

ORDINANCE NO. .

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,

STATE OF CALIFORNIA

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AN ORDINANCE ADDING CHAPTER 3.108, CONSISTING OF SECTIONS 3.108.010 TO SECTION 3.108.130, TO TITLE 3 OF THE SAN MATEO COUNTY ORDINANCE CODE ESTABLISHING A RELOCATION ASSISTANCE PROGRAM FOR TENANTS DISPLACED FROM ILLEGAL OR SUBSTANDARD UNITS.

The Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows:

SECTION 1. The Board of Supervisors of the County of San Mateo hereby finds and declares as follows:

WHEREAS, some residential rental units in San Mateo County have been found to have severe code violations which threaten the life and safety of occupants;

WHEREAS, the hazardous living conditions often require that the tenant vacate the structure to allow for extensive repairs or demolition of the structure;

WHEREAS, these code violations are often caused by the negligence, postponed maintenance, or illegal use of the structure as a residence by the property owner, and said code violations may breach the owner's implied warranty of habitability and could constitute constructive eviction of the tenant household from its residence;

WHEREAS, the difficulty of finding affordable replacement housing and the burden of incurring moving-related expenses creates a financial hardship for tenant households particularly those who are low-income;

WHEREAS, relocation benefits and assistance are necessary to ensure that displaced tenants secure safe, sanitary and decent replacement housing;

WHEREAS, property owners who fail to properly maintain residential rental properties, and/or create residential rental units illegally should bear responsibility for the hardships their actions (or inaction) create for the tenant;

WHEREAS, relocation is a necessary cost of code enforcement that should be borne by the property owner, and the County should be reimbursed by the responsible owner for any of these costs that it incurs in the code enforcement process;

WHEREAS, the requirement to pay relocation costs under this Chapter will encourage property owners to correct code violations and protect the public health, safety and general welfare of County residents;

WHEREAS, the level of payments provided for in this Chapter reflects that actual costs of relocation likely to be incurred by displaced tenant household – in particular, moving costs and the cost of first and last months' rent, as well as other costs associated with involuntary dislocation; and

WHEREAS, the purpose of this Chapter is to require that property owners whose tenants are displaced, either temporarily or permanently, due to County code enforcement activities receive from property owners payments to alleviate hardships associated with such displacements, thereby protecting and enhancing the health and safety of County residents.

SECTION 2. Chapter 3.108, consisting of Sections 3.018.010 through 3.108.130, is hereby added to Title 3 of the San Mateo County Ordinance Code, and shall read, in its entirety, as follows:

3.108.010 - Title.

This Chapter shall be known as the Relocation Assistance Program for Tenants Displaced from Illegal or Substandard Units.

3.108.020 - Definitions.

For the purposes of this Chapter 3.108, the following words and phrases shall have the meanings set forth herein:

- (a) “Code enforcement activities” mean activities initiated by the County of San Mateo to determine the condition and/or legal conformity or nonconformity of a Dwelling and to require the Property Owner to make necessary repairs, to vacate the Dwelling, or to take other action as necessary to bring the Dwelling into compliance with applicable state or local zoning, building, and/or housing standards, and/or other technical codes adopted and enforced by the County for existing residential properties.
- (b) “Declaration of substandard” means a declaration, notice, or order executed by an Enforcement Officer under the authority of the applicable provision of law declaring that a dwelling is substandard.
- (c) “Definitive steps” means specific actions taken by a tenant household indicating an intent to move from a dwelling or room during an expected displacement period, such as entering into contracts or incurring expenses directly related to the anticipated

move, and which can be substantiated with reasonably probative documentation (such as bills, invoices, rental agreements, estimates, etc.).

- (d) “Dwelling” means any structure that a person uses as a place of permanent or customary abode, including, but not limited to, a single-family dwelling, a unit in multifamily or multipurpose dwelling, a unit of a condominium or cooperative housing project, a mobilehome as herein defined, a garage or shed, or any other unit or property that is considered to be real property under State law. A Dwelling is any structure that is actually used for residential purposes regardless of whether the structure is decent, safe or sanitary and regardless of whether the actual residential use is legally permitted or conforming under any applicable laws or regulations.
- (e) “Department” means the Department or Division of San Mateo County responsible for issuing an order to pay relocation benefits or notice of fine or penalty assessed under this Chapter.
- (f) “Director” means the head of the Department, or his or her designee.
- (g) “Enforcement Officer” means any County employee or agent of the County whose position requires enforcement of any provision of this code, any County ordinance or any state law or regulation related to zoning, building or housing standards, and/or other technical codes adopted by the County for existing residential properties including, but not limited to, code compliance officers, building officials and environmental health specialists.

- (h) “Mobilehome” means a mobilehome as defined in section 798.3 of the California Civil Code.
- (i) “Noncomplying dwelling or room” means a dwelling or room in the County which has been found or determined by an Enforcement Officer to be substandard, blighted, unsafe, a public nuisance, a drug nuisance, or otherwise not in conformity with applicable state or local zoning, building and/or housing standards and/or other technical codes adopted and enforced by the County for existing residential properties; and “noncomplying condition” or “noncompliance” means any physical condition or use with respect to the dwelling or room that contributes to such finding or determination.
- (j) “Notice to abate life-threatening condition” means a notice and/or order to abate a substandard or noncomplying condition issued by the County pursuant to its code enforcement activities, however such notice or order is denominated, that indicates on its face that a life threatening condition is present.
- (k) “Notice to vacate” means a notice and/or order, however denominated, issued by the County or a court of competent jurisdiction to a property owner and/or a tenant household pursuant to the County’s code enforcement activities requiring that a dwelling or room be vacated, either immediately or at some future specified time, as a result of a determination that such dwelling or room fails to comply with applicable building, housing, zoning, or other code standards. For purposes of this Chapter, the term “Notice to Vacate” includes a complaint or action filed by the County with a court of competent jurisdiction and served on the property

owner pursuant to the County's code enforcement activities in which the County asks for vacation of the property as requested relief.

- (l) "Permanent displacement" means the vacating of a dwelling or room by a tenant household due to code enforcement activities when that dwelling or room (or an equivalent dwelling or room in the building) foreseeably will not be brought into code compliance or will not be available for reoccupancy by the tenant household within sixty days from the date of vacating.
- (m) "Property owner" means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property. In the case of multiple ownership of the subject real property, "property owner" means each entity holding any portion of the fee interest in the property and the property owner's obligations in this Chapter shall be joint and several as to each property owner.
- (n) "Room" means an unsubdivided portion of the interior of a dwelling in the County which is used for the purpose of sleeping, and is occupied by a tenant household for at least thirty (30) consecutive days. This includes, but is not limited to, a single room occupancy (SRO) living space. **This definition applies to any space that is actually used for residential purposes regardless of whether the structure is decent, safe or sanitary and regardless of whether the actual residential use is legally permitted or conforming under any applicable laws or regulations.**

(o) “Temporary displacement” means the vacating of a dwelling or room by a tenant household due to code enforcement activities when that dwelling or room (or an equivalent dwelling or room in the same building) will foreseeably be brought into code compliance and be available for reoccupancy by the tenant household within sixty (60) days from the date of vacating; or when the tenant household and property owner have otherwise agreed that the displacement shall be considered temporary.

(p) “Tenant household” means one or more individuals who rent or lease a dwelling or room as their primary residence and who share living expenses.

3.108.030 - Tenant Eligibility for Relocation Assistance Payments.

(a) A tenant household shall be eligible for relocation payments from a property owner under this Chapter if the tenant household is displaced from its dwelling or room due to the County’s code enforcement activities. For purposes of this Chapter, a tenant household shall be deemed to be displaced from its dwelling or room due to code enforcement activities in either of the following circumstances:

1. The tenant household receives a notice from the property owner requiring the household to vacate or quit the dwelling or room at any time after the County or court has issued a notice to vacate, notice to abate life-threatening condition or a declaration of substandard covering that dwelling or room; or
2. The tenant household vacates its dwelling or room (whether or not the property owner requires vacation) after (a) the County or a court has issued a notice to vacate, notice to abate life-threatening condition, or declaration of substandard covering that dwelling or room, and (b) the abatement period has expired without correction of the noncomplying condition (if a time period to abate the noncomplying condition is specified in such notice or declaration and the County or court does not order earlier vacation).

(b) Notwithstanding the above, a tenant household shall not be deemed to be displaced due to code enforcement activities in any of the following cases:

1. The property owner can demonstrate that vacation of the dwelling or room was due primarily to a cause other than either (a) the noncomplying condition, (b) the County's or court's determination that the dwelling or room was a noncomplying dwelling or room, or (c) the need to make repairs to rectify any noncomplying condition;
2. The property owner can demonstrate that the noncomplying condition was created by the tenant household or the tenant household's guests or invitees, and was not created by the property owner or the property owner's agent, or that the tenant household occupied the dwelling or room for the purpose of receiving relocation benefits;
3. The property owner can demonstrate that the tenant household unreasonably prevented the property owner or the property owner's agent from undertaking maintenance or repairs that would have prevented or rectified the noncomplying condition;
4. All noncomplying conditions are corrected, as determined by the County, prior to the time the tenant household has taken definitive steps to move;
5. The notice to vacate, notice to abate life-threatening condition, or declaration of substandard is rescinded or withdrawn by the County or the court or is overturned on appeal prior to the time the tenant household has taken definitive steps to move;
6. The property owner offers in writing to move the tenant household immediately into a replacement dwelling or room in the same building, and all of the following are true: (a) the replacement dwelling or room is at least substantially comparable in size, condition and amenities as the former dwelling or room, (b) the replacement dwelling or room complies with all applicable zoning, building and housing codes, (c) the replacement rent is no greater than the rent charged for the former dwelling or room, and (d) the offer was made prior to the time the tenant household had taken definitive steps to move; or
7. The tenant household is required to vacate the dwelling or room due solely to damage resulting from an earthquake, fire, flood, natural disaster, civil disturbance, or accident outside the control of the property owner, if (a) the vacation is required within six months of such event, and (b) the property owner can demonstrate that such damage was not caused by the acts or the negligence of the property owner or by a preexisting condition in the building

in violation of applicable building, housing, fire, or other health and safety codes.

(c) Any provision of a lease or rental agreement for a dwelling or room in which the tenant household agrees to modify or waive any of its rights under this Chapter, including its rights to relocation payments, shall be void as contrary to public policy.

3.108.040 - County Notices to Property Owners.

(a) An Enforcement Officer or other authorized official along with issuance of any notice to vacate, notice to abate life-threatening condition, or declaration of substandard to a property owner covering a dwelling or room shall inform the property owner that any tenant household who vacates said dwelling or room may be eligible for relocation payments from the property owner, that failure to make required payments to eligible tenant households before vacation may result in the County making payments on behalf of the owner, and that failure to reimburse the County for all payments made and other costs incurred shall result in a lien being placed on the property. Following issuance of any such notice or declaration and expiration of the period to abate the noncomplying condition (if an abatement period is specified in any such notice or declaration), the County shall also use reasonable efforts to deliver information to each affected tenant household in the building regarding the relocation benefits and assistance, if any, to which the tenant household may be entitled.

(b) Failure by the County to supply or attempt to supply any of the information or notices provided for in this Chapter shall not affect the validity of any code enforcement notice, order, or action, nor shall any such failure diminish any property owner's obligation

to abate any noncomplying conditions or provide relocation assistance as required under this Chapter.

3.108.050 - Property Owners' Notices to Tenants.

Any notice from a property owner to an eligible tenant household to vacate or quit a dwelling or room following the issuance of a notice to vacate, notice to abate-life threatening condition, or declaration of substandard must set forth the reasons for the need to vacate, the tenant household's entitlement to relocation payments from the property owner, the tenant household's right to reoccupancy following completion of repairs (if the property is one to be repaired), and the estimated date for reoccupancy. The property owner shall send a copy of all notices to the Enforcement Officer issuing the notice on behalf of the County.

3.108.60 - Relocation Assistance Payments by Property Owners.

(a) The property owner shall be responsible for providing relocation payments, in the amounts specified section 3.108.090 to an eligible tenant household in the form and manner prescribed under this Chapter.

(b) In the case of permanent displacement, the property owner shall make the payment directly to an eligible tenant household no later than ten (10) days before the expected vacation date specified in either a County or court notice or order or the property owner's notice to vacate pursuant to sections 3.108.040 and 3.108.050 whichever date is earliest in the event of multiple notices. If less than ten (10) days' advance notice of vacation is given, or no vacation date is specified in such notice or order, then the payment by the property owner to the tenant household is due no later than the actual time of vacation.

(c) If an eligible tenant household vacates its dwelling or room not in response to a notice to vacate by the County, a court, or the property owner, but on its own initiative pursuant to section 3.108.030(a)(2) in response to a notice to abate life-threatening condition or declaration of substandard issued by the County, and if such tenant household has not given advance notice to the property owner of its intention to vacate, then the payment by the property owner to the tenant household is due no later than ten (10) days after written demand for such payment is made by the tenant household to the property owner; however, in this case such a demand must be made by the tenant household no later than thirty (30) days following its actual vacation of the dwelling or room.

(d) In the case of temporary displacement, the property owner shall make the payment directly to an eligible tenant household within five (5) days after the tenant household has submitted reasonably probative documentation (such as bills, invoices, rental agreements, estimates, etc.) to the property owner of the actual moving and temporary housing expenses the tenant household will incur or has incurred as a result of the displacement during the expected displacement period.

(e) The obligation of the property owner to deliver relocation payments to a tenant household shall be suspended pending the outcome of an appeal pursuant to section 3.108.110 of this Chapter, if a request for appeal has been made by the property owner in accordance with and within the times specified in section 3.108.110.

(f) Notwithstanding the above, an eligible tenant household shall not be required to vacate the dwelling or room until the required relocation payment has been made and any

appeal requested by the property owner has been concluded, unless either (1) the Enforcement Officer has determined for health and safety reasons that vacation must take place sooner, or (2) the property owner intends to withdraw such dwelling or room from rent or lease pursuant to California Government Code Section 7060, *et seq.*, and complies with the standards in said statute. However, a property owner remains liable for payment of relocation payments to eligible tenant households under this Chapter notwithstanding the applicability of the exceptions above in clauses (1) and (2).

(g) The property owner shall also be responsible for reimbursing the County for any relocation payments made and costs incurred by the County pursuant to the provisions of this Chapter.

3.108.070 - Relocation Assistance Payments by County Chargeable to Property Owners.

(a) The County, in its sole discretion and subject to funding availability, may make from County funds any of the payments required of a property owner under this Chapter. Such payments, as well as any administrative costs incurred by the County as a result of the failure of the property owner to make the required payments to an eligible tenant household, shall continue to be an obligation of the property owner and shall be reimbursed by the property owner to the County. In order for the County to consider making such payments, a request must be made by the tenant household to the Department following the property owner's failure to pay the required payments by the due date specified in section 3.108.060, but in no event later than sixty (60) days following the tenant household's vacation of the dwelling or room. Prior to any County payment to a tenant household, the Department shall make a determination with respect to the eligibility of the tenant household for relocation

payments. The Department will make reasonable efforts to contact a representative of the property owner by telephone or written communication prior to making the determination or authorizing the County's payment. However, failure to give prior notice to the property owner shall not relieve the property owner of any obligations under this Chapter.

(b) When the County makes any relocation payments from County funds that are the responsibility of the property owner under this Chapter, the County shall bill the property owner for reimbursement of the amount of payment, plus any administrative and other direct and/or indirect costs that it would not have incurred but for the failure of the owner to make the required payment. The property owner shall reimburse the County within five (5) days of billing. If the property owner does not make full and timely reimbursement of this amount to the County, the County is entitled to recover an additional amount equal to the sum of one-half the amount, but not to exceed ten thousand dollars (\$10,000), as a penalty for failure to make timely payment. The County may also record a lien on the subject property with the County Recorder and shall provide notice of such lien to the property owner and to the County Assessor. The form of such lien and the manner of enforcement and collection shall be as authorized by state or local law. Alternatively, the County may include the unreimbursed amount in any other lien placed on the property by the County to secure payment of enforcement costs. Notwithstanding the above, the intent of this Chapter is to place primary responsibility for making relocation payments to displaced tenant households on those property owners who are responsible for code violations, and nothing in this section is intended to relieve or release any such property owner from this responsibility.

3.108.080 - Tenant Households' Return Rights.

(a) An eligible tenant household who has experienced temporary or permanent displacement from its dwelling or room due to code enforcement activities shall have the option of moving back into that dwelling or room, or, if this is not possible, to move into an equivalent dwelling or room in the same building to the extent that said equivalent dwelling or room is owned by the same owner, if and when the dwelling or room is ready for occupancy and under the same terms and conditions that applied to the tenancy prior to the period of displacement. If a tenant household wishes to avail itself of this option, it must inform the property owner in writing of its current address at all times during the period of displacement.

(b) The property owner shall notify the eligible relocated tenant household at least thirty (30) days in advance by certified mail of the availability of the dwelling or room. If a shorter notice is given and the tenant household indicates that it wishes to move back, the dwelling or room must be held vacant at no cost to the household for a period no less than thirty-five days after the mailing of the notice of availability. The notice shall provide that within seven days of receipt of notice of availability of the dwelling or room, a tenant household wishing to move back must notify the property owner in writing of this election.

(c) If a tenant household wishing to move back into the dwelling or room is required to pay a security deposit, the tenant must be permitted sufficient time to obtain a refund of any deposit paid to obtain housing during the period of relocation.

(d) This return right is in addition to an eligible tenant household's entitlement to monetary relocation payments from the property owner under the terms of this Chapter 3.108 and the exercise of this option by a tenant shall not affect the household's eligibility for such payments.

3.108.090 - Amount of Relocation Payments.

(a) Permanent displacement. An eligible tenant household who will experience permanent displacement as defined above shall receive a monetary relocation payment from the property owner equal to three times the current monthly HUD Fair Market Rent for a unit of comparable size and type to the dwelling or room from which the displacement occurs, plus a payment not to exceed one thousand dollars (\$1,000.00) for moving costs and related expenses incurred by the tenant and substantiated by reasonably probative documentation. In addition, the tenant household is entitled to a refund and/or accounting for any security deposit held by the property owner pursuant to Civil Code section 1950.5. For purposes of this Chapter, "HUD Fair Market Rent" means the amount specified in the schedule of Fair Market Rents for existing housing published by the U.S. Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, applicable to the County of San Mateo and current as of the date the County or court issues the notice to vacate, notice to abate life-threatening condition, or declaration of substandard.

(b) Temporary displacement. An eligible tenant household who will experience temporary displacement as defined above shall receive monetary relocation payment or

payments from the property owner to cover the tenant household's actual and reasonable moving expenses and temporary housing accommodations costs incurred as a result of the temporary displacement. "Moving expenses" shall include the cost of removing, transporting, and/or storing the tenant household's personal property during the displacement period, and "temporary housing accommodations costs" shall include the cost of rental payments and hotel or motel payments during the displacement period. In no event shall the property owner be liable for making payments in excess of the amount the tenant household would receive in the case of permanent displacement as set forth in subsection (a) of this section.

(c) Immediate vacation. When the condition of a dwelling or room is a danger to the public health and safety such that the County requires immediate vacation, i.e., vacation with less than thirty (30) days advance notice either from the County or from the property owner to the tenant household of the need to vacate, an eligible tenant household displaced from such a dwelling or room shall be entitled to an additional payment from the property owner in the amount of five hundred dollars (\$500.00), in addition to the amounts set forth above. Such additional payment is intended to compensate the tenant household for the additional costs associated with short-notice moves and the added inconvenience of such moves. Payments for relocation shall not be considered by the County as income or assets for any government benefits program.

3.108.100 - Infraction.

(a) Any person violating any provision or failing to comply with any of the requirements of this Chapter shall be guilty of an infraction and shall be punishable by the following:

1. A fine not exceeding one hundred (\$100.00) dollars for a first violation;
2. A fine not exceeding two hundred (\$200.00) dollars for a second violation;
3. A fine not exceeding three hundred (\$300.00) dollars for each additional violation within one year;
4. Each person shall be guilty of a separate offense for each and every day during any portion of which said violation is committed.

3.108.110 - Appeals Process.

(a) Written appeal.

1. A property owner may contest an order to pay relocation benefits or a notice of penalty or fine assessed this Chapter by submitting an appeal in writing together with a processing fee listed in the County's fee schedule. The appeal shall set forth the factual basis for disputing the order to pay relocation benefits or the notice of penalty or fine.
2. Appeals must be addressed to the Director, and must be received within ten (10) days of the date appearing on the order to pay relocation benefits or the notice of penalty or fine. A copy of the appeal must be provided by the property owner to any tenant household(s) directly affected by the appeal on or by the same date that the appeal is received by the Director.
3. After reviewing the appeal, the Director shall prepare his or her decision in writing and send it to the property owner and any tenant household(s) directly affected by the appeal via certified mail or personal delivery. The decision shall constitute a final administrative order with no additional administrative right to appeal.

(b) Request for hearing; hearing procedure.

1. If a property owner would like to request a hearing for its appeal, that request must be stated in the appeal. If a hearing is requested, a Hearing Officer will be designated by the Director. Any tenant household(s) directly affected by the appeal shall have the right to attend and participate in the hearing.

2. The appeal hearing shall be set for a date within thirty (30) days from the date that the appeal is filed, unless the Director determines that the matter is urgent or good cause exists for an extension of time. The property owner and any tenant household(s) directly affected by the appeal shall receive notice of the time and place at least fifteen (15) days prior to the hearing.
3. Documentary evidence and names of potential witnesses shall be provided by the Enforcement Officer, the property owner and any tenant household(s) directly affected by the appeal to the Hearing Officer and the opposing party at least five (5) days prior to the appeal. At the hearing, the property owner and any tenant household(s) directly affected by the appeal shall be given the opportunity to testify and to present evidence concerning the order to pay relocation benefits or the notice of penalty or fine. The failure of the property owner to appear at the appeal hearing shall constitute a forfeiture of the fine or penalty (if applicable) and a failure to exhaust administrative remedies.
4. The order to pay relocation benefits or the notice of penalty or fine and any additional report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.

(c) Hearing officer's decision.

1. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to uphold or cancel all or part of the order to pay relocation benefits or the notice of penalty or fine and shall list the reasons for that decision. The decision of the Hearing Officer shall include findings regarding the evidence in the record and submitted at the hearing, as well as the existence of any proper grounds for the order to pay relocation benefits or the notice of penalty or fine. A copy of the Hearing Officer's written decision shall be provided to the property owner as well as any tenant household(s) directly affected by the appeal.
2. If the Hearing Officer determines that the order to pay relocation benefits or the notice of penalty or fine should be upheld, then the County shall issue payment of the relocation benefits to the eligible tenant household(s), retain the deposited relocation benefits, if advanced, or retain the fine or penalty amount on deposit with the County. If the Hearing Officer determines that the order to pay relocation benefits or the notice of penalty or fine should be canceled, the County shall promptly refund the amount of the deposited relocation benefits or penalty or fine to the property owner.
3. The decision of the Hearing Officer shall be the final decision of the County. To the extent allowed by law, the decision and the order to pay relocation benefits or notice of penalty or fine shall have the same force and effect as a resolution of the County Board of Supervisors for the purpose of filing a lien, special assessment, or for pursuing any other method of collection.

4. Any person aggrieved by the administrative decision of the Hearing Officer may obtain review of the administrative decision by filing a petition for review with the Superior Court in San Mateo County in accordance with the timelines and provisions set forth in California Government Code section 53069.4 and Civil Code sections 1094.5 and 1094.6.

3.108.120 - Private Right of Action.

(a) Any person or organization who believes that a property owner or tenant household has violated the provisions of this Chapter shall have the right to file an action for injunctive relief and/or actual damages against such party. Treble damages shall be awarded for a property owner's willful failure to comply with the payment obligations established under this Chapter. In any action brought under this Chapter, the court may award reasonable attorney's fees to any prevailing party.

(b) Nothing herein shall be deemed to interfere with the right of a property owner to file an action against a tenant or non-tenant third party for the damage done to said owner's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

3.108.130 – Severability.

If any provision of this Chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Chapter shall not be invalidated.

SECTION 3. This Ordinance shall be effective thirty (30) days from the passage date thereof.

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