

ORDINANCE NO. 21-1133U

AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD CLARIFYING THE TEMPORARY MORATORIUM ON RESIDENTIAL EVICTIONS TO COMPORT WITH RECENT CHANGES IN STATE LAW 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, 1103U, 1105U, 1108U and 1113U, 1124U and 21-1131U 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. On May 13, 2020, the 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.
- E. 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.
- F. 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. This order was further extended for commercial evictions through Executive Order 80-20 through March 31, 2021.

- G. The City Council desires to amend 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.
- H. Effective April 6, 2020 the Judicial Council of California adopted emergency rules amending the California Rules of Court to effectively suspend all unlawful detainer (eviction) and foreclosure actions, unless necessary to protect public health and safety, until 90 days after the state's declaration of emergency is lifted. The Judicial Council voted to sunset those rules on September 1, 2020.
- I. On September 1, 2020, Governor Newsom signed AB 3088 (COVID-19 Tenant Relief Act of 2020). Among other things, this law superseded portions of the City's temporary moratorium on residential evictions for nonpayment of rent and adopted a moratorium through January 31, 2021 so long as tenants comply with the act's requirements. The act provided specific provisions for cities with existing moratorium ordinances. As a result, the City restated its urgency ordinance for the purpose of conforming to the new state law.
- J. Effective November 30, 2020, the County Department of Public Health enacted a new Health Officer Order requesting individuals to remain in their homes as much as possible and to avoid crowding and mingling with non-household members. The Order came after many Americans gathered and traveled over the Thanksgiving holiday in the midst of a winter surge of COVID-19 cases and deaths. According to the County Department of Public Health, daily peaks are now more than double the County's peak of daily cases during the summer surge. The region is currently experiencing a surge following the winter holiday season.
- K. With Intensive Care Unit (ICU) bed capacity rapidly decreasing throughout California, the Governor of the State of California issued a State Regional Stay at Home Order on December 3, 2020, that would trigger greater restrictions on a region consisting of multiple counties depending on that region's ICU hospital bed availability. Once a region has less than 15 percent ICU availability, all counties within the region are required to follow the State Regional Stay at Home Order within 24 hours for at least three weeks. The Southern California Region, which the City of West Hollywood is a part of, was at zero percent ICU capacity on January 15, 2021.
- L. On January 25, 2021, the California Department of Public Health (CDPH) ended the Regional Stay at Home Order, lifting the order for all regions statewide, including Southern California. This action allowed all counties to return to the Blueprint for a Safer Economy framework which uses color-coded tiers to indicate which activities and businesses can open based on local case rates and test positivity. Los Angeles County is in the strictest tier, the Purple Tier.

On January 29, 2021, Governor Newsom signed SB 91 (COVID-19 Tenant Relief Act, "the Act") to amend and replace AB 3088, extending the statewide residential eviction moratorium to June 30, 2021. The Act keeps in place the same requirements tenants must follow to receive eviction protections but extends

certain time limits of AB 3088. It also creates a State Rental Assistance Program that would offer landlords of lower income tenants' payment for back-rent.

- M. The situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction. News reports have cited a UCLA study last year, which determined that as many as 449,000 people in L.A. County could face eviction due to the economic slump caused by the COVID-19 pandemic and tenants' inability to pay rent.
- N. The intent of this ordinance is to extend the existing deadlines for the existing local commercial and residential eviction moratorium through March 31, 2021 and longer dates as may be permitted under state law.
- O. To the extent that it applies, this ordinance is intended to be more protective than Civil Code Section 1946.2 by setting forth the permissible grounds for termination of residential tenancies.
- P. 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. The Temporary Moratorium on Evictions for Residential Tenants, as most recently amended in Urgency Ordinance No. 21-1131U, is clarified as needed to comport with state law and restated in full as follows:

- A. Notwithstanding anything to the contrary in West Hollywood Municipal Code Title 17, and due to the declared local emergency, no landlord shall endeavor to evict a residential tenant except on the following grounds:
 - 1. Nonpayment of rent not due to financial impacts related to COVID-19.
 - 2. The tenant is using the rental unit for an illegal purpose and has failed to correct the condition after being given notice and an opportunity to cure. The required notice shall be in writing to the tenant and the City and shall describe in detail the nature of the illegal condition, the reason eviction is necessary, and the steps taken by the landlord to avoid eviction. The City Manager, or designee, may request additional documentation supporting the existence of the condition warranting the termination of the tenancy and the tenant's failure to cure. The City may also order suspension of the eviction process if the City Manager or designee determines that suspension is necessary in order to prevent abuse of this ordinance, with the purpose of the ordinance being to prohibit residential evictions during

the period of a health pandemic except in limited circumstances. Such determination may be appealed per Subchapter C of Chapter 6 of the Rent Stabilization Regulations.

3. The tenant has created and is maintaining a dangerous and unsanitary condition and has failed to correct the condition after being given notice and an opportunity to cure. The presence of an unauthorized animal companion or unauthorized pet in and of itself shall not constitute a dangerous and unsanitary condition. The required notice shall be in writing to the tenant and the City and shall describe in detail the nature of the dangerous and unsanitary condition, the reason eviction is necessary, and the steps taken by the landlord to avoid eviction. The City Manager, or designee, may request additional documentation supporting the existence of the condition warranting the termination of the tenancy and the tenant's failure to cure. The City may also order suspension of the eviction process if the City Manager or designee determines that suspension is necessary in order to prevent abuse of this ordinance, with the purpose of the ordinance being to prohibit residential evictions during the period of a health pandemic except in limited circumstances. Such determination may be appealed per Subchapter C of Chapter 6 of the Rent Stabilization Regulations.
 4. Eviction is necessary to address an imminent and objectively verifiable threat to the health or safety of a member of the tenant's household or other residents of the rental property. The landlord shall give written notice to the tenant and the City describing in detail the nature of the dangerous and unsanitary condition, the reason eviction is necessary, and the steps taken by the landlord to avoid eviction. The City Manager, or designee, may request additional documentation supporting the existence of the condition warranting the termination of the tenancy and the tenant's failure to cure. The City may also order suspension of the eviction process if the City Manager or designee determines that suspension is necessary in order to prevent abuse of this ordinance, with the purpose of the ordinance being to prohibit residential evictions during the period of a health pandemic except in limited circumstances. Such determination may be appealed per Subchapter C of Chapter 6 of the Rent Stabilization Regulations.
- B. This ordinance applies to 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.
- C. 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. Serving a three-day (or 15-day) notice for evictions that are prohibited through this ordinance (or state law) 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.

- D. Subsection A shall be in effect through March 31, 2021. No other legal remedies available to landlords are affected by this ordinance.
- E. Notwithstanding Subsection A above, with respect to residential evictions for non-payment of rent due to financial impacts from COVID-19, the following applies:
1. The “repayment period” for deferred rent that came or will come due between March 1, 2020 through June 30, 2021, (defined under the Act as “COVID-19 rental debt”), inclusive, is October 1, 2020 through September 30, 2021.
 2. For the period of time of March 16, 2020 through September 30, 2020 (the “local moratorium period”), no landlord shall endeavor to evict a residential 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, subject to subparagraphs (a) and (b) below. A landlord shall not commence an eviction during the twelve months after the end of the local moratorium period, so long as the tenant pays rent in a timely manner after the local moratorium period and is repaying the past due rent that accrued during the local 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. The parties may agree in writing to a longer repayment plan or reduced rental obligation in accordance with the Act.
 - (a) A landlord who knows that a tenant cannot pay some or all of the rent temporarily due to financial impacts related to COVID-19 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, beginning August 1, 2020, 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.
 - (b) For purposes of this Subsection E, “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.

- (c) Other legal remedies available to landlords are not affected by this Paragraph 2.
 - (d) These protections in Paragraph 2 pre-dated AB 3088 and SB 91. State law may provide additional protections against eviction for nonpayment of rent due to financial impacts related to COVID-19 during this local moratorium period.
3. For the period of time of October 1, 2020 through June 30, 2021, tenants shall follow the preconditions for eviction protection under the Act to receive eviction protection, which include providing a declaration of hardship to their landlords within 15 days of receipt of an eviction notice and payment of partial rent (25% of all rent that came due from October 1, 2020 through June 30, 2021). Tenants shall repay the remaining rent due by the end of the repayment period unless earlier forgiven by landlords through the State Rental Assistance Program created by the Act.
 4. Landlords are encouraged to offer payment plans to tenants and any agreement between landlord and tenant to allow longer repayment periods or reduced rental obligations shall be in compliance with the Act.
 5. Upon mutual written agreement of landlord and tenant, a tenant may draw down on a security deposit at any time to pay back rent. Such security deposit shall be replenished by the end of the repayment period on September 30, 2021. This provision does not authorize landlords to apply a security deposit to satisfy COVID-19 rental debt, as the term is defined by the Act, absent the aforementioned mutual written agreement.
 6. In accordance with the Act, tenants that comply with the terms of this ordinance have a defense from eviction and the corresponding rental obligations will not be deemed past due until the close of the repayment period set out above.

SECTION 3. 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 4. 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 5. 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 ordinance 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 6. 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 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. 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 reflects the statewide approach to residential eviction protection, while maintaining important and impactful local provisions. This urgency ordinance is needed during the emergency in the interest of protecting the public health and preventing transmission of COVID-19, 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. 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.

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SECTION 7. 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 1st day of February, 2021 by the following vote:

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

DocuSigned by:


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 LINDSEY P. HORVATH, MAYOR

ATTEST:

DocuSigned by:


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 MELISSA CROWDER, ACTING CITY CLERK

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

I, MELISSA CROWDER, Acting City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 21-1133U was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on this 1st day of February, 2021.

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 2nd DAY OF FEBRUARY, 2021.

DocuSigned by:


2072ACE2525D4B9
 MELISSA CROWDER, ACTING CITY CLERK