

URGENCY ORDINANCE NO. 20-0018-U

AN URGENCY ORDINANCE OF THE CITY OF MANHATTAN BEACH AMENDING URGENCY ORDINANCE NO. 20-0012-U TO EXCLUDE MULTI-LOCATION COMPANIES FROM THE ORDINANCE'S PROTECTIONS OF COMMERCIAL TENANTS, AND DECLARING THE URGENCY THEREOF

RECITALS

- A. On March 17, 2020, the City Council adopted Urgency Ordinance No. 20-0012-U to provide temporary regulations on commercial and residential evictions for the duration of the COVID-19 pandemic emergency.
- B. On June 4, 2020, the City Council adopted Urgency Ordinance No. 20-0016-U to amend Urgency Ordinance No. 20-0012-U by, among other things, excluding multi-national companies, publicly traded companies, and companies that employ more than 500 employees from the ordinance's protections of commercial tenants.
- C. Two members of the City Council have requested that an item be placed on a future Council agenda to review and consider further revising Urgency Ordinance No. 20-0012-U.
- D. Staff recommends that Urgency Ordinance No. 20-0012-U be further amended to exclude multi-location companies, rather than multi-national companies, from the ordinance's protections of commercial tenants.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 2 of Urgency Ordinance No. 20-0012-U is hereby amended to read as follows:

"SECTION 2. Eviction Moratorium. A temporary moratorium on eviction for non-payment of rent by residential and commercial tenants impacted by the COVID-19 pandemic is imposed as follows:

- A. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a residential or commercial 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 immediately necessary for the health and safety because of the existence of a hazardous condition affecting other tenants, neighbors, or the landlord. For the purposes of this section, a hazardous condition shall not include the presence of individuals who have been infected by or exposed to COVID-19. 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 Code of Civil Procedure section 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 seven 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. 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 for the reasons stated in this Ordinance through the eviction process.

- B. For purposes of this Ordinance, a company is an "affiliate" of another specified company if it directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the other specified company.
- C. For purposes of this Ordinance, "commercial real property" refers to any parcel of real property that is developed and used either in part or in whole for commercial purposes.
- D. For purposes of this Ordinance, "commercial tenant" refers to any tenant of commercial real property, except a tenant that is a multi-location company, a publicly traded company, or a company that, with its affiliates, employs more than 500 employees.
- E. For purposes of this Ordinance, "financial impacts related to COVID-19" include, but are not limited to, a substantial decrease in a tenant's household or 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) 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.

- F. 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) or 1161(5).
- G. 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 the local emergency was proclaimed.”

SECTION 2. Urgency. The City Council finds that the COVID-19 pandemic has increased the risk of housing displacement, loss of income, homelessness, and severe illness or death for many people in the City of Manhattan Beach and surrounding areas. The City Council further finds that, unless this Ordinance is effective and its regulations are immediately put in place, the public health, safety and welfare will be at risk. Therefore, the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937(b) and that it take effect immediately upon adoption pursuant to Government Code section 36934, and its urgency is hereby declared.

SECTION 3. Repeal of Ordinance No. 20-0016-U. Ordinance No. 20-0016-U is hereby repealed.

SECTION 4. Duration. This Ordinance shall remain in effect for the duration of the local emergency.

SECTION 5. Uncodified. This Ordinance shall not be codified.

SECTION 6. 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 7. Effective Date. Based upon the findings in Section 2 of this Ordinance, this Ordinance shall take effect immediately upon its adoption by a minimum 4/5 vote of the City Council.

SECTION 8. Certification. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law.

ADOPTED on July 21, 2020.

AYES: Hersman, Napolitano, Stern, Hadley and Mayor Montgomery.
NOES: None.
ABSENT: None.
ABSTAIN: None.

/s/ Richard Montgomery
RICHARD MONTGOMERY
Mayor

ATTEST:

/s/ Liza Tamura
LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

/s/ Quinn M. Barrow
QUINN M. BARROW
City Attorney