penalties (fines) for Notice of Violations issued pursuant to this Ordinance shall be as follows:
 - 1) The civil penalty for each violation involving a non-commercial activity shall be a fine not to exceed five hundred dollars (\$500). The minimum amount of any such fine shall be twenty-five dollars (\$25). A non-commercial activity shall mean a violation not associated with a Business or with a commercial transaction.
 - 2) The civil penalty for each violation involving a commercial activity shall be a fine not to exceed five thousand dollars (\$5,000). The minimum amount of any such fine shall be two hundred and fifty dollars (\$250). Fines imposed for each day of violation involving a commercial activity shall automatically double, up to the maximum amounts set forth above. Each day that the violation occurs after the maximum amount is reached shall be at the maximum amount. A commercial activity shall mean any activity associated with a Business or with a commercial transaction.
 - 3) Multiple violations by a single Responsible Party shall each warrant fines up to the maximums set forth in this Section 6(b) and shall be cumulative.
- c. Factors in Setting Fine Amount. In determining the amount of a fine pursuant to Section 6(b), above, the Enforcement Officer shall consider:

- 1) The gravity of the public health risk posed by the violation;
 - 2) Whether the Responsible Party has been previously counseled regarding the violation;
 - 3) For a violation arising from commercial activities, whether the violation is likely to result in increased revenue or avoided costs;
 - 4) The quantity of prior Notices of Violation the Responsible Party has received;
 - 5) Whether the Responsible Party is making good faith efforts to achieve and maintain compliance with Public Health Orders; and
 - 6) Any other matters relating to the nature, circumstances, extent, and gravity of the violation.
- d. Grace Period. If a violation is capable of being cured (e.g., is an ongoing violation and the Responsible Party has the apparent ability to effect a resolution) and does not pose a particularly severe and immediate threat to public health, safety, and welfare, a Notice of Violation may include a grace period to cure the violation(s) and avoid the civil penalty set forth in the Notice of Violation. The grace period may range from 24-72 hours from the date of the Notice of Violation. In determining whether to provide a grace period and in determining the length of any grace period included in a Notice of Violation, the Enforcement Officer shall consider the same factors provided above in connection with setting a fine amount. It is the intent of this provision to provide a grace period as the default whenever applicable; however, all matters relating to grace periods are within the sole discretion of the Enforcement Officer and are not appealable.
- e. Compliance Reporting Following Grace Period. The Responsible Party must cure each cited violation and must report to the Enforcement Officer when each cited violation is cured before expiration of the grace period. Each such report must include the Responsible Party's contact information and availability sufficient to ensure the Enforcement Officer can verify compliance within 72 hours of the date of correction. If the Responsible Party does not report to the Enforcement Officer before the expiration of the grace period, or if the Responsible Party does not provide adequate information to the Enforcement Officer to verify compliance, the fine shall automatically become effective. The Enforcement Officer has the sole discretion to determine whether a violation has been corrected.
- f. Public Disclosure of Uncured Violations. The County may publicly disclose any violation of a Public Health Order, including the name of the Responsible Party and the nature, date, and location of the violation. If a grace period is provided and the Responsible Party corrects the violation before the expiration of the grace period, the County will not disclose the violation, unless required by State law.

- g. Payment of Administrative Fines. All fines and fees shall be payable to the County in accordance with the procedures specified in this Ordinance, unless otherwise directed in the Notice of Violation. Fines shall be paid to the County within 30 days from the date of service of the Notice of Violation unless an appeal is properly requested. If an appeal is properly requested and the fine is upheld or reduced at that administrative hearing, then the confirmed fine amount shall be paid to the County within 30 days from the date of service of the decision. Payment of the fines and fees shall not excuse the failure to correct the violation or bar further enforcement action by the County.
- h. Administrative Fees. The County may adopt one or more administrative fees to recover the costs associated with the issuance, enforcement, processing, and collection of Notices of Violation. The administrative fees shall be established by resolution of the Board. The administrative fees shall be assessed on each Notice of Violation and collected in the same manner and at the same time as the civil penalty; however, the administrative fees shall be assessed only once per Notice of Violation. Until a new administrative fee is established, any existing applicable fees shall apply.
- i. Late Fee; Collection Costs. Any person who fails to pay any fine or administrative fee imposed pursuant to the provisions of this Ordinance shall be liable for the payment of a late fee. The late fee shall be 10 percent of the amount of the delinquent fine. In addition to the administrative fee and late fee, the County is entitled to recover all costs, expenses, fees, and attorneys' fees associated with collecting upon any administrative fines, fees, or costs authorized by this Ordinance.

SECTION 7. Contents of a Notice of Violation; Service.

- a. Contents. Each Notice of Violation issued under this Ordinance shall contain:
 - 1) The date of the violation;
 - 2) The name of the Responsible Party being cited;
 - 3) The address or a description of the location where the violation occurred;
 - 4) Identification of the Public Health Order requirements violated by the Responsible Party and a brief description of the violation;
 - 5) The grace period (if any) to cure each cited violation in order to avoid a fine, along with direction to the Responsible Party to report to the Enforcement Officer when each cited violation is cured in order for the Enforcement Officer to verify compliance promptly after the correction;

- 6) The amount of the fine for each cited violation that will be imposed if the cited violation is not cured within the grace period, if any. If there is no grace period, the fine shall be immediately imposed;
- 7) The location(s) and the office hours, if any, and mailing address where fines may be paid;
- 8) A notice that the fine amount will automatically re-accrue (and for violations arising from commercial activity, double pursuant to Section 6, above) each day beyond the grace period (if any) that the cited violation persists, up to the maximum amount set forth in this Ordinance;
- 9) The amount of all other fees and charges authorized by this Ordinance;
- 10) A brief statement that the violation determination and/or fine amount may be appealed, as follows:

To Appeal this Notice of Violation: The violations(s) identified in this Notice of Violation and the amount of fine imposed may be appealed within ten calendar days of service of the Notice of Violation by providing the Clerk of the Board of Supervisors, County of Santa Clara (County Government Center, 70 W. Hedding St., San José, CA 95110) with a request in writing for an appeal. The request shall be entitled “REQUEST FOR APPEAL OF NOTICE OF VIOLATION” and must set forth the factual and/or legal basis for the appeal in detail sufficient to apprise the County of the nature of the appeal and general objections and arguments to be raised by the Responsible Party.

- 11) A brief description of the fine payment process, including the 30-day timeframe to pay the fine and other fees and charges, the late fee for failure to pay on time, and that unpaid amounts may become a lien and special assessment against the real property where the violation occurred; and
- 12) The name and signature of the citing Enforcement Officer and appropriate contact information.

b. Service. Service of a Notice of Violation may occur by any of the following methods:

- 1) Personal service upon the owner or other Responsible Party.
- 2) First-class or certified mail to a Responsible Party’s business address, or last known personal address using data from the last equalized assessment roll or other reliable information available to the Enforcement Officer.

- 3) For violations involving the use of real property owned or leased by a Responsible Party, by posting the notice in a conspicuous place at the property entrance.
 - 4) For any Responsible Party registered with the Secretary of State, by certified mail to that party's agent for service of process at the address registered with the Secretary of State, or as otherwise permitted by law. For any such party required to register with the Secretary of State that has not designated an agent for service of process with the Secretary of State, then a notice may be served on that party by certified mail to the Secretary of State.
 - 5) By e-mail when an email address has been provided to the County by that party. If the Responsible Party has provided an email address to the County in its social distancing protocol, service may be effectuated by email to that email address.
 - 6) In any other manner reasonably calculated to effectuate notice.
- c. Effective Time of Service. Service by personal delivery or posting shall be deemed effective at the time of delivery or posting. Service by mail or e-mail shall be deemed effective upon deposit in the mail or transmission of the e-mail. The failure of any Responsible Party to receive any Notice of Violation served in accordance with this Section shall not affect the validity of the Notice of Violation nor any subsequent proceeding or action relating to the Notice of Violation or the violation(s) identified therein.

SECTION 8. Administrative Appeals.

- a. To hear appeals of Notice of Violations issued pursuant to this Ordinance, the Board of Supervisors authorizes the use of a Hearing Officer appointed pursuant to the County Ordinance Code.
- b. Upon receipt of the written appeal, the matter shall be promptly set for a hearing before the Hearing Officer.
- c. Unless a hearing is waived by the County and the Responsible Party (Appellant) in favor of a determination based upon written filings, including arguments and supporting evidence in the form of declaration testimony and other competent evidence, the Hearing Officer shall hold an administrative hearing pursuant to Ordinance Code Division A38 to determine whether the conditions described in the Notice of Violation constitute a violation of the Public Health Orders under this Ordinance and to review and decide any other matters properly appealed by the Appellant. The hearing may be continued from time to time for good cause.

- d. The Appellant shall be given an opportunity at the hearing to present and elicit testimony (including by cross-examination) and other evidence regarding matters properly appealed, including the existence of one or more violations and the administrative penalty amount. Failure of the Appellant to appear and present evidence at the hearing shall be deemed a withdrawal of the request for hearing and shall constitute a failure to exhaust administrative remedies.
- e. The Appellant may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply, including rules relating to evidence, witnesses, and hearsay.
- f. The standard of proof shall be a preponderance of the evidence and the County bears the burden of proof to establish the existence of the violation, if placed in dispute by the notice of appeal. The burden of proof on all other matters shall be borne by the Appellant.
- g. After the hearing, the Hearing Officer shall render his or her written decision affirming, reversing, or modifying the determination that one or more violations occurred. If the violation is affirmed, the decision shall include a statement that the County is entitled to recover administrative penalties and any other fees, fines, or costs authorized by this Ordinance and included in the Notice of Violation. The Hearing Officer may also reduce the amount of the administrative penalty if warranted, taking into consideration all evidence provided by the Appellant and any responsive evidence adduced by the County, in connection with the factors set forth in Section 6, above.
- h. A copy of the decision shall be served on the parties and shall be final and conclusive when signed by the Hearing Officer and served upon the County Counsel and the Appellant. For service upon the Appellant, the Hearing Officer shall effect service in the manner requested by the Appellant or, if no manner of service is provided, pursuant to the service methods in Section 7, above, with the assistance of the County if desired.
- i. Payment of all fines, fees, charges, and costs specified in the Hearing Officer's decision shall be made to the County within 30 days of service of the decision, unless timely appealed to the Superior Court. Any Responsible Party aggrieved by the decision of a Hearing Officer determining a violation of a Public Health Order and/or administrative fine may obtain further review by appropriate filing with the Santa Clara County Superior Court in accordance with the timelines and provisions set forth in California Code of Civil Procedure section 1094.5.
- j. The Appellant may settle any appeal with the County Counsel at any time for good cause. The County Counsel shall consult with the County Executive and County Health Officer or their designees, before entering into any settlement. The terms of all such settlements shall be publicly disclosed upon request.

SECTION 9. Confidentiality of Complaints.

The County shall take all reasonable steps to ensure that the identity and personal information of any person making a complaint to the County notifying the County of an alleged violation of a Public Health Order shall remain confidential, unless otherwise specified by the complainant. It is declared and found by the Board that the public interest served by encouraging complaints to the County without fear of retribution clearly outweighs the public interest served by disclosure of the complainant’s identity and information. No Notice of Violation shall be issued until an Enforcement Officer has evaluated and made an independent determination regarding the existence of a violation.

SECTION 10. Real Property Liens.

All violations of this Ordinance constitute a public nuisance and associated enforcement costs are considered costs of abatement. All unpaid abatement costs may be secured by a nuisance abatement lien recorded on title to the property where the violation occurred (provided that the property owner is on notice of the nature and extent of the violation and did nothing to take reasonable steps to curtail or prevent it) and by special assessment placed on the tax bill of said property. All steps taken to impose a lien and create a special assessment shall comply with applicable requirements of state law.

SECTION 11. 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 12. 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 13. 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(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, and that it is necessary to prevent the

County of Santa Clara from suffering potentially irreversible displacement of tenants resulting from the evictions that the Eviction Moratorium is designed to prevent.

SECTION 14. Expiration.

This Ordinance shall remain in full force and effect until repealed by the Board of Supervisors or termination of the COVID-19 public health emergency.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on **AUG 11 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

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