

ORDINANCE NO. 20-1103U

AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT BY COMMERCIAL TENANTS IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19), RETROACTIVE TO MARCH 16, 2020, AND AMENDING THE RESIDENTIAL EVICTION MORATORIUM AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings.

- A. 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").
- B. On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.
- C. 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 a broader spread of COVID-19.
- D. On March 13, 2020, the President of the United States of America declared a national emergency 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.
- E. On March 16, 2020, the City Council proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective City response to the novel coronavirus ("COVID-19").
- F. On March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, authorizing local governments' through their police power to impose substantive limitations residential or commercial

evictions for nonpayment of rent for tenants financially impacted by COVID-19 through May 31, 2020.

- G. On March 16, 2020, the Los Angeles County Public Health Officer issued an order countywide that (1) prohibited gatherings where at least 50 or more people are expected to attend, (2) put limits and regulations on gatherings of 10-49 people, (3) limits restaurants to drive-through/takeout/delivery only, and (4) closes bars (that don't serve food), gyms, movie theaters, etc.
- H. The Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to strict adherence to social distancing guidelines, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Other counties throughout the state have issued essentially "shelter in place" directives.
- I. On March 19, 2020 the Los Angeles County Public Health Officer issued a second countywide order, the Safer at Home For Control of COVID-19 Order, which was further clarified on March 21, 2020. This public health order prohibits all public and private group gatherings and events and requires people to stay in their homes with limited exceptions; and requires closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters and all similar gathering places. The purpose of the order is to further restrict, and limit gathering of persons and require closures of non-essential retail businesses in an effort to stem or slow the spread of the virus.
- J. On March 19, 2020, the Governor of the State of California, also issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors.
- K. As of the date of this ordinance and in order to prevent further exposure, many businesses have imposed work from home policies; meetings, events and social gatherings are cancelled as people remain at home; customers are not patronizing restaurants and stores or hiring domestic help or travelling. With closure of all non-essential businesses and people working from home, less of the workforce will be patronizing restaurants, hotels and other retail establishments that employ hourly workers, which is expected to lead to hourly cutbacks and employee terminations.
- L. As a result of the public health emergency and the precautions recommended by health authorities, many tenants in West Hollywood

have experienced or expect soon to experience sudden and unexpected income loss.

- M. The Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks.
- N. The situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction and other residents vulnerable to foreclosure. Adding increased financial burden through rental increases at a time of extreme economic strain will further exacerbate the economic strain on residents and further threaten the public peace, health, safety and welfare by threatening housing security and increasing the potential for homelessness, which can exacerbate the vulnerability to COVID-19 exposure.
- O. This Ordinance is temporary in nature and only intended to promote stability and fairness within the commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes.
- P. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to adopt this ordinance related to the protection of life and property, to ensure residents can remain in their homes without added burden of increased rents and prevent proliferation of homelessness and further spread of COVID-19. Displacement through foreclosure creates undue hardship for residents through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close. During the COVID-19 pandemic outbreak, affected residents who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are foreclosed upon for non-payment as they will have little or no income and thus be unable to secure other housing if removed from their homes. It is difficult to consider adding to a renter's financial burden at a time when most businesses are closed and the economy is slowing to halt as people remain home. Nevertheless, the RSO has a mechanism for a landlord to seek an

exception to the rule to ensure a just and reasonable return and to maintain net operating income.

- Q. People experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care. The Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19. Widespread foreclosure due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency and increase the risk of spread of COVID-19.
- R. Maintaining the rental status quo and reducing housing insecurity and promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close, and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction. The state and county health officials have ordered most commercial businesses to close and restaurants are limited to take out and deliver only. The rapid, immediate and unexpected loss of revenue from closure is devastating to local businesses.
- S. The City desires to prohibit evictions due to non-payment of rent for commercial tenants where the failure to pay rent results from income loss resulting from the novel coronavirus (COVID-19). Increasing the rental burden at this time may also create an incentive for people to leave their homes and work, in violation of state and county health orders in order to make increased rental obligations. The City desires to avoid that incentive.
- T. This Ordinance is adopted pursuant to the City's police powers and powers afforded to the city in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and the Chapter 2.80 of the West Hollywood Municipal Code to protect the peace, health, and safety of the public. The West Hollywood City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City and finds urgency to approve this ordinance immediately based on the facts described herein and detailed in the staff report. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of health, life and property.

**SECTION 2.** Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.

A. During the period of local emergency declared in response to COVID-19, no commercial landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant's businesses is subject to the Orders referenced in Section 1 above or is otherwise limited or closed (voluntarily or by mandate) to prevent or reduce the spread of COVID-19 and the tenant demonstrates lost income and inability to pay rent as a result of such limitation or closure or other demonstrated financial impact related to COVID-19.

B. A landlord knows of a tenant's lost income and inability to pay rent within the meaning of this ordinance if the tenant, within 30 days after the date rent is due, notifies the landlord in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant's business related to COVID-19, with appropriate supporting documentation supplied as promptly as feasible and up to 90 days of when the rent became due. If a tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds to the income they generated during the period of loss. For purposes of this ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. All financial information provided to the landlord shall be kept in confidence and only used for evaluating the tenant's claim or enforcing this provision.

C. This Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this order. Violation of this ordinance shall be punishable as set forth in Chapter 2.80 of the West Hollywood Municipal Code.

D. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee or interest for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed for the reasons stated in this ordinance through the eviction process during or after the period of local emergency. A landlord shall not commence an eviction during the six months after the end of the local emergency for non-payment of rent, so long as the tenant pays rent in a timely manner after the period of local emergency and is repaying the past due rent that accrued during the emergency period. Nonpayment of rent in accordance with the terms of this ordinance shall not be grounds for eviction of a tenant even after expiration of the local emergency. Landlords are strongly encouraged to offer payment plans to tenants after the period of local emergency, which may go beyond the six-month repayment period upon mutual agreement of the parties.

E. No other legal remedies available to landlord are affected by this ordinance.

F. This Section 2 is retroactive to March 16, 2020, the date that the City of West Hollywood declared a local emergency.

**SECTION 3.** Section 2 of Ordinance No, 20-1101U is amended in its entirety to read as follows:

A. Notwithstanding anything to the contrary in West Hollywood Municipal Code Title 17, during the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19, or based on the presence of unauthorized occupants related to COVID-19.

B. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to CCP 1161(2), 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. A landlord knows of a tenant's inability to pay rent within the meaning of this ordinance if the tenant, within 30 days after the date that rent is due, 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 or explanation 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 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 tenant's claim.

C. For purposes of this ordinance "financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following: (1) being sick with COVID-19, or caring for a household or family member who is sick with COVID-19; (2) lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19; (3) compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency; (4) extraordinary out-of-pocket medical expenses; or (5) child care needs arising from school closures related to COVID-19.

D. This ordinance applies to nonpayment eviction notices and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed.

E. This ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this ordinance. Violation of this ordinance shall be punishable as set forth in Chapter 2.80 of the West Hollywood Municipal Code.

F. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency, and the tenant must repay within twelve months of the expiration of the local emergency. A landlord may not charge or collect a late fee or interest for rent that is delayed

for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed for the reasons stated in this ordinance through the eviction process. A landlord shall not commence an eviction during the twelve months after the end of the local emergency, so long as the tenant pays rent in a timely manner after the period of local emergency and is repaying the past due rent that accrued during the emergency period. Nonpayment of rent in accordance with the terms of this ordinance shall not be grounds for eviction of a tenant even after expiration of the local emergency. To the extent it applies, this ordinance is intended to be more restrictive than Civil Code Section 1946.2 by further limiting the reasons for termination of a residential tenancy during the twelve month repayment period. Landlords are strongly encouraged to offer payment plans to tenants after the period of local emergency, which may go beyond the twelve month repayment period upon mutual written agreement of the parties. Tenants may draw down on a security deposit during the repayment period to pay back rent and such security deposit shall be replenished by the end of the twelve-month repayment period or longer if mutually agreed upon in writing between the parties.

Filing a three-day notice for evictions that are prohibited through this ordinance during the period of this moratorium and reporting nonpayment of rent that is authorized through this ordinance to a credit agency are deemed tenant harassment under WHMC Title 17.

G. No other legal remedies available to landlord are affected by this ordinance.

SECTION 4. Temporary Moratorium on Rent Increases For Occupied Rental Units Subject to the Rent Stabilization Ordinance.

A. Landlords shall not increase rents on occupied rental units subject to the West Hollywood Rent Stabilization Ordinance (WHMC Title 17) beginning on April 6, 2020 through sixty days after the expiration of the local emergency period. This ordinance suspends any conflicting provision of Title 17 of the West Hollywood Municipal Code. Any landlord seeking an exception to this rule may apply for an individual rent adjustment through the rent adjustment process set forth in WHMC Chapter 17.44 if necessary to provide a just and reasonable return and to maintain net operating income.

SECTION 5. In accordance with the Governor of the State of California's Executive Order N-28-20, this ordinance shall remain in effect until May 31, 2020. In order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of any provision in this ordinance in the event that the President of the United States, Congress, Governor of the State of California or California State Legislature or other body with jurisdiction adopts an order or legislation that similarly prohibits evictions for failure to pay rent by individuals impacted by the COVID-19 crisis.

SECTION 6. 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 7. Environmental Review.

The City Council finds that adoption and implementation of this ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo. No new development will result from the proposed action. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of West Hollywood, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

SECTION 8. Urgency Declaration; Effective Date.

The City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as the City and public would suffer potentially irreversible displacement of commercial and residential tenants resulting from evictions for failure to pay rent during the COVID-19 crisis. During this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City’s affordable housing stock, and to prevent housed individuals from falling into homelessness, especially given state and county directives to stay at home. Promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close and allowing employees to avoid public contact during times of a public health crisis without fear of imminent eviction or foreclosure. Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent. Adding increased financial burden through rental increases at a time of extreme economic strain will further exacerbate the economic strain on residents and further threaten the public peace, health, safety and welfare by threatening housing security and increasing the potential for homelessness, which can exacerbate the vulnerability to COVID-19 exposure. Maintaining the status quo of rents for a temporary period is also conducive to public health, allowing tenants to follow the advice and directives of public health officials to

close and allowing employees to avoid public contact during times of a public health crisis without fear of increased rental burdens. Increasing the rental burden at this time may create an incentive for people to leave their homes and work, in violation of state and county health orders in order to make increased rental obligations. The City desires to avoid that incentive. Under Government Code Section 8634 and WHMC Chapter 2.80, this ordinance is necessary to provide for the protection of life and property for the reasons set out herein. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

SECTION 9. Certification.

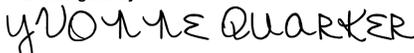
The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 6<sup>th</sup> day of April, 2020 by the following vote:

AYES:	Councilmember:	Duran, Heilman, Meister, Mayor Pro Tempore Horvath, and Mayor D'Amico.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.

DocuSigned by:  
  
 C86A185841740E  
 JOHN D'AMICO, MAYOR

ATTEST:

DocuSigned by:  
  
 584F431AD6192FC  
 YVONNE QUARKER, CITY CLERK

Ordinance No. 20-1103U  
Page 10

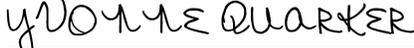
STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES        )  
CITY OF WEST HOLLYWOOD        )

I, YVONNE QUARKER, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 20-1103U was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 6<sup>th</sup> day of April, 2020.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29th day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 7<sup>th</sup> DAY OF APRIL 2020.

DocuSigned by:



YVONNE QUARKER, CITY CLERK

---