

[This notice shall be sent by July 10, 2020 by certified mail with return receipt, overnight courier service, or by any other delivery method that provides written evidence of receipt, with a copy sent to the City]

NOTICE FROM LANDLORD TO COMMERCIAL TENANT

This notice is to inform you of the City of Beverly Hills' requirement that landlords and their commercial tenants must meet to discuss a payment strategy for repayment by the tenant of rent that was not paid due to financial impacts related to COVID-19.

Landlords and commercial tenants are required to set up a meeting date within 10 days of this notice, with such meeting to occur within 45 days of this notice.

Please note that if a commercial tenant fails to contact the landlord in response to this notice or otherwise fails to meet with the landlord, then all unpaid rent shall be due October 1, 2020.

This notice is sent pursuant to Section 2 of Ordinance No. 20-O-2815 adopted by the City Council of the City of Beverly Hills on June 19, 2020 (excerpt attached).

You may contact the landlord at _____.

LANDLORD:

Name:

Title:

SECTION 2 of
ORDINANCE NO. 20-O-2815

Section 2. The following regulations shall apply to commercial tenancies:

1. The following definitions shall apply to this Section 2:

“Affiliate” shall mean the commercial tenant and any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the commercial tenant.

“Amnesty Date” shall mean August 1, 2020 for Large Commercial Tenants, and September 1, 2020 for all other commercial tenants.

“Large Commercial Tenants” shall mean a business that, together with its Affiliates, (1) employs more than 100 employees, or (2) has average annual gross receipts of more than \$15 million over the previous three years, or (3) has business operations, other than sales conducted solely through online channels, in three or more countries, including the United States; or (4) a business whose payment of rent is guaranteed by a business falling within the scope of subsections (1) or (2) or (3) of this subsection.

“Rent Recommencement Date” shall mean August 1, 2020.

“Repayment Date” shall mean the date by which all forborne rent shall be due.

2. Landlords and their commercial tenants shall work together during this time of emergency caused by the spread of COVID-19 to make a good faith attempt to develop a payment strategy for rent that accounts for the substantial financial impacts related to COVID-19 that may be faced by some tenants. Any payment strategy negotiated between a landlord and a commercial tenant shall take precedence over the provisions of this Ordinance. Absent such a payment strategy, commercial tenants shall be required to pay their rent under the following provisions of this Section 2.

The following paragraphs (a) through (d) of this Section 2, subsection 2 shall not apply to Large Commercial Tenants.

a. In order to assure that the landlords and commercial tenants will meet to attempt to develop a payment strategy for rent that accounts for the substantial financial impacts related to COVID-19, the landlord shall send a notice to any commercial tenant who has not

agreed to a payment strategy with the landlord or who is not otherwise paying full rent, substantially in the form provided by the City, and by certified mail with return receipt, overnight courier service, or by any other delivery method that provides written evidence of receipt, which informs the commercial tenant of the requirement to meet and requesting that the tenant contact the landlord within ten (10) days to arrange a meeting and meet with the landlord within forty five (45) days to discuss a payment strategy that accounts for the substantial financial impacts related to COVID-19. A copy of this notice shall be provided to the City. This notice must be mailed by July 10, 2020.

b. If the landlord fails to send the notice or otherwise fails to meet with the commercial tenant, then the Repayment Date shall be July 1, 2021.

c. If the commercial tenant fails to contact the landlord in response to the notice or otherwise fails to meet with the landlord, then the Repayment Date shall be October 1, 2020.

d. If either party has attempted to schedule a meeting, but the other party appears to be unwilling to meet, either party may call the Rent Stabilization Office of the City of Beverly Hills and a City staff member will schedule such meeting or will determine that one or both parties are unwilling to meet. If the Rent Stabilization Office determines that either or both parties are unwilling to meet than the parties shall follow the provisions set forth below in this Section 2. The Rent Stabilization Office's determination that either or both parties are unable to meet shall create a rebuttable presumption in any unlawful detainer action or other action which seeks to recover rent.

3. A temporary moratorium on eviction for non-payment of rent by commercial tenants and Large Commercial Tenants substantially impacted by the COVID-19 crisis is imposed as follows:

a. During the period of local emergency declared in response to COVID-19, and up until the date described in subsection d below, no landlord shall endeavor to evict a commercial tenant or Large Commercial Tenant in either of the following situations: (1) for nonpayment of some or all of the rent if such commercial tenant demonstrates that the commercial tenant is unable to pay rent due to substantial 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, other than based on illness of the tenant, the tenant's family or any of tenant's employees. A landlord who receives notice 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 a tenant for nonpayment of rent.

b. A landlord receives notice of a commercial tenant's inability to pay rent within the meaning of this Ordinance if the commercial tenant, within seven (7) days after the date that rent is due, notifies the landlord in writing of lost income or extraordinary expenses related to COVID-19 and inability to pay full rent due to substantial financial impacts related to COVID-19, and within thirty (30) days after the date the rent is due, provides written documentation to the

landlord to support the claim. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the commercial tenant's claim. For purposes of this Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative if that is the method of written communication that has been used previously, or correspondence by regular mail, if that is the method of written communication that has been used previously and the parties have not agreed to use email or text messaging.

c. Nothing in this Ordinance shall relieve any commercial tenant or Large Commercial Tenant of liability for the unpaid rent.

d. Forbearance of rent shall end on the Rent Resumption Date.

e. A Large Commercial Tenant must pay forborne rent on September 1, 2020 and all other commercial tenants must pay forborne rent on January 1, 2021 if such commercial tenant and the landlord have met pursuant to this Section 2 but have not come to an agreement regarding a payment strategy.

f. For Large Commercial Tenants, with regard to forborne rent a landlord may charge either the late fee or the interest that is provided in the lease between the landlord and the tenant from the time that the first rental payment was missed until the forborne rent is paid. No other late fee, interest or other penalty shall be charged by the landlord during the emergency or before the Repayment Date. After the Repayment Date, and if the forborne rent has not been repaid, a landlord may charge the full amount of the late fee, interest and other penalty that is provided in the lease beginning on the Repayment Date. However, the full amount of the late fees, interest and other penalty shall only run from the Repayment Date.

For all other commercial tenants, with regard to the forborne rent, a landlord may charge one half the amount of either the late fee or the interest that is provided in the lease between the landlord and the tenant capped at five percent (5%) from the time that the first rental payment was missed until the forborne rent is paid. No other late fee, interest or other penalty shall be charged by the landlord during the emergency or before the Repayment Date. After the Repayment Date, and if the forborne rent has not been repaid, a landlord may charge the full amount of the late fee, interest and other penalty that is provided in the lease beginning on the Repayment Date. However, the full amount of the late fees, interest and other penalty shall only run from the Repayment Date.

g. For any commercial tenant who is covered by this Ordinance and wishes to avoid the payment of late fees or interest on the tenant's forborne rent, the tenant may pay some or all of their forborne rent, with no late fees, interest or other penalties, no later than the Amnesty Date. If the tenant pays all forborne rent by that Amnesty Date, the landlord shall not charge any late fees, interest, or other penalty.

h. For purposes of this Section 2, “financial impacts related to COVID-19” include, but are not limited to, a tenant who lost substantial business income or has extraordinary expenses 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 related to COVID-19; or (5) child care needs arising from school closures related to COVID-19.

i. For purposes of this Section 2, “substantial” shall be defined as a material decrease of monthly income, the incurring of extraordinary expenses related to COVID-19, or any other circumstance which causes an unusual and significant financial impact on the tenant.

j. This Ordinance shall not apply to any commercial tenant that is a publicly traded entity, an entity that is listed on the Fortune 1000, or any entity that employs more than 500 employees or any commercial tenant that owned by another entity that is publicly traded, listed on the Fortune 1000 or combined with the commercial tenant and other subsidiaries employs more than 500 employees. As used in the preceding sentence, the term “owned” shall mean ownership of a majority of the ownership interest of the commercial tenant. This exemption shall not apply to a franchisee or similar small business owner who is the responsible tenant on the lease unless such small business owner meets the criteria of this exemption.

(1) Any commercial tenant covered by the exemption set forth in this subsection j, and who otherwise complied with this Ordinance, shall have until 10 days, after the tenant has received notice as provided below, to pay all forborne rent that became due since March 16, 2020. The landlord shall not charge a late fee or interest in connection with such unpaid rent. If a commercial tenant fails to pay all forborne rent within 10 days after the tenant has received written notice delivered by certified mail with return receipt, overnight courier service, or by any other delivery method and provides written evidence of receipt, the landlord may charge a late fee or interest from that date.

(2) A landlord may give notice to any commercial tenant covered by the exemption set forth in this subsection j at any time.

k. A dispute as to whether the commercial tenant has demonstrated facts sufficient to result in a temporary payment reduction or other legal remedy shall be determined according to civil law.