

ORDINANCE NO. 20-1113U

AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD EXTENDING THE TEMPORARY COMMERCIAL AND RESIDENTIAL MORATORIUM ON EVICTIONS DURING THE COVID-19 PANDEMIC 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. The findings set forth in Ordinance Nos. 20-1101U and 1103U and 1105U and 1108U are still applicable and incorporated herein by reference.
- B. The City Council desires to prevent the spread of COVID-19, prevent homelessness and avoid displacement during safer at home orders and during the COVID-19 pandemic and to provide clear and limited bases on which a landlord may endeavor to evict a tenant, related only to health and safety concerns.
- C. On March 27, 2020 Governor Gavin Newsom issued Executive Order N-37-20, which provides a 60-day extension for tenants to respond to an eviction complaint based on nonpayment of rent. As another indicator of the critical need for residents to remain at home, this order expressly preserves local authority to enact any public health measure that may compel an individual to remain physically present in any particular residential property.
- D. Effective April 6, 2020, the California Judicial Council approved temporary emergency rules, which suspends the processing of all eviction and foreclosure complaints until 90 days after the state's emergency declaration is lifted, unless necessary to protect public health and safety.
- E. On May 13, 2020, Los Angeles County Department of Public Health issued a new *Safer at Home Order for Control of COVID-19*, which extended the order for people to remain in their residences except for essential business and requires all persons to practice physical distancing of at least six feet apart and wear a cloth face covering whenever they may have contact with people outside their household. On July 4, 2020, given the surge in COVID-19 cases in Los Angeles County, the Department issued a revised order urging residents to remain in their homes as much as practicable. The status of county and state health orders are still evolving daily.
- F. On May 14, 2020, the City Manager issued Emergency Executive Order No. 2020-3, which, beginning on May 23, 2020, requires all persons to wear face coverings when out in public and away from their residence.
- G. On June 30, 2020 Governor Newsom issued Executive Order N-71-20 extending the authorization for local governments to halt evictions of renters impacted by the COVID-19 pandemic through September 30, 2020.

- H. The City Council desires to extend the West Hollywood commercial and residential eviction moratorium urgency ordinances to prevent uncertainty and confusion for tenants associated with multiple state and county regulations governing evictions during the COVID-19 pandemic, and to provide certainty for tenants on the processes in place to repay deferred rent.
- I. 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. Paragraphs A, B and D of Section 2 of Ordinance No. 20-1103U are amended to read as follows:

- A. During the moratorium period 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. The moratorium period is March 16, 2020 through September 30, 2020.
- 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, and beginning August 1, 2020, provides appropriate supporting documentation within 30 days of providing the notice. If a tenant suffers only a partial loss of net income, the tenant shall pay the pro-rated share of their rent that corresponds to the net 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.
- D. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the moratorium period and the tenant must pay as follows. Commercial tenants with twenty (20) employees or fewer, shall have twelve (12) months to repay their Landlords for any amounts due and owing. Commercial tenants with twenty one (21) or more,

employees shall have six (6) months to repay their Landlords for any amounts due and owing. This repayment shall begin at the conclusion of the Moratorium Period. Tenants and Landlords are encouraged to agree on a payment plan during this Moratorium Period, and nothing herein shall be construed to prevent a Landlord from requesting and accepting partial rent payments, or a Tenant from making such payments, if the Tenant is financially able to do so. 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 the moratorium period. A landlord shall not commence an eviction during the repayment period after the end of the moratorium period for non-payment of rent that is delayed for the reasons stated in this ordinance, so long as the tenant pays rent in a timely manner after the moratorium period and is repaying the past due rent that accrued during the moratorium 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 moratorium period. Landlords are strongly encouraged to offer payment plans to tenants after the moratorium period, which may go beyond the repayment period upon mutual agreement of the parties. Tenants may draw down on a security deposit at any time, including during the repayment period to pay back rent and such security deposit shall be replenished by the end of the repayment period or longer if mutually agreed upon in writing between the parties.

SECTION 3. Paragraph B of Section 3 of Ordinance No. 20-1103U is amended to read as follows:

- 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, as soon as possible but no later than 30 days following the rental due date, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and, beginning August 1, provides documentation within 30 days of the notice 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.

SECTION 4. Paragraph F of Section 3 of Ordinance No. 20-1103U is amended to read as follows:

- F. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the moratorium period, and the

tenant must repay within twelve months of the expiration of the moratorium period. 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 moratorium period, so long as the tenant pays rent in a timely manner after the moratorium period and is repaying the past due rent that accrued during the moratorium 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 moratorium period. 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 during and after the moratorium period, which may go beyond the twelve-month repayment period upon mutual written agreement of the parties. Tenants may draw down on a security deposit at any time, including 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 3 day notice for evictions that are prohibited through this ordinance during the period of this moratorium and reporting nonpayment of rent this is authorized through this ordinance to a credit agency are deemed tenant harassment under WHMC Title 17.

SECTION 5. Paragraph G of Section 3 of Ordinance No. 20-1103U is amended to read as follows:

- G. The moratorium period is from March 16, 2020 through September 30, 2020. No other legal remedies available to the landlord are affected by this ordinance.

SECTION 6. Section 5 of Ordinance No. 20-1103U, as further amended through Section 2 of Urgency Ordinance 1105U, is amended to remove the ordinance expiration date to read as follows:

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. The City Manager is authorized to promulgate administrative regulations to implement the purpose of this ordinance.

SECTION 7. 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 8. 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 and extend the existing urgency ordinance for an additional month. 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 9. Urgency Declaration.

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 residential tenants resulting from evictions 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. This ordinance is intended to provide certainty for tenants that they will not be forced from their homes during a pandemic and during the period of safer at home orders. The purpose of the ordinance is to prevent the spread of COVID-19, prevent homelessness and avoid displacement during safer at home orders. The length of the period of federal, state and local emergency is unknown at this time and it is prudent to revisit these emergency response measures as the unprecedented situation and legal landscape evolve. The Urgency Ordinances are already in place and these amendments to avoid residential and commercial displacement require immediate action. 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

Ordinance No. 20-1113U
Page 6

Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

SECTION 10. Certification.

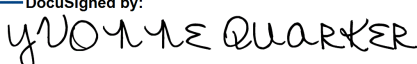
The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 20th day of July, 2020 by the following vote:

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

DocuSigned by:

 DFAFB1A0A1647B
 LINDSEY P. HORVATH, MAYOR

ATTEST:
 DocuSigned by:

 634548FA0F4045C
 YVONNE QUARKER, CITY CLERK

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. 20-1113U was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 20th day of July, 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 21st DAY OF JULY, 2020.

DocuSigned by:

 666438F7A0E194E2
 YVONNE QUARKER, CITY CLERK