WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, Article XI, Section 7 of the California Constitution empowers a municipal corporation to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, Government Code Section 36937(b) allows a city to adopt an ordinance as an urgency measure for the immediate preservation of the public peace, health or safety without following the procedures otherwise required prior to adoption of a municipal ordinance if such urgency measure is passed by a four-fifths vote of the City Council; and

WHEREAS, the County of Santa Clara has announced a public health emergency resulting from the spread of the 2019 novel coronavirus (COVID-19) pandemic; and

WHEREAS, there are already dozens of confirmed cases of COVID-19 in Santa Clara County, and as more effective and proactive testing methods are developed, this number is expected to increase rapidly; and

WHEREAS, on March 9, 2020, the Health Officer of the County of Santa Clara issued an order prohibiting public or private mass gatherings of 1,000 people or more; and

WHEREAS, Governor Gavin Newsom and the California Department of Public Health have adopted a policy prohibiting gatherings of 250 or more people, and recommending that individuals who are at higher risk of severe illness avoid gatherings of more than 10 people; and

WHEREAS, as a result of illness, illness of a family member, lay-offs, reduced hours, absences from work due to school closures, or cancelled purchase orders or services, many tenant households will suffer significant reductions in monthly income as a result of the COVID-19 pandemic and emergency response measures; and

WHEREAS, according to data from the 2017 American Community Survey by the U.S. Census Bureau, many Santa Clara County renters are already highly at-risk of eviction, with nearly half of all renter households paying 30 percent or more of their income in rent each month; and
WHEREAS, displacement through eviction creates undue hardship for renters through stress, anxiety, and additional relocation costs that could increase susceptibility to COVID-19; and

WHEREAS, the City of Milpitas Interim City Manager, acting as the Director of Emergency Services, proclaimed a local emergency on March 12, 2020 and the City has implemented service changes throughout its departments to limit the spread of COVID-19; and

WHEREAS, Milpitas Unified School District, in compliance with direction from the Santa Clara County Superintendent of Schools, has closed all schools in the district to physical attendance until at least April 3, 2020 to limit the spread of COVID-19, which will require many parents to stay home from work in order to provide childcare; and

WHEREAS, the severe consequences of eviction, including homelessness and forcing families to move into overcrowded conditions, have the potential to accelerate the spread of the COVID-19 virus; and

WHEREAS, a failure to prevent evictions during the COVID-19 emergency will exacerbate this public health emergency and long-term economic impacts for the entire community; and

WHEREAS, if adopted, upon its effective date the COVID-19 Eviction Moratorium Ordinance will provide relief to renters from the fear of potential eviction resulting from economic dislocation that may occur as a result of the COVID-19 pandemic; and

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

SECTION A. The uncodified Ordinance set out in the attached Exhibit A is hereby approved.

SECTION B. The City Council of the City of Milpitas hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency measure, which finding is based upon the facts stated in the recitals above and in the Santa Clara County Board of Supervisor’s Resolution Ratifying and Extending the Proclamation of a Local Emergency, Resolution No. BOS-2020-10.

SECTION C. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are all of those certain facts set forth in Section 2 of this Ordinance.

SECTION D. This Ordinance shall become effective immediately upon its adoption.
pursuant to California Government Code Section 36937(b) and shall remain in effect until the expiration of the Santa Clara County Board of Supervisor’s Resolution Ratifying and Extending the Proclamation of a Local Emergency, Resolution No. BOS-2020-10, and any and all extensions or renewals of such proclamation.

SECTION E. The City Clerk shall certify as to the adoption of this Urgency Ordinance and shall cause it to be published within fifteen (15) days of the adoption and shall post a certified copy of this Urgency Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with California Government Code Section 36933.

EXHIBIT A

TEMPORARY PROHIBITION OF EVICTIONS FOR NONPAYMENT OF RENT AND NO-FAULT EVICTIONS DURING THE COVID-19 EMERGENCY

SECTION 1 TITLE
This Ordinance shall be known as the “COVID-19 Eviction Moratorium Ordinance.”

SECTION 2 FINDINGS AND PURPOSE
On February 10, 2020, The County of Santa Clara declared a public health emergency resulting from the spread of the 2019 novel coronavirus pandemic (COVID-19). There are already dozens of confirmed cases of COVID-19 in Santa Clara County, and as more effective and proactive testing methods are developed, this number is expected to increase rapidly.

The Santa Clara County Health Officer has issued an order prohibiting public and private mass gatherings in the County during the COVID-19 Emergency, and as the emergency response to this public health crisis escalates, many residents will feel direct and potentially severe economic impacts. Guidance from public health officials at all levels of government have cautioned people to stay home from work if sick, maintain social distance, and cancel or postpone group events.

As a result of the COVID-19 Emergency and the government-recommended precautions, many tenants have experienced sudden income loss, and further impacts are anticipated, leaving tenants vulnerable to eviction. During this state of emergency, and in the interests of protecting the public health and preventing transmission of the coronavirus, it is essential to avoid unnecessary displacement and homelessness. This Ordinance is intended to prevent this unnecessary displacement and avoid the creation of even greater public health emergency that would result from subjecting thousands more families to homelessness.
SECTION 3 DEFINITIONS
The following words or phrases as used in this Ordinance shall have the following meanings:

A. **Tenant.** A tenant, tenant household, subtenant, lessee, sublessee or any other person entitled under the terms of a Rental Agreement or this Chapter to the use or occupancy of any Rental Unit.

B. **City Council.** The term “City Council” refers to the City Council of the City of Milpitas.

C. **COVID-19 Emergency.** The “COVID-19 Emergency” refers to the period of time covered by the Santa Clara County Board of Supervisor's Resolution Ratifying and Extending the Proclamation of a Local Emergency, Resolution No. BOS-2020-10, and any and all extensions or renewals of such proclamation.

D. **Landlord.** An owner, lessor, sublessor or any other person entitled to receive Rent for the use and occupancy of any Rental Unit, or an agent, representative, predecessor, or successor of any of the foregoing.

E. **No-fault eviction.** Any eviction for which the notice does not state a cause to terminate the tenancy or for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to those causes listed in Civil Code Section 1946.2(b)(2).

F. **Rent.** All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods, labor performed or services rendered to or for the benefit of the Landlord under a Rental Agreement concerning the use or occupancy of a Rental Unit and premises, including all payment and consideration demanded or paid for parking, utility charges, pets, furniture, and/or subletting.

G. **Rental Agreement.** An agreement, oral, written, or implied, between a Landlord and tenant for use or occupancy of a Rental Unit.

H. **Rental Unit.** Any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes or commercial purposes if the Rental Agreement is made between a Landlord and a Small Business. This term shall also include mobile homes, whether rent is paid for the mobile home and the land upon which the mobile home is located, or rent is paid for the land alone. Further, it shall include recreational vehicles, as defined in California Civil Code Section 799.29 if located in a mobile home park or recreational vehicle park, whether rent is paid for the recreational vehicle and the land upon which it is located, or rent is paid for the land alone.
I. **Small Business.** Any commercial entity, however organized, that meets the size standard for a small business in the industry in which that entity operates as defined in the U.S. Small Business Association’s table of size standards by industry, codified at 13 C.F.R. § 121.201.

SECTION 4 PROHIBITION ON EVICTIONS

A. No Landlord shall serve a notice to terminate tenancy for nonpayment of rent, file an unlawful detainer for nonpayment of rent or otherwise evict any Tenant for nonpayment of rent during the COVID-19 Emergency.

B. No Landlord shall serve a notice to terminate tenancy for a no-fault eviction, file an unlawful detainer for a no-fault eviction, or otherwise evict any Tenant for any no-fault cause during the COVID-19 Emergency, unless necessary for the health and safety of tenants, neighbors, or the Landlord. Any notice of termination served on a Tenant during the COVID-19 Emergency must contain the reason for the termination of tenancy.

C. **Failure to comply.** A Landlord’s failure to comply with any requirement of this Chapter, including without limitation the failure to state the reason for termination pursuant to Subsection (B) herein, is a complete affirmative defense in an unlawful detainer or other action brought by the Landlord to recover possession of the Rental Unit.

D. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, which the Landlord may seek 120 days after expiration of the COVID-19 Emergency. A Landlord may not charge or collect a late fee for rent that is delayed during the COVID-19 Emergency and for a period of 120 days thereafter.

SECTION 5 LANDLORD NONCOMPLIANCE & ENFORCEMENT

A. **Defense to Eviction.** Landlords must establish compliance with this Ordinance in any action to recover possession of a rental unit. Violation of this Ordinance shall be a complete defense to eviction.

B. **Private Right of Action.** Whenever a Landlord endeavors to recover possession or recovers possession of a rental unit in violation of this Ordinance, retaliates against a tenant for the exercise of any rights under this Ordinance, or attempts to prevent a tenant from acquiring any rights herein, the tenant or City 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), and whatever other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the Landlord acted in knowing violation of or in reckless disregard of the
limitations of this Ordinance. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court.

C. Retaliation. No Landlord may cause a Tenant to quit involuntarily or threaten to bring any action to recover possession, or decrease any services, or increase the rent, or take any other action where the Landlord's dominant motive is retaliation for the tenant's exercise of any rights under the law. Such retaliation shall be a defense to any action to recover possession. In an action to recover possession of a rental unit, proof of the exercise by the tenant of rights under the law within six months prior to the alleged act of retaliation shall create a rebuttable presumption that the Landlord's act was retaliatory.

D. Nonexclusive Remedy. The rights and remedies provided by this Ordinance are in addition to any rights available to the tenant under contract, statutory, or case law.

E. Misdemeanor. It shall be unlawful for a Landlord or for any person who willfully assists a Landlord to recover possession of a rental unit unless, prior to recovery of possession of the unit the Landlord satisfies all requirements for recovery of the unit under this Ordinance. Any person who endeavors to recover possession in violation of this Ordinance shall be guilty of a misdemeanor.

SECTION 6 APPLICATION

A. This Ordinance applies to eviction notices (of any denomination), unlawful detainer actions based on such notices, served or filed on or after the date of introduction of this Ordinance through the end of the COVID-19 Emergency. With respect to delayed payment covered by this Ordinance, a landlord may seek such rent 120 days after the expiration of the state of emergency, but not through the eviction process.

SECTION 7 SEVERABILITY

A. If any provision of clause of this Ordinance or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other chapter provisions, and clauses of this chapter are declared to be severable.

SECTION 8 NON-WAIVER

A. Any waiver by a tenant of rights under this Ordinance shall be void as contrary to public policy.