STATEMENT ON THE SUBJECT:
The City Council will consider clarifying sections of the temporary residential moratorium to comport with Assembly Bill 3088 (AB 3088); extending the temporary commercial moratorium on evictions through January 31, 2021; clarifying provisions that prohibit residential evictions based on the presence of companion animals; and adding provisions to require housing funded by the West Hollywood Affordable Housing Trust Fund to permit companion animals in their facilities and dwelling units for the duration of the COVID-19 declared local emergency, and provide any additional COVID related direction to city staff on city emergency response measures.

RECOMMENDATIONS:
Staff recommends that the Council adopt:

AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD CLARIFYING PROVISIONS OF THE RESIDENTIAL MORATORIUM ON EVICTIONS TO REFLECT STATE LAW AND EXTENDING THE TEMPORARY COMMERCIAL MORATORIUM ON EVICTIONS AND ADDRESSING COMPANION ANIMALS AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

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

BACKGROUND / ANALYSIS:
Residential & Commercial Eviction Protections During COVID-19 Emergency
On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to address the COVID-19 pandemic. On March 16, 2020, the City of West Hollywood
declared a local emergency to ensure the availability of mutual aid and an effective City response to the impacts of COVID-19.

On March 16, 2020, the City passed an Urgency Ordinance, which instituted an eviction moratorium covering nonpayment of rent due to COVID-19. The residential moratorium ordinance was later expanded to prohibit all other residential evictions during the period of local emergency, except evictions for the following reasons:

1. Nonpayment of rent NOT due to impacts of COVID-19;
2. Using the unit for an illegal purpose;
3. Creating a dangerous and unsanitary condition; and
4. An imminent and objectively verifiable threat to the health and safety of someone in the tenant’s household or in the property.

This moratorium was later extended to remain in effect through September 30, 2020. The current moratorium protects commercial and residential tenants from eviction for failure to pay rent due to financial impacts related to COVID-19, effectively deferring payment of rent during the eviction moratorium period. The ordinances also prohibits most residential evictions with exceptions for those evictions necessary to protect public health and safety. The current moratorium requires a residential tenant to begin repaying deferred rent that came due or will come due during the effective period of the moratorium starting on October 1, 2020. The city established a 12-month payment period for rent that came due during the residential moratorium period but has been delayed.

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 recently voted to sunset those rules on September 1, 2020.

**Assembly Bill 3088: New State Legislation Affecting Residential Eviction Moratorium**

To prevent a wave of evictions with the sunsetting of the Judicial Council rules, Governor Newsom signed Assembly Bill 3088 (AB 3088) on August 31, 2020. The bill, which took immediate effect, enacted the COVID-19 Tenant Relief Act of 2020 (Act) to provide statewide eviction protections for residential tenants (including mobile home tenants) experiencing a financial hardship relating to COVID-19.

The Act prohibits residential tenants from being evicted for failure to pay rent due to a COVID-19-related hardship occurring between March 1 and August 31, 2020, so long as the tenant provides the landlord with a written declaration of hardship.

Residential tenants experiencing COVID-19-related hardships between September 1, 2020 and January 31, 2021 are also protected from eviction provided they pay at least 25 percent (25%) of the rent due during this period. In addition to providing a written declaration of hardship, tenants with a household income of not less than $100,000 per year and whose household income is 130 percent (130%) of the county median household income, may be asked to submit additional documentation to support their hardship declarations.
### 130 Percent (130%) Median Household Income

Los Angeles County, 2020

<table>
<thead>
<tr>
<th>Members in Household</th>
<th>Income Limit</th>
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<tr>
<td>1</td>
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<tr>
<td>2</td>
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<td>7</td>
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<tr>
<td>8</td>
<td>$193,310</td>
</tr>
</tbody>
</table>

Though nonpayment of rent due between March 1, 2020 through January 31, 2021 is not grounds for eviction for tenants who comply with the Act’s preconditions for protection (timely returning signed hardship declarations and paying at least 25% of rent owed between September 1, 2020 and January 31, 2021), residential tenants are still obligated to pay back all rent accrued between March 1, 2020 through January 31, 2021. If a residential tenant fails to take the steps needed to qualify for eviction protection by January 31, 2021, the landlord may serve an eviction notice to file an unlawful detainer action to evict the tenant as early as February 1, 2021.

Landlords may be permitted to start recovering unpaid rent that is due beginning March 1, 2021 by filing claims in small claims court. All existing local ordinances must also comply with the repayment time limits of the new state law.

Local ordinances with repayment periods that start on or before March 1, 2021, like West Hollywood’s ordinance, may not be extended beyond the existing repayment start dates, and their repayment periods may not be altered. The City’s current ordinance has a 12-month repayment period, starting on October 1, 2020, and requires tenants to repay rent deferred between March 1, 2020 through September 30, 2020, in full, before October 1, 2021. Staff recommends keeping this repayment period in place, which is authorized by the bill.

The new law introduces a requirement for tenants to pay at least 25% of rent beginning in September 2020 through January 31, 2021 to avoid eviction based on nonpayment of rent that came due during that period. The bill provides that the 25% rent is due for those covered months by January 31, 2021. Although not encouraged, a tenant could potentially wait until January 31, 2021 to pay 25% of five-months’ worth of rent (i.e. one month and quarter of monthly rent). Since West Hollywood has an existing eviction moratorium that

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1 Calculated based on 100% area median income per household size provided by Los Angeles County Development Agency (LACDA) staff, September 14, 2020.

2 If the local ordinance was in effect on August 19, 2020 and required a repayment period to begin after March 1, 2021, or conditioned commencement of the repayment period on the end of the state of emergency or local emergency, the Act requires the repayment period to begin on March 1, 2021. No repayment period enacted by local ordinance may go beyond March 31, 2022. These provisions would not apply in West Hollywood.
ends on September 30, 2020 and can’t be extended, the new state law eviction protection will be applicable to West Hollywood residents on October 1, 2020. This means that for the months of October, November, December and January, upon receipt of notice from their landlord, the tenants must provide a declaration and pay 25% rent to avoid eviction.

The law also makes it easier for tenants to obtain eviction protection in a different regard. As opposed to the current ordinance’s documentation requirements, a tenant (other than a “high-income tenant”) need only sign a declaration of hardship to avoid eviction for a given month of unpaid rent. To conform to the new law and ease documentation burdens on a majority of tenants, staff recommends amending select provisions of the local eviction moratorium ordinance to clarify when the new state law provisions take over, as described in more detail below.

Furthermore, any extension of a current ordinance or enactment of a new ordinance adopted in response to the COVID-19 pandemic to protect residential tenants from eviction for nonpayment of rent will have no effect before February 1, 2021. This phrasing suggests that cities may revise ordinances to reflect the new state law for now and again adopt residential tenant protections for non-payment of rent beginning next February. We will monitor the state law and report back on any extensions of the schedule in the state law, or any renewed authorization to regulate locally. Accordingly, staff recommends ordinance revisions that implement the provisions of state eviction protection, while retaining the existing 12-month repayment period (October 1, 2020-September 30, 2021). This approach seems to provide the best eviction protections while applying a more uniform and consistent set of rules throughout the state.

However, the Act does not alter a city’s power to adopt new or extend current ordinances that require “just cause” for termination, provided it is consistent with subdivision (g) of Civil Code section 1946.2 of the Tenant Protection Act (TPA) of 2019. To be consistent with subdivision (g), the ordinance must be “more protective” of residential tenants than the TPA. To be “more protective” means satisfying three criteria: (1) the ordinance’s just cause for termination must be consistent with the TPA, (2) the ordinance must further limit the reasons for termination of a residential tenancy, and (3) the local government must make a binding finding in the ordinance that “the ordinance is more protective than the provisions of the [TPA].” The continuation of the city’s other just cause eviction protections in the Urgency Ordinance satisfies these criteria.

Finally, courts cannot process unlawful detainer (or eviction) actions until October 5, 2020, whether or not the action is based in whole or in part on nonpayment of rent or other charges. The Act does not affect the moratorium on commercial tenant evictions; but rather, sets forth a process for residential tenants who have been financially impacted by COVID-19 to avoid eviction for non-payment of rent.

Proposed Amendments to the Urgency Ordinance

Residential Eviction Moratorium For Non-Payment of Rent Due to COVID-19

The proposed Urgency Ordinance would clarify the current residential eviction moratorium to incorporate the greater protections to tenants provided under the new state law; but retain the local provisions that provide the most protection for local renters. The local residential eviction moratorium has two parts: (1) the prohibition on evictions for non-
payment of rent related to COVID-19; and (2) all other evictions.

With respect to (1), the proposed ordinance would clarify current local provisions governing the steps residential tenants must take to receive eviction protection for nonpayment of rent due to COVID-19. After September 30, 2020, these eviction protections are governed by the Act. This means that unless a tenant is a “high-income” tenant, the tenant no longer needs to provide documentation of financial hardship caused by COVID-19. The Act instead requires tenants to return to their landlords a signed declaration of hardship within 15 days of receiving a notice of eviction from their landlords. Tenants do not have to prepare this declaration. Landlords must provide a blank declaration to each tenant when serving a 15-day notice to pay rent. Landlords will also not be able to recover rent from this period until at least March 1, 2021. For rent due between October 1, 2020 and January 31, 2021, tenants will have to sign hardship declarations and pay at least 25% of back-rent from that period by January 31, 2021 to avoid eviction. Per the Act, as long as the tenant complies with these procedures, a landlord cannot go to small claims court to recover back rent from tenants until March 1, 2021. Under West Hollywood’s ordinance, while the Act authorizes landlords to recover deferred rent as early as March 2021, the rent in West Hollywood will not be considered past due until after the 12-month repayment period, which begins October 1, 2020. So landlords should not be recovering deferred rent as consumer debt until after that time.

Residential landlords are still encouraged to offer payment plans to tenants, and tenants may still draw down on a security deposit to pay due or past-due rent, provided it is replenished by October 1, 2021 (the end of the repayment period under the current ordinance), or at a later date if mutually agreed upon in writing by the parties. Any agreements between landlords and tenants must not conflict with or waive provisions of the Act.

For clarity, the current West Hollywood moratorium period for nonpayment of rent ends September 30, 2020. Tenants who comply with West Hollywood’s ordinance through September 30 will be protected from eviction for nonpayment of rent. The repayment period for deferred rent begins October 1, 2020 through September 30, 2021. For the period of time of October 1, 2020 through January 31, 2021, tenants shall follow the preconditions for eviction protection under the Act to receive eviction protection. Tenants shall pay the remaining rent due from this period by the end of the City repayment period. Rent Stabilization and Housing staff is prepared to provide an in-depth public education campaign to inform landlords and tenants about compliance with both the local ordinance and the Act.

The City can revisit new, additional or expanded protections in February 2021, if still warranted.

**Residential Eviction Moratorium For All Other Evictions**

The proposed urgency ordinance proposes to keep in place the local prohibition of all other residential evictions during the period of local emergency, except evictions for the following reasons:

1. Nonpayment of rent NOT due to impacts of COVID-19;
2. Using the unit for an illegal purpose;
3. Creating a dangerous and unsanitary condition; and
4. An imminent and objectively verifiable threat to the health and safety of someone in the tenant’s household or in the property.

In response to the direction of City Council given on August 17, 2020, the third “just cause” ground for eviction would be amended to clarify that an unauthorized companion animal or pet does not constitute a dangerous or unsanitary condition and would not be grounds for eviction while this ordinance is in effect. The ordinance proposes to extend these protections through January 31, 2021, to coincide with some of the other eviction protections in the Act.

**Commercial Eviction Moratorium**

Commercial tenant eviction protections would remain unchanged, but the proposed ordinance would extend the moratorium period through January 31, 2021. Commercial tenants must continue to provide documentation of COVID-related financial hardship to receive protection under the City’s moratorium, and pay a pro-rated share of their rent if they suffered only a partial loss of net income. The amount of time to repay rent in arrears starting from when the moratorium period expires remains the same: 12 months for commercial tenants with 20 or less employees and 6 months for commercial tenants with 21 or more employees. The city is still funding free mediation services through the Chamber, for landlords and tenants to work out a payment plan and mutually acceptable resolution to this difficult situation.

**Companion Animals to be Allowed in City-Funded Housing**

In response to the direction of City Council at the August 17, 2020 meeting, the proposed ordinance would also further require any housing project funded in whole or in part from the West Hollywood Affordable Housing Trust fund to permit companion animals in their facilities and dwelling units for the duration of the COVID-19 declared local emergency.

**Other Considerations to Justify Proposed Urgency Ordinance**

Eviction protections are still very much warranted and an important part of slowing the spread of COVID-19, and recovery from this global health pandemic. Effective August 31, 2020, Governor Newsom’s “Blueprint for a Safer Economy” replaced the County Data Monitoring List that had been used to regulate permitted activities at the county level. Under the new framework, every county is assigned to a tier based on its COVID-19 adjusted case rate and test positivity from the last two weeks. Counties can progress through four tiers, ranging from “widespread” (Purple Tier 1) to “minimal” (Yellow Tier 4) community disease transmission. Los Angeles County is assigned to Tier 1, which has the strictest limitations on activities. Tier 1 mandates all bars and nightclubs where no meals are provided to remain closed, and prohibits restaurants from offering indoor dining.

As of September 7, 2020 (Labor Day), there were 248,822 confirmed cases and 6,030 deaths in Los Angeles County. The County Public Health Department saw rapid increases of COVID-19 cases in the weeks following Memorial Day and the Fourth of July, which lead to the closures of many businesses. The Department urged the public
to take measures over the Labor Day weekend to prevent this from happening again. While the effects from the holiday weekend will not be known for some weeks, local businesses may again take a financial hit due to more closures and reduced sales.

The degree of the health and economic impact of the pandemic is unprecedented and unknown. Millions of people have filed for unemployment, further fueling a decline in business revenues. Despite the passage of AB 3088, many of the recitals and findings for the City’s prior urgency ordinances remain applicable here.

During this period of extended moratorium, city staff will explore the need for further changes or revisions to the moratoria to the extent permitted by the Tenant Relief Act of 2020. As the epidemic proceeds for longer periods of time and certain economic sectors open, the City will need to reassess whether the same factors exist that warrant keeping the moratoria in place or whether their terms should be modified. For the time being, so long as the health officer’s order instructs residents to remain in their residences as much as practicable and sectors of the economy remain closed, then the stated justifications for preventing mass commercial and residential evictions remain applicable.

In addition to the temporary prohibition on evictions, the City has funded other measures aimed at easing the burden for landlords and tenants. The City has expanded the residential rental assistance program, and funded a mediation program to assist commercial landlords and tenants in achieving a mutually satisfactory resolution to a situation that is financially challenging to both parties.

The CDC has also issued a federal eviction moratorium. The Governor’s office has stated that the CDC moratorium does not apply to California because AB 3088 offers more protection.

**Mediation Services for Commercial Tenants and Landlords**

On May 4, 2020 City Council approved an agreement with the West Hollywood Chamber of Commerce (WHCC) to provide commercial tenants and landlords information, counseling, conciliation and mediation services for disputes between parties that have been impacted by COVID-19, and the temporary moratorium on commercial evictions for non-payment of rent by commercial tenants.

The City hosted a webinar with the mediators and the WHCC to introduce the program to the business community. WHCC created a website to provide information on the program, including how to schedule a mediation session and what to expect as an outcome. To date, a total of nine cases have been mediated, with one resulting in a outcome that was agreeable to both parties involved.

Based on conversations with both landlords and tenants, staff anticipates the demand for mediation services will increase upon the expiration of the commercial eviction moratorium. Both landlords and tenants are facing unprecedented economic uncertainty right now. Staff anticipates an increased demand for mediation services in the upcoming months, as the economic impact to businesses becomes more clear.

Rental assistance will be discussed in a separate report to the City Council.
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.
- OSP-5: Support People through Social Services.

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

- HS-1: Maintain and pursue humane social policies and social services that address the needs of the community.
- H-6: Promote equal access to housing for all.

EVALUATION PROCESSES:

N/A

ENVIRONMENTAL SUSTAINABILITY AND HEALTH:

Preventing displacement of residents is imperative to reduce the spread of COVID-19 and maintain stable housing to comply with the state’s stay-at-home order. Because of the affordable housing crisis, displacement could result in homelessness, which also exacerbates the current impacts of the pandemic. Housing retention not only improves public health outcomes but also eliminates the environmental impacts of forcing residents to move far from work, friends, family, and other support networks to secure affordable housing. Maintaining the city’s affordable housing stock and keeping our residents in their homes is a critical component to meeting sustainability and health outcomes. So long as the health officer’s order instructs residents to remain in their residences as much as practicable and sectors of the economy remain closed, then the stated justifications for preventing mass commercial and residential evictions remain applicable.

COMMUNITY ENGAGEMENT:

Information on the eviction moratorium and payment period, and state requirements will be available on the renter’s resources tab on the City’s coronavirus website at www.weho.org/coronavirus. Information will also be available on the Rent Stabilization and Housing Division rental property webpage at www.weho.org/rent. The Division will distribute postcards to all residents and property owners providing links to the online information resources and the Division’s information line email address and phone number. The Division is also preparing upcoming community educational seminars on the Rent Stabilization Ordinance. Information on the eviction moratorium and payment requirements for delayed rent will be provided at part of these free online courses.

OFFICE OF PRIMARY RESPONSIBILITY:

ADMINISTRATIVE SERVICES DEPARTMENT / LEGAL SERVICES DIVISION
**FISCAL IMPACT:**
None.

**ATTACHMENT:**
Attachment A: AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD CLARIFYING PROVISIONS OF THE RESIDENTIAL MORATORIUM ON EVICTIONS TO REFLECT STATE LAW AND EXTENDING THE TEMPORARY COMMERCIAL MORATORIUM ON EVICTIONS AND ADDRESSING COMPANION ANIMALS AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY