

## ORDINANCE NO. 575

### AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTEE ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT BY RESIDENTIAL AND COMMERCIAL TENANTS IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19) AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

**WHEREAS**, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes which has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

**WHEREAS**, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of COVID-19, which was subsequently ratified by the Board of Supervisors on February 19, 2020; and

**WHEREAS**, on March 4, 2020, the Governor of the State of California 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 broader spread of COVID-19; and

**WHEREAS**, on March 11, 2020, the World Health Organization (WHO) publicly characterized COVID-19 as a pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a National Emergency due to the continued spread and the effects of COVID-19 and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

**WHEREAS**, on March 18, 2020, the Director of Emergency Services for the City of Santee, pursuant to California Government Code section 8630, et seq., and City of Santee Municipal Code section 2.23.060, proclaimed the existence of a local emergency to protect and preserve the public welfare; and

**WHEREAS**, On March 25, 2020, Santee City Council adopted Emergency Resolution 023-2020, declaring the existence of a local emergency, ratifying the emergency proclamation of the Director of Emergency Services, and instituting a temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis; and

**WHEREAS**, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, wherein he found as follows:

- i. The economic impacts of COVID-19 have been significant, and could threaten to undermine Californian's housing security and the stability of California businesses.

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- ii. Many Californians are experiencing substantial losses of income related to COVID-19, hindering their ability to pay rent, mortgages, and utility bills.
- iii. Because homelessness can exacerbate vulnerability to COVID-19, California must take measures to preserve and increase housing security to protect public health; and

**WHEREAS**, with the issuance of Executive Order N-28-20, the Governor ordered “any provision of state law that would preempt or otherwise restrict a local government’s exercise of its police power to impose substantive limitations on residential or commercial evictions as described in subparagraphs (i) and (ii) below-including but not limited to, any such provision of Civil Code section 1940 et seq. or 1954.25 et seq. – is hereby suspended to the extent it would preempt or otherwise restrict such exercise;” and

**WHEREAS**, on March 19, 2020, the Governor issued Executive Order N-33-20, ordering all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal government critical infrastructure sectors; and

**WHEREAS**, On March 27, 2020, the Governor issued Executive Order N-37-20, wherein he ordered as follows:

(i) A 60-day extension for the deadline specified in Code of Civil Procedure section 1167 for any tenant who is served with a complaint that seeks to evict the tenant from a residence or dwelling unit for nonpayment of rent and who satisfies all of the following requirements:

(1) Prior to the date of the order, the tenant paid rent due to the landlord pursuant to an agreement.

(2) The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:

a. The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;

b. The tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or

c. The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.

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(3) The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, to support the tenant's assertion of an inability to pay. With the documentation provide to the landlord no later than the time upon payment of back-due rent.

(ii) That no writ to evict a tenant from a residence or dwelling unit for nonpayment of rent who satisfies the requirement described above, may be enforced while Executive Order N-37-20 is in effect, and protections granted in paragraphs [i] and [ii] are in effect through May 31, 2020.

(iii) That nothing in Executive Order N-37-20 shall prevent a tenant who is able to pay all or some of the rent due from paying that rent in a timely manner or relieve a tenant of liability for unpaid rent.

(iv) That Executive Order N-37-20 supersedes Executive Order N-28-20 to the extent that there is any conflict with that the order; and

**WHEREAS**, Executive Order N-37-20 does not conflict with the provision of Executive Order N-28-20 that suspends any provision of state law that would preempt or otherwise restrict local government's exercise of its police power to impose substantive limitations on commercial evictions; and

**WHEREAS**, on March 27, 2020, the County Public Health Officer issued a new order, effective March 29, 2020 and continuing until further notice, limiting gatherings of a certain number, closing certain business establishments, limiting the operations of other business establishments, and requiring social distancing, increased sanitation standards, and the use of telecommuting; and

**WHEREAS**, paragraph 9 of the County Public Health Officer's March 27, 2020 Order directs, pursuant to Health and Safety Code Section 120175.5, subdivision (b), that all governmental entities in the county take necessary measures within their control to ensure compliance with the order; and

**WHEREAS**, the loss of income as a result of COVID-19 pandemic may prevent City residents and business from fulfilling their financial obligations, leaving residential and commercial tenants vulnerable to eviction; and

**WHEREAS**, displacement of commercial tenants by eviction would worsen COVID-19's economic impacts by causing financial instability for business owners and employees and by reducing the available jobs for City of Santee residents once the state of emergency has ended; and

**WHEREAS**, as of the date of this Ordinance, business closures and reduced business hours, in addition to public health orders to limit public gatherings and socially distance, will have a financial impact on local business, and displacement of commercial



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tenants caused by eviction would worsen the present crisis by causing financial instability for business owners and employees by reducing the available jobs for City residents once the crisis is abated; and

**WHEREAS**, California Government Code section 8634 allows the Council, as the governing body, to make orders and regulations necessary to provide for the protection of life and property; and

**WHEREAS**, the Council finds that there is an emergency necessitating immediate adoption.

**NOW, THEREFORE BE IT ORDAINED**, by the Council of the City of Santee, as follows:

SECTION 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION 2. A Temporary Moratorium on Evictions for Non-Payment of Rent by Residential Tenants Impacted by the COVID-19 Crisis, is enacted as follows:

- (a) The provisions of the Governor's Executive Order N-37-20, including its recitals, are incorporated herein as if fully set forth.
- (b) Tenants who were afforded eviction protection under this Ordinance shall have a time period equivalent to the length of the moratorium to pay their landlords all unpaid rent. If a tenant opts to move while this Ordinance is effective, all owed rent is due upon move-out. At the end of the defined payback period, a landlord may evict a tenant who has not paid all outstanding rent and resort to all remedies available to the landlord under the lease and the law.
- (c) This Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this order.
- (d) No other legal remedies available to landlords are affected by this Ordinance.
- (e) This Ordinance does not limit, restrict, or nullify the landlord's ability to enter into a payment agreement with residential tenants.

SECTION 3. Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis, is enacted as follows:

- (a) During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a commercial tenant for nonpayment of rent if the commercial tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19. For purposes of this Ordinance, "financial impacts related to COVID-19" is defined as follows:

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- (i) A substantial decrease in business income (including but not limited to, a substantial decrease in business income caused by a reduction in opening hours or consumer demand); and
  - (ii) The decrease in business income described in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19; and
  - (iii) The decrease in business income described in subparagraph (i) and causation by COVID-19 described in subparagraph (ii) must be documented in writing.
- (b) For purposes of this Ordinance, the definition of substantial decrease in business income is at least a 30 percent decrease in business income.
- (c) A landlord who knows that a commercial tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure section 1167, file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent.
- (d) A landlord knows of a commercial tenant's inability to pay rent within the meaning of this Ordinance if the tenant, before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the commercial tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the commercial tenant's claim. For the month of April, the tenant must provide the notice described in this paragraph on or before April 30, 2020.
- (e) Within two weeks of notifying the landlord under subsection (c), the commercial tenant shall provide the landlord documentation or other objectively verifiable information that due to financial impacts related to COVID-19, the commercial tenant is unable to pay rent. Documentation may include, but is not limited to, financial statements, business records, physician's letter, bills, and, or a combination thereof.
- (f) Nothing in this Ordinance shall relieve the commercial tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency.
- (g) Commercial tenants who were afforded eviction protection under this Ordinance shall have a time period equivalent to the length of the moratorium to pay their landlords all unpaid rent. If a commercial tenant opts to move while this Ordinance is effective, all owed rent is due upon move-out. At the end of the

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defined payback period, a landlord may evict a commercial tenant who has not paid all outstanding rent and resort to all remedies available to the landlord under the lease and the law.

(h) For purposes of this Ordinance, "no-fault eviction" refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.

(i) This Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this order.

(j) No other legal remedies available to landlord are affected by this Ordinance.

(k) This Ordinance does not limit, restrict, or nullify the landlord's ability to enter into a payment agreement with commercial tenants.

SECTION 4. In accordance with the Governor of the State of California's Executive Order N-37-20, this Ordinance shall remain in effect until May 31, 2020.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

SECTION 6. Environmental Review. In accordance with the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA") and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), the City Council finds that adoption and implementation of this Ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378), because this Ordinance has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 7. Urgency Declaration; Effective Date. The City Council finds and declares that the adoption and implementation of this Ordinance is an emergency measure required for the immediate preservation of the public peace, safety, health, and welfare, for the reasons set out herein and pursuant to Government Code section 36937, and shall take effect immediately upon its adoption by four-fifths of the City Council.

SECTION 8. Certification. The City Clerk shall either: (a) have this ordinance published in a newspaper of general circulation within 15 days after its adoption or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five days before its adoption and again within 15 days after its adoption.

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**PASSED, APPROVED and ADOPTED** by the City Council of the City of Santee at a Regular Meeting of said Council held on the 8<sup>th</sup> of April, 2020, by the following vote:

**AYES:** HALL, HOULAHAN, KOVAL, MCNELIS, MINTO

**NOES:** NONE

**ABSENT:** NONE

**APPROVED:**

  
JOHN W. MINTO, MAYOR

**ATTEST:**

  
ANNETTE ORTIZ, CMC, CITY CLERK

**APPROVED AS TO FORM:**  
BEST, BEST & KRIEGER LLP

  
SHAWN HAGERTY, CITY ATTORNEY

Attachment 1: The Governor's Executive Order N-37-20



**EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA**

**EXECUTIVE ORDER N-37-20**

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** in a short period of time, COVID-19 has rapidly spread throughout California, necessitating stringent public health emergency orders as well as guidance from federal, state, and local public health officials; and

**WHEREAS** on March 16, 2020, I issued Executive Order N-28-20, suspending state law limitations on local jurisdictions that impose restrictions on evictions; and

**WHEREAS** on March 19, 2020, I issued Executive Order N-33-20, ordering all residents to immediately heed the Order of the State Public Health Officer for all residents, unless exempted, to stay home or at their place of residence; and

**WHEREAS** many Californians are experiencing or will experience substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with their rent, and leaving them vulnerable to eviction; and

**WHEREAS** minimizing evictions during this period is critical to reducing the spread of COVID-19 in vulnerable populations by allowing all residents to stay home or at their place of residence in compliance with Executive Order N-33-20; and

**WHEREAS** Chief Justice Tani Cantil-Sakauye issued advisory guidance on March 20, 2020 for superior courts to suspend most civil trials and hearings for at least 60 days, and on March 23, 2020, suspended all jury trials for a period of 60 days, and extended by 60 days the time period for the holding of a civil trial; and

**WHEREAS** on March 25, 2020 the Department of Business Oversight secured support from national banks, state banks and credit unions for temporary delays in mortgage payments and foreclosure sales and evictions for homeowners who have economic impacts from COVID-19 with the objective of maximizing consistency and minimizing hurdles potentially faced by borrowers.

**NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following Order to become effective immediately:

**IT IS HEREBY ORDERED THAT:**

- 1) The deadline specified in Code of Civil Procedure section 1167 shall be extended for a period of 60 days for any tenant who is served, while



this Order is in effect, with a complaint that seeks to evict the tenant from a residence or dwelling unit for nonpayment of rent and who satisfies all of the following requirements:

- a. Prior to the date of this Order, the tenant paid rent due to the landlord pursuant to an agreement.
  - b. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:
    - (i) The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;
    - (ii) The tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or
    - (iii) The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.
  - c. The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time upon payment of back-due rent.
- 2) No writ may be enforced while this Order is in effect to evict a tenant from a residence or dwelling unit for nonpayment of rent who satisfies the requirements of subparagraphs (a)-(c) of paragraph 1.
- 3) The protections in paragraphs 1 and 2 shall be in effect through May 31, 2020.

Nothing in this Order shall prevent a tenant who is able to pay all or some of the rent due from paying that rent in a timely manner or relieve a tenant of liability for unpaid rent.

Nothing in this Order shall in any way restrict state or local governmental authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential property.

**IT IS FURTHER ORDERED** that this Order supersedes Executive Order N-28-20 to the extent that there is any conflict with that Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

**I FURTHER DIRECT** that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 27th day of March 2020.

A handwritten signature in black ink, appearing to read 'Gavin Newsom', written over a horizontal line.

GAVIN NEWSOM  
Governor of California

**ATTEST:**

A horizontal line representing a signature.

ALEX PADILLA  
Secretary of State