

Memo

To: Mayor, City Councilmembers, City Manager, City Attorney
From: Yvonne Quarker, City Clerk *YQ* :
Date: March 16, 2020
Re: **Urgency Item – Temporary Moratorium on Evictions for Nonpayment of Rent during COVID-19 Pandemic**

Attached please find a proposed **Urgency Item** to be considered for the agenda of March 16, 2020 entitled:

TEMPORARY MORATORIUM ON EVICTIONS FOR NONPAYMENT OF RENT DURING COVID-19 PANDEMIC

**SUBJECT: TEMPORARY MORATORIUM ON EVICTIONS FOR
NONPAYMENT OF RENT DURING COVID-19 PANDEMIC**

INITIATED BY: CITY ATTORNEY'S OFFICE
(Michael Jenkins, City Attorney)
(Lauren Langer, Assistant City Attorney)

STATEMENT ON THE SUBJECT:

The City Council will consider adding an Urgency Item to the March 16, 2020 Agenda to adopt an ordinance imposing a moratorium on evictions for failure to pay rent during the current state of emergency caused by the COVID-19 pandemic.

In order for this Item to be added to the Agenda as an Urgency Item, it must be approved by a two-thirds vote of the City Council upon finding that the need to take action came to the City's attention after posting of the agenda and that the matter requires immediate action.

The Urgency ordinance requires four-fifths vote of the city council and if approved, will take effect immediately.

RECOMMENDATION:

Adopt Urgency Ordinance No. _____, AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19), AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

BACKGROUND / ANALYSIS:

On March 4, 2020, Los Angeles County declared a local and public health state of emergency in response to the increased spread of COVID-19, the disease caused by the novel coronavirus. As of March 15, 2020, there are 54 confirmed cases of COVID-19 in Los Angeles County, and this number is expected to continue to grow as the virus spreads throughout the community.

In response to the global pandemic, experts are urging all individuals – even those who are not displaying symptoms – to practice social distancing, which refers to avoiding close contact with other individuals in order to avoid catching the virus yourself and to avoid passing it on to others. The Centers for Disease Control and Prevention recommends that people who are mildly ill with COVID-19 or other similar illnesses self-isolate to avoid interacting in public. The State of California has also issued a policy that large gatherings

should be rescheduled or canceled, while smaller events can proceed only if the organizers can implement social distancing of six feet per person. Los Angeles Unified School District and private schools in the Los Angeles region have closed for several weeks in order to try to slow the spread of the virus.

While these measures are necessary to fight the global pandemic, they can have extreme economic impacts. Fear of the widening public health crisis has impacted consumer behavior with fewer people going out to restaurants, shops, and bars; events being cancelled; and people reducing their traveling. As a result of this social distancing, people in our community may see their incomes reduced or may have to take time off work to care for their health or the health of family members. In the face of this uncertainty, people may need to make difficult financial decisions and may be unable to pay rent due to reduced income.

This urgency ordinance proposes a moratorium on evictions for failure to pay rent during this emergency period, if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19. Under the proposed ordinance, a landlord knows of a tenant's inability to pay rent for the covered reasons 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 to support the claim. Notification "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.

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.

The ordinance does not relieve the tenant from eventually paying the rent within six months after the expiration of the local emergency. The landlord may not charge a late fee on the rent. The ordinance is intended to be narrow and no other legal remedies available to landlord are affected by this ordinance.

If approved, the ordinance will go into effect immediately upon adoption and will remain in effect for sixty days, and authorizes the City Manager (Director Emergency Services) to further extend the ordinance during the period of local emergency. In order to prevent inconsistencies in the law, the City Manager (DES) may also suspend the local ordinance if a similar federal or state law is adopted.

Other cities in California, including San Jose, Hayward, Oakland, Sacramento, Los Angeles, San Diego, and Santa Monica have approved, or are considering, similar urgency measures.

California State Senator Scott Wiener and Assembly Member Phil Ting have called on California and the federal government to immediately place an emergency moratorium on evictions – for both renters and businesses – as well as home foreclosures. Any legislation introduced would need a supermajority vote (two-thirds of the Legislature) in both houses of the Legislature to take effect immediately. The City's Legislative Affairs team will continue to track and monitor these proposals at the state level to determine how it may impact West Hollywood residents and businesses.

During a state of emergency, it is a crime for a landlord to take advantage of the situation by evicting a tenant and then raising the rent above the existing tenant's rent under Penal Code s. 396(f). This ordinance will provide additional protections to tenants. In addition to the City's general police power under article XI, section 7 of the California Constitution to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws, during a local emergency, Government Code, § 8634 (and WHMC Chapter 2.80) also authorize the city to promulgate orders and regulations necessary to provide for the protection of life and property. The coronavirus outbreak presents a health and financial crisis to all and this situation is unprecedented and constantly evolving.

This urgency measure will provide protections to those who have had unforeseen financial impacts due to COVID-19. Displacement through eviction creates undue hardship for tenants 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 tenants who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted. 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 evictions of tenants vulnerable to eviction 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.

This situation is unprecedented and the circumstances are changing hourly. At the time of writing this report, people are encouraged to stay home, large and small social events are cancelled, larger gatherings are prohibited, schools are all closed, our neighboring city of Los Angeles has closed bars and restaurants and gathering places, libraries are closed, municipal operations are shifting to essential emergency operations only, and domestic workers are being asked to stay home. The situation is evolving so rapidly that it is hard to capture the full scale of the closures. However, many city residents will be unable to work at any job that requires physical presence. Businesses are expected to see a sharp drop in revenue, making it difficult to pay workers. Wages are expected to drop sharply and this ordinance will allow individuals to follow the national, state and local directives to stay home without fear of losing their home during this emergency.

CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:

This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:

- PSG-2: Affordable Housing.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:

- H-1: Provide affordable rental housing.

EVALUATION PROCESSES:

N/A

ENVIRONMENTAL SUSTAINABILITY AND HEALTH:

N/A

COMMUNITY ENGAGEMENT:

N/A

OFFICE OF PRIMARY RESPONSIBILITY:

CITY MANAGER'S DEPARTMENT / CITY ATTORNEY'S OFFICE

FISCAL IMPACT:

None at this time.

ATTACHMENT:

- A. Urgency Ordinance: AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19), AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD ENACTING A TEMPORARY MORATORIUM ON EVICTIONS DUE TO NONPAYMENT OF RENT FOR RESIDENTIAL TENANTS WHERE THE FAILURE TO PAY RENT RESULTS FROM INCOME LOSS RESULTING FROM THE NOVEL CORONAVIRUS (COVID-19), AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

The City Council of the City of West Hollywood does 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 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 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 the City's response to the novel coronavirus ("COVID-19").
- F. 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 social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus.
- G. 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 being cancelled as people remain at homes; customers are not patronizing restaurants and stores or hiring domestic help or travelling. With more

businesses moving towards 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 potentially employee terminations.

- H. 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.
- I. 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.
- J. Most, if not all, local schools are closed to prevent further spread of COVID-19. These school closures will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home
- K. The situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction.
- L. This Ordinance is temporary in nature and only intended to promote stability and fairness within the residential 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.
- M. 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 renters can remain in their homes and prevent proliferation of homelessness and further spread of COVID-19. Displacement through eviction creates undue hardship for tenants 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 tenants who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted.

- N. 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 evictions of tenants vulnerable to eviction 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.
- O. The City desires to prohibit evictions due to nonpayment of rent for residential tenants where the failure to pay rent results from income loss resulting from the novel coronavirus (COVID-19).
- 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 life and property.

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

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.

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 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. Violation of this ordinance shall be punishable as set forth in Section 2.80.100 of the West Hollywood Municipal Code. In addition, this ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this ordinance.

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 pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is delayed or the reasons stated in this ordinance through the eviction process.

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

H. This ordinance shall remain in effect for sixty days, unless extended, and the Director of Emergency Services may extend the ordinance during the term of the local emergency. Notwithstanding and in order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of this ordinance in the event that the President of the United States, Congress, Governor of the State of California or California State Legislature adopts an order or legislation that similarly prohibits evictions for failure to pay rent by individuals impacted by the COVID-19 crisis.

SECTION 3. Severability.

If any section, subsection, sentence, clause, phrase or word of this Chapter 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 4. 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 5. 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 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. Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent. 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 6. 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 this ____ day of ____ 2020.

John D'Amico, Mayor

ATTEST:

Yvonne Quarker, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

Michael Jenkins, City Attorney