

ORDINANCE NO. 20-O- 2805

AN URGENCY ORDINANCE OF THE CITY OF BEVERLY HILLS ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND COMMERCIAL TENANT EVICTIONS, CLOSURE OF CERTAIN ESTABLISHMENTS WITHIN THE CITY, AND OTHER MEASURES AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

WHEREAS, 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"); and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, on March 15, 2020, the City Manager, in his role as the Director of Emergency Services, proclaimed the existence of a local emergency pursuant to Section 2-4-107 of the Beverly Hills Municipal Code to ensure the availability of mutual aid and an effective the City's response to the novel coronavirus ("COVID-19"); and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Public 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; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Beverly Hills have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, 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; and

WHEREAS, further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, the City of Beverly Hills is redoubling its efforts to maintain hand hygiene, respiratory etiquette, and social distancing. It is absolutely critical that the City does everything possible to slow the pace of community spread and avoid unnecessary strain on our medical system. To aid in these efforts, the City Council is ordering a series of temporary restrictions be placed on certain establishments throughout the City in which large numbers of people tend to gather and remain in close proximity.

WHEREAS, 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; and

WHEREAS, in the interest of public peace, health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority to issue these regulations related to the protection of the public peace, health or safety.

Section 1. The City Council of the City of Beverly Hills does adopt the following emergency regulations which shall take effect immediately:

1. A temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis is imposed as follows:

a. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant in either of the following situations: (1) 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 (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord. 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. 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. Six months after the end of the emergency if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.

b. 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 including for tenants who are salaried employees or self-employed; (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. For purposes of this Ordinance, “no-fault eviction” refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.

d. This Ordinance applies to nonpayment eviction notices, no-fault 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.

2. A temporary moratorium on eviction for non-payment of rent by commercial tenants impacted by the COVID-19 crisis is imposed as follows:

a. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a commercial tenant in either of the following situations: (1) for nonpayment of rent if the commercial tenant demonstrates that the commercial tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord. A landlord who knows that a commercial tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice or otherwise seek to evict for nonpayment of rent. A landlord knows of a commercial tenant’s inability to pay rent within the meaning of this Ordinance if the commercial 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 commercial 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 commercial tenant's claim. Nothing in this Ordinance shall relieve the commercial tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the commercial tenant must pay within six months of the expiration of the local emergency. Six months after the end of the emergency if the rent is unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.

b. For purposes of this Ordinance, "financial impacts related to COVID-19" include, but are not limited to, tenant lost business 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) 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.

3. If a dispute arises between the residential or commercial tenant, and the landlord regarding whether a financial impact exists or whether the financial impact is related to COVID-19, the residential or commercial tenant may appeal to the Standing Committee of the City Council appointed to hear disruptive tenant hearings in order to make a final determination of the dispute, until such time as the Rent Stabilization Commission is appointed in which case the Rent Stabilization Commission shall make a final determination of the dispute. The hearing procedure shall be established by the City Attorney.

Section 2. The following regulations are imposed on businesses, including bars, nightclubs and restaurants, located in the City of Beverly Hills in order to implement recommended practices as a result of the COVID-19 pandemic:

a. All bars and nightclubs in the City of Beverly Hills that do not serve food shall be closed to the public.

b. Any bars or nightclubs or other businesses in the City of Beverly Hills that serve food may remain open only for purposes of continuing to prepare and offer food to customers via delivery service or to be picked up. Dine-in food service is prohibited.

c. All restaurants and retail food facilities in the City of Beverly Hills shall be prohibited from serving food for consumption on premises. Restaurants and retail food facilities may continue to operate for purposes of preparing and offering food to customers via delivery service, to be picked up or for drive-thru. For those establishments offering food pick-up options, proprietors are directed to establish social distancing practices for those patrons in the queue for pick-up. Such restaurants and retail facilities in the City

shall establish health and safety measures for their employees and customers including appropriate gloves and masks.

d. The following are exempt from this Ordinance:

(i) Cafeterias, commissaries, and restaurants located within nursing homes, or similar facilities.(ii) Trucks and other vehicles engaged in the delivery of grocery items to grocery stores, when such items are to be made available for sale to the public, are hereby exempt from having to comply with any City codes, rules and regulations that limit the hours for such deliveries

e. Business located in the City with self-service unwrapped food items such as buffets are prohibited.

f. Relax City codes and regulations as City staff deems appropriate in connection to commercial signs and banners displayed on or adjacent to restaurants, bars or other businesses that are permitted to remain open pursuant to this Ordinance.

g. City shall provide for additional loading zones near restaurants that are authorized to remain open in order to facilitate the pickup of food.

h. All movie theaters, live performance venues, and arcades shall be closed to the public.

i. All gyms and fitness centers shall be closed to the public.

j. All businesses providing physical health and beauty services, including spas, hair salons, massage parlors, and nail salons, that do not provide medical care or services that supplement medical care as directed by medical professionals will be closed to the public, except for the purpose of retail sales and provided in paragraph (l) below.

k. In addition, the City Council hereby issues guidance to the leaders of the City's houses of worship and urge them, in the strongest possible terms, to limit gatherings on their premises and to explore and implement ways to practice their respective faiths while observing social distancing practices.

l. All non-essential retail businesses shall be closed except for pick up, delivery and transactions by appointment. In order to protect employees and customers of non-essential retail businesses that are authorized to operate under this Ordinance, such businesses shall establish health and safety measures such as requiring employees to wear appropriate gloves and masks if employees come into physical contact with customers. The following retail businesses located in the City are exempt from this Ordinance: grocery stores, food banks, banks, drug stores, car rentals, convenience stores, pharmacies, gas stations, car mechanics, pet supply stores, laundromats, hardware stores, dry cleaners, mailbox stores, Federal Express and UPS, and other exemptions as determined by the Director of Emergency Services in writing and ratified by the City Council at its next regular City Council meeting.

m. All elective medical and surgical procedures and all elective non-necessary dental procedures are prohibited. The City will defer to the medical judgment of the medical professionals to determine what are non-elective procedures.

Section 3. Hoarding. The City Council urges residents not to hoard essential goods such as hand sanitizer, cleaning supplies, toilet paper, canned food, frozen food and other needed supplies. The City Council strongly condemns hoarding. Retail establishments located in the City shall be responsible for limiting the sales of such items, as they see fit to provide greater accessibility to a larger group of customers.

Section 4. Violations. This Ordinance shall be punishable as set forth in Section 2-4-111 and Chapter 3 of Title 1 of the Beverly Hills Municipal Code. In addition, this Ordinance grants a defense in the event that an unlawful detainer action is commenced in violation of this Ordinance.

Section 5. Remain in Effect. This Ordinance shall remain in effect for the duration of the local emergency.

Section 6. Uncodified. This Ordinance shall not be codified.

Section 7. Severability. If any provision of this ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this ordinance.

Section 8. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the city Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

Section 9. Effective Date. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its introduction and shall become effective at 12:01 a.m., March 17, 2020 upon its adoption by a minimum 4/5 vote of the City Council.

Section 10. Duration. This Ordinance shall remain in effect until it is superseded by another Ordinance adopted by the City Council.

Section 11. Certification. The City Clerk shall certify to the adoption of this Ordinance.

Adopted: March 16, 2020
Effective: March 17, 2020



JOHN A. MIRISCH
Mayor of the City of Beverly Hills,
California

ATTEST:



HUMA AHMED
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT



GEORGE CHAVEZ
City Manager