



## CITY MANAGER'S OFFICE

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**Tenth Amended Rules and Implementation Measures Regarding Commercial Tenant Eviction Moratorium Established by the March 20, April 7, April 28, May 19 (Revised May 26), August 4, September 17, and November 12, 2020, February 25, 2021, and April 29, 2022 COVID-19 Public Orders; Urgency Ordinance Nos. 2020-006 and 2020-007; and Resolution Nos. 2020-R020, 2020-R028, 2020-R042, 2020-R080, 2020-R092, 2020-R115 and 2021-R016.**

**Issue Date: April 29, 2022**

### BACKGROUND:

On March 16, 2020, the City Manager, under the authority of Culver City Municipal Code (CCMC) Section 3.09.020, as the Director of Emergency Services, issued a Public Order enacting City measures to protect members of the public and City workers from undue risk of COVID-19 and on March 20, 2020 issued a First Supplement to Public Order. Section 2 of the March 20 Order included, among other things, the following order ("Commercial Tenant Eviction Moratorium" or "CTEM"):

*"[N]o landlord shall evict a commercial tenant in the City of Culver City during this local emergency period if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic. These circumstances include:*

- A. loss of income due to a COVID-19 related workplace closure;*
- B. child care expenditures due to school closures;*
- C. health care expenses related to being ill with COVID-19;*
- D. expenses or loss of income due to caring for a member of the tenant's household who is ill with COVID-19; or*
- E. reasonable expenditures that stem from government-ordered emergency measures.*

*Nothing in this Section 2 shall be construed to mean that the commercial tenant will not still be obligated to pay lawfully charged rent as provided below. Tenants will have up to six months following the expiration of the local emergency period to repay any back due rent. Commercial tenants may use the protections afforded in this Section 2 as an affirmative defense in an unlawful detainer action. The moratorium on evictions imposed by this subsection shall remain in effect during the pendency of the local emergency period, but will not apply in cases where eviction is necessary to address an imminent and objectively verifiable threat to the health and*

*safety of tenant or tenant's employees, landlord or landlord's employees, or neighboring businesses or residents."*

Over the last two years various orders have been issued by the State of California and the Los Angeles County Department of Public Health, as well as neighboring communities, designed to protect both residential and commercial tenants from eviction during the COVID-19 pandemic.

The Commercial Tenant Eviction Moratorium has been updated on eight occasions: March 20, April 7, April 28, May 19 (Revised May 26), August 4, September 17 and November 12, 2020, with the most recent update being issued on February 25, 2021.

On February 22, 2021, the City Council considered recommendations from the Economic Development Subcommittee with regard to proposed modifications to the CTEM and directed the City Manager (1) to extend the CTEM through the end of the local emergency ("Local Emergency"); (2) to modify the definition of "Commercial Tenant" to exclude, effective March 1, 2021, any company that, together with that company's parent, subsidiary, affiliated, and related companies, employed 200 or more employees on March 20, 2020; (3) effective April 1, 2021, to require commercial tenants to pay 25% of the current rent due each month in order to qualify for eviction protection under the CTEM; and (4) to refer landlords and tenants to mediation services at LA Represents, a coalition of law firms, bar associations and attorneys who will provide COVID-19-related legal services free of charge as part of their pro bono commitments. The City Council further directed staff to use its discretion to enhance the documentation requirements of the CTEM Implementation Measures in order to facilitate a clearer understanding of those requirements by landlords and tenants.

On February 25 and March 10, 2021, respectively, the City Manager, as the Director of Emergency Services, issued the Thirty-Fourth Supplement to Public Order and Ninth Amended CTEM Implementation Measures, consistent with the City Council's direction.

During the course of the last year, economic recovery has been slowly but steadily progressing and many cities in the region terminated their commercial tenant eviction moratoria during summer and fall of 2021.

On March 14, 2022, the City Council discussed the status of the CTEM and provided direction to the City Manager: (1) to terminate the Moratorium Period of the CTEM July 31, 2022 or the termination of the Local Emergency, whichever occurs earlier; (2) to retain the 12-month grace period for the repayment of Back Rent; and (3) to establish additional repayment options for tenants to select, including a 24-month or 30-month graduated payment plan for the repayment of Back Rent. The selected repayment plan would be superseded by any repayment plan agreed upon in writing as between a landlord and tenant. The City Council also confirmed landlords may not charge late fees or penalties on any Back Rent owed.

On April 29, 2022, the City Manager issued a public order terminating the Moratorium Period of the CTEM on July 31, 2022 or the termination of the Local Emergency (as determined by resolution of the City Council), whichever occurs earlier (the “Moratorium Termination Date”), consistent with the City Council’s March 14<sup>th</sup> direction. The April 29 Order also established payment plan options for Back Rent, as further detailed in these Implementation Measures.

The public orders issued on March 16, March 20, April 7, April 28, May 19 (Revised May 26), August 4, September 17 and November 12, 2020, February 25, 2021 and April 29, 2022, are collectively referred to as the “Public Order”.

Ordinance Nos. 2020-006, 2020-007 and Resolution Nos. 2020-R020, 2020-R028, 2020-R042, 2020-R080, 2020-R092, 2020-R115 and 2021-R016 are collectively referred to as the “Emergency Measure”.

**AUTHORITY:** Section 3.C of Ordinance No. 2020-007 provides the City Manager the authority to promulgate rules and implementation measures (collectively, “Implementation Measures”) with regard to the Commercial Tenant Eviction Moratorium, which are consistent with the provisions of the Public Order and the Emergency Measure.

#### **IMPLEMENTATION MEASURES:**

**Section 1. Definitions.** For purposes of the Public Order, Emergency Measure, and these Implementation Measures, the following definitions shall apply:

- A.** “Affected Tenant” means a Commercial Tenant who is unable to pay its Rent due to circumstances related to the COVID-19 pandemic, including loss of income due to a COVID-19 related workplace closure, child care expenditures due to school closures, health care expenses related to being ill with COVID-19, expenses or loss of income due to caring for a member of the tenant’s household who is ill with COVID-19, or reasonable expenditures that stem from government-ordered emergency measures.
- B.** “Back Rent” means that portion of Rent owed by an Affected Tenant that remains unpaid upon expiration of the Moratorium Period.
- C.** “Commercial Property” means real property, including any part, portion, or unit thereof, and any related facilities, space, or services, except the following:
  - i.** Any dwelling unit as defined in Civil Code Section 1940.

- ii. Any dwelling unit in any mobilehome park, as defined in Health and Safety Code Section 18214.
- iii. Any recreational vehicle as defined in Civil Code Section 799.24.

Commercial Property may include but is not limited to retail, office, industrial, manufacturing, assembly, warehousing, hotels, motels, and special uses such as gas stations, theaters, bowling alleys, health care facilities, nursing facilities, child care centers, and schools.

- D.** “Commercial Tenant” means any individual, agency, association, branch, corporation, estate, group, partnership, or other entity or organization entitled by Lease or by sufferance, to the use or occupancy of a Commercial Property, provided that such person holds a valid business license issued by the City of Culver City, unless exempt from business license requirements under the Culver City Municipal Code. Effective June 1, 2020, “Commercial Tenant” shall not include a multi-national company, publicly traded company, or a company that employed 200 or more employees on March 20, 2020. Effective March 1, 2021, “Commercial Tenant” shall not include a multi-national company, publicly traded company, or a company that, together with that company’s parent, subsidiary, affiliated, and related companies, employed 200 or more employees on March 20, 2020. For the purpose of this definition, a “multi-national company” and “publicly traded company” shall include that company’s parent, subsidiary, affiliated, and related companies.
- E.** “Landlord” means an owner, lessor, or sublessor who receives or is entitled to receive Rent for the use and occupancy of a Commercial Property and the agent, representative, or successor of any of the foregoing.
- F.** “Lease” means the written or oral agreement setting forth the terms and conditions of the Commercial Tenant’s use or occupancy of the Commercial Property.
- G.** “Moratorium Period” means the term of the Public Order, which expires on the Moratorium Termination Date, which is currently July 31, 2022 or upon the termination of the Local Emergency, as determined by resolution of the City Council, whichever occurs earlier.
- H.** “Notice of Termination” means any notice, including notice given under Code of Civil Procedure Section 1161, informing a Commercial Tenant of the termination of its tenancy for nonpayment of Rent.
- I.** “Rent” means the sum of all monetary payments and all nonmonetary consideration demanded or received by a Landlord from a Commercial Tenant for the use or occupancy of the Commercial Property, including the Commercial Tenant’s access to and use of services provided by the Landlord related to the use

or occupancy of the Commercial Property. Rent includes, without limitation, the fair market value of goods accepted, labor performed, or services rendered.

**Section 2. Scope.** The Public Order applies to Affected Tenants of every Commercial Property located in the City of Culver City and Landlords of Affected Tenants.

**Section 3. Application.**

- A.** The Eviction Moratorium shall apply to every Notice of Termination, eviction notice, and unlawful detainer action for non-payment of Rent brought under Code of Civil Procedure Sections 1161 and 1161.1, seeking to recover occupancy of a Commercial Property occupied by an Affected Tenant, regardless of the date it is served or filed, if the Commercial Property has not been permanently vacated as of the effective date of Ordinance No. 2020-007 (March 26, 2020).
- B.** Effective April 1, 2021, in order to qualify as an Affected Tenant and receive the protections of the Eviction Moratorium, a Commercial Tenant shall not only satisfy the Notice and Documentation conditions set forth in Sections 5 and 6 of these Implementation Measures, but also pay to the Landlord at least 25% of the Rent due for the current month. For example, if a Commercial Tenant's Rent is \$10,000 per month the Commercial Tenant must pay a minimum of \$2,500 ( $\$10,000 \times 25\%$ ) per month throughout the remainder of the Moratorium Period in order to remain qualified as an Affected Tenant. If a Landlord and Commercial Tenant have entered into a written agreement regarding the payment of current Rent, such agreement shall supersede and be deemed to satisfy this condition.
- C.** Commercial Tenants should pay all or partial Rent if they are financially able to do so, and are encouraged to pay Rent which came due but was unpaid during the Moratorium Period as soon as they are financially able to do so.
- D.** The Eviction Moratorium shall not apply in cases where eviction is necessary to address an imminent and objectively verifiable threat to the health and safety of the Affected Tenant, or the Affected Tenant's employees, the Landlord or the Landlord's employees, or neighboring businesses or residents. In such cases, the Landlord must give written notice to the Affected Tenant and to the Economic Development Division of the City of Culver City, describing in detail the nature of the imminent threat, the reason eviction is necessary to address the threat, and the steps taken by Landlord to avoid eviction. The Economic Development Division may request additional documentation and may order suspension of the eviction process if it determines, in its reasonable discretion, that the eviction is unnecessary.

- E.** The Public Order and these Implementation Measures do not in any way diminish, nullify or supersede provisions, including but not limited to, Force Majeure provisions, in the Affected Tenant's Lease that entitle the Affected Tenant to additional protections, rights and benefits regarding the payment of Rent and such provisions continue to be fully enforceable by the Affected Tenant according to their terms.
- F.** The Public Order and these Implementation Measures do not in any way preclude a Landlord from seeking payment, by other lawful means, of Rent or Back Rent.
- G.** The Public Order and these Implementation Measures do not apply to Rent that became due prior to March 20, 2020.

#### **Section 4. Prohibitions.**

- A.** No landlord shall evict a Commercial Tenant in the City of Culver City during the Moratorium Period, if the Commercial Tenant is able to show:
  - 1.** an inability to pay Rent; and
  - 2.** such inability to pay Rent is due to circumstances related to the COVID-19 pandemic, which include one or more of the following:
    - a.** Loss of income due to a COVID-19 related workplace closure or partial closure
    - b.** Childcare expenditures due to school closures;
    - c.** Health care expenses related to being ill with COVID-19;
    - d.** Expenses or loss of income due to caring for a member of the tenant's household who is ill with COVID-19; or
    - e.** Reasonable expenditures that stem from government-ordered emergency measures.
- B.** Loss of income includes, but is not necessarily limited to, loss of business income from the Commercial Property and loss of personal income from the Commercial Tenant's outside employment.
- C.** A Landlord is prohibited from charging or collecting late charges, fees or interest when an Affected Tenant is unable to pay Rent during the Moratorium Period for the reasons set forth in Section 4.A.2.
- D.** A Landlord may not unreasonably prohibit an Affected Tenant's subleasing of the Commercial Property or assignment of the Lease. The Landlord must provide a written statement of the reasons for prohibiting subleasing or

assignment and provide a copy to the Affected Tenant and the Economic Development Division.

- E. If the term of a Commercial Tenant's Lease expires during the Moratorium Period but the Commercial Tenant is unable to remove their personal property due to circumstances related to the COVID-19 pandemic, the Landlord may not attempt to collect holdover Rent during the Moratorium Period.
- F. A Landlord may not use the eviction process to seek Rent that is delayed for the reasons set forth in Section 4.A.2 and these Implementation Measures. A Landlord may not engage in constructive eviction of an Affected Tenant, such as denying access to the Commercial Property or actions caused directly by Landlord or by a person or circumstance within Landlord's control, whereby the property is rendered wholly or substantially unsuitable for the use for which it was leased.
- G. Nothing in the Public Order or these Implementation Measures relieves Landlord or the Affected Tenant from (i) making payments to third parties as may be required by the Affected Tenant's Lease, such as paying taxes or assessments, or (ii) performing their respective non-monetary obligations as may be required by the Affected Tenant's Lease, such as performing maintenance and repairs or providing utilities and other services.
- H. Nothing in the Public Order or these Implementation Regulations nullifies or supersedes the Affected Tenant's right to early termination under the terms of the Lease or relieves the Affected Tenant of its other obligations under the Lease relating to early termination.
- I. Until the expiration of the applicable grace period ("Grace Period") set forth in Section 8 below, a Landlord may not use the eviction process to seek Back Rent from an Affected Tenant who was unable to pay Rent during the Moratorium Period for the reasons set forth in Section 4.A.2 above, provided the Affected Tenant is in compliance with Section 8.C below.

**Section 5. Notice.** Except as otherwise provided in Section 3.B, a Landlord who has knowledge that an Affected Tenant cannot pay some or all of the Rent for the reasons set forth in Section 4.A.2 shall not serve a Notice of Termination, file or prosecute an unlawful detainer action under Code of Civil Procedure Sections 1161 and 1161.1 or otherwise seek to evict an Affected Tenant for nonpayment of Rent. For purposes of this Section, a Landlord shall be presumed to have "knowledge" of an Affected Tenant's inability to pay Rent within the meaning of the Public Order if the Affected Tenant, within 30 days after the date that Rent is due, notifies the Landlord in writing of the Affected Tenant's inability to pay full Rent for any of the reasons set forth in Section 4.A.2 of these Implementation Measures, and provides documentation to support the claim. For purposes of this Section,

“in writing” includes email or text communications to the Landlord or the Landlord’s representative with whom the Affected Tenant has previously corresponded by email or text. The notice and documentation required by this Section must be provided each and every month an Affected Tenant has an inability to pay full Rent. A Commercial Tenant’s failure to timely provide such notice and documentation required by this Section shall not create a rebuttable presumption that it qualifies as an Affected Tenant.

**Section 6. Documentation.** One or more of the following documents, appropriate to the circumstances, may be used to create a rebuttable presumption that the Commercial Tenant has met the documentation requirement set forth in Section 5 of these Implementation Measures and qualifies as an Affected Tenant; however, the listed documents are not the exclusive form of documentation that may be used to create a rebuttable presumption that the Commercial Tenant qualifies as an Affected Tenant and is entitled to the protections of the Public Order:

- A.** Financial statements or profit and loss statements certified by the Commercial Tenant, showing a decline in gross business income and/or increase in expenses;
- B.** Bank statements, showing a decline in gross business income and/or increase in expenses;
- C.** A letter from an accountant with sufficient information to demonstrate an inability to pay rent due to COVID-19 related circumstances, including loss of income and/or increased expenses.
- D.** Written records, such as showing a reduction in operating hours, reduction in sales, temporary closures, or other identifiable impacts of COVID-19 on the Commercial Tenant’s operations;
- E.** Applicable federal, state and local health officer and public orders which demonstrate restrictions on business activity applicable to the Affected Tenant;
- F.** Written communication from the Commercial Tenant’s outside employer citing COVID-19 as a reason for reduced work hours, suspension of wages, or termination;
- G.** Paycheck stubs and time cards from the Commercial Tenant’s outside employment;
- H.** Notification from a school declaring a school closure related to COVID-19 or other public notice of a school closure;
- I.** Proof of out-of-pocket medical expenses;
- J.** Proof of out-of-pocket childcare expenses;
- K.** Proof of COVID-19 medical care or medical quarantine.

All documentation submitted in accordance with this Section 6 shall be accompanied by a written statement by a principal of the Commercial Tenant, certifying that the information provided is true, correct, accurate and complete.

The Landlord shall provide a copy of the Affected Tenant’s documentation to the City’s Economic Development Division upon request. All medical or financial information



provided to the Landlord or the City shall be held in a separate confidential and secured file, and shall only be used for evaluating the Affected Tenant's claim. The Landlord shall retain all records pertaining to an Affected Tenant's claim for a period of at least one year and shall permit inspection and copying by the City's Economic Development Division.

**Section 7. Affirmative Defense.** Each Landlord that seeks to terminate a tenancy of an Affected Tenant must comply with the Public Order and these Implementation Measures. Non-compliance with any applicable provision of the Public Order or these Implementation Measures shall constitute an affirmative defense against an unlawful detainer action under California Code of Civil Procedure Sections 1161 and 1161.1, as amended. To assert this defense, an Affected Tenant shall have provided their Landlord with the notice and written documentation required by Sections 5 and 6 of these Implementation Measures, or other objectively verifiable information, establishing that the Affected Tenant's inability to pay Rent is due to one or more of the circumstances described in Section 4.A. An Affected Tenant's failure to timely provide such notice and documentation required by Sections 5 and 6 of these Implementation Measures shall not constitute an affirmative defense against an unlawful detainer action under California Code of Civil Procedure Sections 1161 and 1161.1, as amended.

**Section 8. Grace Period from Eviction for Nonpayment of Back Rent after Moratorium Period Expires.**

- A. Nothing in the Public Order or these Implementation Measures shall relieve an Affected Tenant of liability for unpaid Rent or Back Rent.
- B. A Landlord may take such actions as allowed by State and local law to collect any Back Rent that remains unpaid, except that during the applicable Grace Period set forth in Section 8.C, below, a Landlord shall not seek recovery of possession of the Commercial Property for the nonpayment of Back Rent from an Affected Tenant, provided the Affected Tenant is in compliance with Section 8.C below.
- C. In order to qualify for the protections of the Commercial Tenant Eviction Moratorium during the applicable Grace Period, an Affected Tenant must, by the Moratorium Termination Date, select and adhere to one of the repayment options set forth in Sections 8.C.1 through 8.C.3, unless a different agreement for repayment of Back Rent is reached between a Landlord and Affected Tenant, as set forth in Section 8.C.4.
  - 1. 12-Month Grace Period:** If this option is selected, the Affected Tenant must repay Back Rent in full within 12 months of the Moratorium Termination Date.
    - a. No monthly minimum payments are required, and Back Rent must be fully paid within 12 months of the Moratorium Termination Date.

- b. Under this option, a Landlord and Affected Tenant are encouraged to mutually agree to a plan for the payment of Back Rent in accordance with Section 8.C.4 below during the 12-month Grace Period; however, a Landlord may not require an Affected Tenant to enter into an Alternate Agreement. Affected Tenant is encouraged to make monthly payments through an Alternate Agreement rather than be faced with a balloon payment at the end of the 12-month Grace Period.
  - c. If a Landlord and Affected Tenant do not agree on an Alternate Agreement, then a Landlord may have cause to evict an Affected Tenant based on the unpaid Back Rent only after the 12-month Grace Period ends.
  - d. Upon the expiration of the 12-month Grace Period, if applicable, the Landlord may take such actions as allowed by State and local law to seek recovery of possession of the Commercial Property for nonpayment of Back Rent still owed.
- 2. 24-Month Graduated Repayment Plan:** If this option is selected, the Affected Tenant must repay Back Rent according to the following 24-month repayment schedule:
- Months 1 through 4: 1% of Back Rent each month.
  - Months 5 through 8: 2% of Back Rent each month
  - Months 9 through 12: 3% of Back Rent each month
  - Months 13 through 16: 5% of Back Rent each month
  - Months 17 through 20: 6% of Back Rent each month
  - Months 21 through 24: 8% of Back Rent each month

The following Table provides, **as an example only**, the 24- month repayment schedule in the case of Back Rent in the amount of \$100,000:

| 24 Month Repayment Plan |                |            |
|-------------------------|----------------|------------|
| Month                   | Repayment Rate | Amount Due |
| 1                       | 1%             | \$1,000    |
| 2                       | 1%             | \$1,000    |
| 3                       | 1%             | \$1,000    |
| 4                       | 1%             | \$1,000    |
| 5                       | 2%             | \$2,000    |
| 6                       | 2%             | \$2,000    |
| 7                       | 2%             | \$2,000    |
| 8                       | 2%             | \$2,000    |

|            |    |           |
|------------|----|-----------|
| 9          | 3% | \$3,000   |
| 10         | 3% | \$3,000   |
| 11         | 3% | \$3,000   |
| 12         | 3% | \$3,000   |
| 13         | 5% | \$5,000   |
| 14         | 5% | \$5,000   |
| 15         | 5% | \$5,000   |
| 16         | 5% | \$5,000   |
| 17         | 6% | \$6,000   |
| 18         | 6% | \$6,000   |
| 19         | 6% | \$6,000   |
| 20         | 6% | \$6,000   |
| 21         | 8% | \$8,000   |
| 22         | 8% | \$8,000   |
| 23         | 8% | \$8,000   |
| 24         | 8% | \$8,000   |
| Total Paid |    | \$100,000 |

**3. 30-Month Graduated Repayment Plan:** If this option is selected, the Affected Tenant must repay Back Rent according to the following 30-month repayment schedule:

- Months 1 through 4: 2% of Back Rent each month.
- Months 5 through 9: 3% of Back Rent each month
- Months 10 through 16: 4% of Back Rent each month
- Months 17 through 20: 5% of Back Rent each month
- Months 21 through 22: 4% of Back Rent each month
- Months 23 through 27: 3% of Back Rent each month
- Months 28 through 30: 2% of Back Rent each month

The following Table provides, *as an example only*, the 30-month repayment schedule in the case of Back Rent in the amount of \$100,000:

| 30 Month Repayment Plan |                |            |
|-------------------------|----------------|------------|
| Month                   | Repayment Rate | Amount Due |
| 1                       | 2%             | \$2,000    |
| 2                       | 2%             | \$2,000    |

|            |    |           |
|------------|----|-----------|
| 3          | 2% | \$2,000   |
| 4          | 2% | \$2,000   |
| 5          | 3% | \$3,000   |
| 6          | 3% | \$3,000   |
| 7          | 3% | \$3,000   |
| 8          | 3% | \$3,000   |
| 9          | 3% | \$3,000   |
| 10         | 4% | \$4,000   |
| 11         | 4% | \$4,000   |
| 12         | 4% | \$4,000   |
| 13         | 4% | \$4,000   |
| 14         | 4% | \$4,000   |
| 15         | 4% | \$4,000   |
| 16         | 4% | \$4,000   |
| 17         | 5% | \$5,000   |
| 18         | 5% | \$5,000   |
| 19         | 5% | \$5,000   |
| 20         | 5% | \$5,000   |
| 21         | 4% | \$4,000   |
| 22         | 4% | \$4,000   |
| 23         | 3% | \$3,000   |
| 24         | 3% | \$3,000   |
| 25         | 3% | \$3,000   |
| 26         | 3% | \$3,000   |
| 27         | 3% | \$3,000   |
| 28         | 2% | \$2,000   |
| 29         | 2% | \$2,000   |
| 30         | 2% | \$2,000   |
| Total Paid |    | \$100,000 |

- 4. Other Written Agreement for Repayment of Back Rent:** A Landlord and Affected Tenant are encouraged to mutually agree, in writing, to an alternative plan for the payment of Back Rent (“Alternate Agreement”); however, a Landlord may not require an Affected Tenant to enter into an Alternate Agreement. If a Landlord and Affected Tenant reach an Alternate Agreement, the Alternate Agreement shall supersede the requirements set forth in Sections 8.C.1 through 8.C.3 above. By mutual agreement of a Landlord and Affected

Tenant, the Alternate Agreement also may waive portions of what an Affected Tenant owes in Back Rent, and may grant an Affected Tenant additional time to pay Back Rent beyond any Grace Periods set forth in Sections 8.C.1 through 8.C.3 above. An Affected Tenant will qualify for the protections of the Commercial Tenant Eviction Moratorium only as long as the Affected Tenant adheres to the repayment schedule set forth in the Alternate Agreement.

5. On or before the Moratorium Termination Date, an Affected Tenant must select, by written communication to the Landlord, one of the repayment options, set forth in Section 8.C.1 through 8.C.3, above, or enter into an Alternate Agreement with Landlord in order to receive protection from eviction during the applicable Grace Period. For purposes of this Section, "written communication" includes email or text communications to the Landlord or the Landlord's representative with whom the Affected Tenant has previously corresponded by email or text. If an Affected Tenant fails to provide written communication to the Landlord selecting one of the repayment options set forth in Section 8.C.1 through 8.C.3 on or before the Moratorium Termination Date, then the Affected Tenant will automatically be subject to the 12-month Grace Period repayment provisions set forth in Section 8.C.1.
  6. Payments due under a repayment plan set forth in Sections 8.C.2 or 8.C.3 above must be made on or before the 1<sup>st</sup> of each month the payment is due, unless otherwise mutually agreed in writing.
  7. If at any time during the repayment plans set forth in Sections 8.C.2 through 8.C.4 above, an Affected Tenant fails to make a payment timely, then the Affected Tenant will forfeit any protection from eviction afforded during the applicable Grace Period.
  8. No late fees or interest shall be charged to the Affected Tenant on Back Rent owed.
- D. Without limiting a Landlord's rights, as described in Sections 3.F or 8.B above, an Affected Tenant that was unable to pay Rent during the Moratorium Period will have the applicable Grace Period after the expiration of the Moratorium Period to pay all Back Rent, before being subject to eviction for nonpayment of Back Rent, provided any payment requirements under the applicable Grace Period are satisfied.
- E. During the applicable Grace Period, the Landlord may collect Rent as it accrues for each rental period but may not terminate the tenancy of an Affected Tenant for nonpayment of Back Rent, provided any payment requirements under the applicable Grace Period are satisfied. During the applicable Grace Period, the

Landlord may terminate the tenancy of an Affected Tenant for nonpayment of Rent accruing during the applicable Grace Period.

- F.** If during the Moratorium Period the Landlord exercises a legal right to draw upon the Affected Tenant's deposit under Civil Code Section 1950.7 for payment of Rent, then the Affected Tenant may elect to have payment of Back Rent during the applicable Grace Period allocated to the deposit to restore the amount drawn down by the Landlord, in which case such amount shall be credited to the Back Rent owed.
- G.** Upon an Affected Tenant's failure to make payment timely, pursuant to the repayment schedules established in Sections 8.C.2, 8.C.3 or 8.C.4 above, if applicable, the Landlord may take such actions as allowed by State and local law to seek recovery of possession of the Commercial Property for the nonpayment of Back Rent.

**Section 9. Inspection and Copying of Records.** Landlords must retain for a period of at least one year after expiration of the applicable Grace Period all records and documents pertaining to every Notice of Termination that is given and every unlawful detainer proceeding that is commenced or prosecuted during the Moratorium Period and must permit inspection and copying of such records and documents by the Economic Development Division or its agents. For every Notice of Termination that is given and every unlawful detainer proceeding that is commenced or prosecuted based on an Affected Tenant's failure to pay Rent during the applicable Grace Period for payment of Back Rent, the relevant records and documents must be retained for a period of at least one year after expiration of the applicable Grace Period.

**Section 10. Retaliation and Harassment Prohibited.** Retaliatory action against a Commercial Tenant for filing a complaint with the Economic Development Division (or exercising any other legal right) is prohibited under California law.

**Section 11. Enforcement.**

- A.** The rules and implementation measures promulgated by the City Manager, pursuant to the authority provided under the Urgency Measure, shall have the force and effect of law and may be relied upon by parties to determine their rights and responsibilities under the Public Order and the Urgency Measure.
- B.** Pursuant to the authority set forth in Ordinance No. 2020-007, notwithstanding any provision in CCMC Chapter 1.02 to the contrary, each violation of any of the provisions of the Public Order and these Implementation Measures may be subject to an administrative fine of up to \$1,000. Each separate day, or any portion thereof, during which any violation occurs or continues, constitutes a separate violation.

The City's decision to pursue or not pursue enforcement of any kind shall not affect a tenant's rights to pursue civil remedies.

- C. Any violation of any of the Public Order and these Implementation Measures may be enforced under the CCMC, which provides for criminal penalties not to exceed \$1,000 or imprisonment not to exceed six months or both.
- D. Individual officers should use their discretion in enforcing the Public Order and these Implementation Measures and always keep the intent of the Public Order and Implementation Measures in mind.

**Section 12. Voluntary Dispute Resolution.** Landlords and Commercial Tenants are encouraged to work together to resolve any disputes related to the CTEM. The parties may contact LA Represents, a coalition of law firms, bar associations and attorneys who will provide COVID-19-related legal services free of charge as part of their pro bono commitments. More information is available at <https://corona-virus.la/LARepresents>.

**Section 13. Severability.** If any provision of these Implementation Measures or the application of any such provision to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of these Implementation Measures that can be given effect without the invalid provision or application, and to this end the provisions of these Implementation Measures are severable.

**Section 14. Survival.** These Implementation Measures shall survive the expiration of the Public Order.

Date: 4/29/2022



John M. Nachbar, City Manager  
Director of Emergency Services  
City of Culver City