

RESOLUTION NO. .

**EMERGENCY REGULATION NO. 2020-002
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA**

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**EMERGENCY REGULATION 2020-002 ESTABLISHING A TEMPORARY
COUNTYWIDE MORATORIUM ON RENT INCREASES ON CERTAIN EXISTING
RESIDENTIAL TENANCIES DUE TO THE COVID-19 PANDEMIC**

SECTION 1. FINDINGS.

The Board of Supervisors of the County of San Mateo (the “Board”) hereby makes the following findings in support of the immediate adoption and application of this Emergency Regulation (the “Emergency Regulation”):

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

WHEREAS, on March 10, 2020, the San Mateo County Board of Supervisors ratified and extended this declaration of local health emergency and on April 7, 2020, the Board of Supervisors further extended this local health emergency, which remains in effect throughout San Mateo County; and

WHEREAS, on March 3, 2020, and pursuant to Section 8630 of the California Government Code and Chapter 2.46 of the San Mateo County Ordinance Code, the San Mateo County Director of Emergency Services proclaimed a local emergency throughout San Mateo County related to COVID-19; and

WHEREAS, on March 10, 2020, the Board ratified and extended the proclamation of local emergency, and on April 7, 2020, the Board further extended the proclamation of local emergency (“Local Emergency”), which remains in effect; and

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency related to COVID-19, effective throughout the State of California; and

WHEREAS, on March 14, 2020, the Health Officer prohibited all public or private gatherings of 50 or more people and urged the cancelation of all gatherings of 10 or more people in a single confined space; and

WHEREAS, on March 16, 2020, the Health Officer issued an order (“Original Shelter-in-Place Order”) that, among other things, directs all individuals currently living within San Mateo County to shelter in their place of residence, and authorizes individuals to leave their residences only for certain “Essential Activities,” “Essential Governmental Functions,” or to operate “Essential Businesses,” all as defined in the Original Shelter-in Place-Order; and

WHEREAS, on March 31, 2020, the Health Officer issued a revised Shelter-in-Place Order (“Revised Shelter-in-Place Order”), a copy of which is attached as Exhibit A to this Ordinance, that extends the expiration date of the March 16, 2020 Shelter-in-Place Order to May 3, 2020 due to the significant increase in the number of positive cases, hospitalization and deaths from COVID-19, and corresponding threat to strain local healthcare resources; and

WHEREAS, also on March 16, 2020, Governor Newsom issued Executive Order N-28-20, which grants 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, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, which imposed a statewide shelter-in-place order requiring individuals to remain in their places of residence except as needed to maintain continuity of operations of critical infrastructure, access necessities such as food, prescriptions, and healthcare, or

engage in other authorized activities; and

WHEREAS, on March 27, 2020, Governor Gavin Newsom issued Executive Order N-37-20, which extends the period of time within which a tenant must respond to an unlawful detainer summons under Code of Civil Procedure 1167 from five (5) days to 60 days, if certain criteria are met; and

WHEREAS, on April 5, 2020, the Judicial Council of California issued an emergency order that effectively halts residential and commercial evictions statewide until 90 days after Governor Newsom lifts the COVID-19 State of Emergency and prohibits courts from proceeding with unlawful detainer cases unless they are necessary to protect public health and safety; and

WHEREAS, on March 23, 2020, this Board adopted an Emergency Regulation establishing a temporary, countywide moratorium on eviction for non-payment of rent by residential tenants directly impacted by the COVID-19 pandemic; and

WHEREAS, even with these actions, the number of identified COVID-19 cases continues to grow, and there are nearly 1,000 confirmed cases, and 41 COVID-19 related deaths within the County, as of April 24, 2020, and more than 35,000 confirmed COVID-19 cases, and at least 1,469 COVID-19 related deaths, in California, as of that date; and

WHEREAS, Section 8634 of the Government Code provides that during a local emergency, the governing body of a political subdivision of the State “may promulgate orders and regulations necessary to provide for the protection of life and property,” and that section requires that such orders “shall be in writing and shall be given widespread publicity and notice;” and

WHEREAS, the California Attorney General has opined that when a county has declared a local emergency within its jurisdictional boundaries in an area that includes both unincorporated and incorporated territory, the county may adopt emergency rules and regulations pursuant to Section 8634 of the Government Code that will be effective

in both unincorporated and incorporated areas (62 Ops. Cal. Atty. Gen. 701 (1979));
and

WHEREAS, the County of San Mateo, 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 County; and

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; and

WHEREAS, this rent burden has been exacerbated as a result of the Local Emergency and the issuance of local and state-wide shelter-in-place orders to combat the COVID-19 emergency, which have resulted in many County residential tenants experiencing 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 have difficulty paying their rent at current levels; and

WHEREAS, residential tenants who are struggling to pay rents at current levels while attempting to meet other basic needs may be especially harmed by rent increases while the Local Emergency remains in effect, owing to potential hindrance of individuals from complying with state and local directives to shelter in place, reduction in funds available to meet other basic needs and a corresponding potential increased spread of COVID-19, overburdening the healthcare delivery system and potentially resulting in greater loss of life; and

WHEREAS, in addition to jeopardizing public health, failure to immediately suspend rent increases will worsen the already severe economic impacts of COVID-19; and

WHEREAS, given the severe consequences to public health and safety throughout the County – in both unincorporated and incorporated areas – that would result from rent increases imposed on residential tenants during the Local Emergency, the County finds and determines that a temporary moratorium on rent increases due to COVID-19 is necessary to curb the spread of COVID-19 across all areas of the County and contain the virus to the greatest extent possible and thereby serve the public peace, health and safety and welfare of residents; and

WHEREAS, the Board finds that this Emergency Regulation is reasonably related to the protection of life and public health and safety throughout the entire jurisdictional boundaries of the County, given the County-wide nature of the Local Emergency; and

WHEREAS, in adopting this Emergency Regulation, the County is taking action consistent with its authority under Government Code Sections 8630 and 8634 and Chapter 2.46 of the County Ordinance Code; and

NOW, THEREFORE, the Board of Supervisors of the County of San Mateo, State of California, orders as follows:

SECTION 2. JURISDICTION

Pursuant to the County’s police powers during a local emergency as set forth in Government Code Sections 8430 and 8634, and Chapter 2.46 of the County Ordinance Code, this Emergency Regulation shall apply throughout the entire geographic boundary of the County, including all incorporated cities and unincorporated areas.

SECTION 3. DEFINITIONS.

For purposes of this Emergency Regulation, the following definitions shall apply:

- (a) “Landlord” shall mean an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Residential Rental Unit, Mobilehome or Mobilehome Space, and the agent, representative, or successor of any of the foregoing.

- (b) "Mobilehome" shall mean those structures defined in California Civil Code Section 798, *et seq.*, and other forms of vehicles designed or used for human habitation, including camping trailers, recreational vehicles, motorhomes, slide-in campers, or travel trailers, that occupy a site in a Mobilehome Park.
- (c) "Mobilehome Park" shall mean any mobilehome or manufactured home park, as defined in Civil Code Sections 798.4 and 798.6.
- (d) "Mobilehome Space" shall mean the site within a Mobilehome Park intended, designed, or used for the location or accommodation of a Mobilehome and any accessory structures or appurtenances attached thereto or used therewith.
- (e) "Rent" means the financial obligation or monetary payment a Tenant owes a landlord for the occupancy or use of Residential Rental Unit, Mobilehome or Mobilehome Space, whether by written or oral agreement.
- (f) "Residential Rental Unit" means any dwelling unit that is intended or used for human habitation that is not exempt from the rent limits pursuant to California Civil Code sections 1947.12 and 1954.50, *et seq.*
- (g) "Tenancy" means the lawful occupancy of a Residential Rental Unit, Mobilehome or Mobilehome Space by agreement on a month-to-month basis or for a fixed term in excess of 30 days.
- (h) "Tenant" shall mean residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to occupancy or use of a Residential Rental Unit, Mobilehome or Mobilehome Space.

SECTION 4. MORATORIUM ON RENT INCREASES.

- (a) As of the Effective Date of this Emergency Regulation and continuing through May 31, 2020 unless extended beyond that date (the "Moratorium Period"), no Landlord may impose a Rent increase on an existing Tenancy if the Tenant demonstrates an inability to pay an increased Rent that is directly related to the

COVID-19 pandemic or any federal, state or local government response to the COVID-19 pandemic.

- (b) This Section 4 shall apply only if a Tenant demonstrates through documentation that the Tenant is unable to pay the Rent increase when due because (i) Tenant lost household income as a result of being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (ii) a Tenant lost household income as a result of a lay-off, loss of hours, loss of business, or other income reduction resulting from COVID-19 or the federal, state or local government response to COVID-19; (iii) a Tenant lost household income due to compliance with the Shelter-in-Place Order or a recommendation from a government agency to stay home, self-quarantine, or avoid congregating with others; (iv) a Tenant lost household income as a result of caring for minor children affected by school, pre-school and/or childcare closures; (v) a Tenant or a member of Tenant's household incurred substantial medical costs related to COVID-19; and (vi) a Tenant suffered any other substantial financial hardship caused directly by COVID-19 or the governmental response to the COVID-19 pandemic. Any medical or financial information provided to the Landlord shall be held in confidence, and only used for evaluating the Tenant's claim.
- (c) During the Moratorium Period, concurrent with serving a written notice to increase Rent pursuant to Civil Code section 827, the Landlord must provide the Tenant(s) affected by the intended Rent increase with written notice of this Emergency Regulation using a form developed and approved by the Director of the Department of Housing or designee, which shall include, at a minimum (i) the amount of Rent increase which the Landlord seeks to impose pursuant to any written or oral agreement and under the provisions of State or local law; (ii) the date that the Rent increase will go into effect; (iii) that this Rent increase will go into effect on the noticed date unless the Tenant promptly establishes in writing to

the Landlord that the Tenant's inability to pay is due to a reason set forth in Subsection 4(b) of this Emergency Regulation; and (iii) that the notice and documentation from the Tenant to the Landlord called for under Subsection 4(c) of this Emergency Regulation must be provided to the Landlord as soon as reasonably practicable thereafter. For purposes of this Section, "in writing" may include e-mail or text communications to a Landlord or the Landlord's representative with whom the Tenant has previously corresponded by e-mail or text or who has otherwise authorized such e-mail or text communications.

- (d) For purposes of this Emergency Regulation, notice provided by a Tenant to the Landlord within fourteen (14) days of the Tenant's receipt of the written notice required pursuant to Section 4(c) shall be presumed to have been provided within a reasonable timeframe, provided that notices provided on a timeframe of greater than fourteen (14) days may be deemed reasonable, depending on the totality of the circumstances.
- (e) A Landlord's failure to comply with this Emergency Regulation shall render void any notice of Rent increase served on a Tenant during the Moratorium Period.

SECTION 5. APPLICATION.

This Emergency Regulation applies to notices of Rent increase for existing Tenancies served on or after the Effective Date of this Emergency Regulation and through the Moratorium Period.

SECTION 6. REMEDIES.

- (a) This Emergency Regulation provides an affirmative defense to eviction in the event that an unlawful detainer action is commenced based on a Tenant's failure to pay a Rent increase, where the Landlord implemented the Rent increase in violation of this Emergency Regulation.
- (b) In addition, a knowing violation of this Emergency Regulation, which is adopted

pursuant to Chapter 2.46 of this Ordinance Code, among other authorities, shall be a misdemeanor.

(c) Moreover, in the event of a knowing violation of this Emergency Regulation, an aggrieved Tenant may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages (including damages for mental or emotional distress as specified below), and any other relief the Court deems appropriate. The prevailing party in such civil proceeding(s) shall be entitled to reasonable attorney's fees and costs pursuant to court order.

SECTION 7. SEVERABILITY.

If any provision of this Emergency Regulation is declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent of the Board that such invalid provisions(s) be severed from the remaining provisions of this Emergency Regulation.

SECTION 8. NO MANDATORY DUTY

Nothing in this Emergency Regulation is intended to create a mandatory duty on the part of the County, County employees, any Cities or City employees, to protect persons or property from a violation of the provisions of this Emergency Regulation.

SECTION 9. EFFECTIVE DATE.

This Emergency Regulation is effective immediately and shall remain in effect until May 31, 2020, unless extended.

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