

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

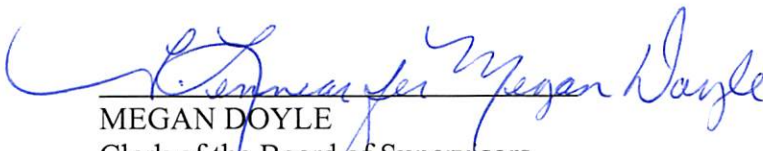
ABSTAIN: NONE



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

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