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**Second Amended Rules and Implementation Measures Regarding
Residential Tenant Eviction Moratorium Established by
the March 16, March 27 and April 28, 2020 COVID-19 Public Orders,
Urgency Ordinance Nos. 2020-006 and 2020-007, and Resolution No. 2020-R016**

Issue Date: April 29, 2020

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 ("March 16 Order"), which was extended by a March 20, 2020 supplemental order to April 19, 2020, unless extended or renewed, and includes, among other things, the following moratorium on residential tenant evictions ("Residential Tenant Eviction Moratorium"):

"[N]o landlord shall evict a residential 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 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 or 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. Nothing in this subsection shall be construed to mean that the 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. Tenants may use the protections afforded in this subsection 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 a member of tenant's household or other residents of the rental property, or to the landlord or landlord's employees.

On March 18, 2020, the City Council adopted an urgency ordinance (Ordinance No. 2020-006), confirming the March 16, 2020 Order pursuant to CCMC Section 3.09.020.B.1.h(2).

On March 26, 2020, in response to growing evidence of the critical need for residents to shelter in place, the Culver City City Council considered further expanding the Residential Tenant Eviction Moratorium. Finding a compelling public interest in protecting the public health and safety and the health and safety of tenants who are facing eviction, and in ensuring that residents have a home in which to shelter in place during this critical health crisis, the City Council directed the City Manager to expand the Residential Tenant Eviction Moratorium to prohibit all evictions of residential tenants through May 31, 2020, subject to certain limited exceptions. The City Council further adopted an urgency ordinance (Ordinance No. 2020-007) which, among other things, authorized the enforcement of any violation of the Residential Tenant Eviction Moratorium by the issuance of administrative fines up to \$1,000 for each violation.

On March 27, 2020, the City Manager, under the authority of CCMC Section 3.09.020, as the Director of Emergency Services, issued a public order extending the Residential Tenant Eviction Moratorium through May 31, 2020 and expanding its scope, consistent with the City Council's March 26th direction ("March 27 Order"). The March 27 Order includes, among other things, the following orders:

1. *No landlord shall evict a residential tenant in the City of Culver City for the duration of this Public Order for any reason, except under one or more of the following circumstances:*
 - a. *Nonpayment of rent where the tenant cannot claim an inability to pay; or*
 - b. *The tenant is using the rental unit for an illegal purpose and has failed to correct the condition after being given notice and opportunity to cure; or*
 - c. *The tenant's refusal to allow the owner to enter the rental unit as authorized by Section 1954 of the Civil Code and Sections 13113.7 and 17926.1 of the Health and Safety Code, except in cases where an occupant of the rental unit has been ordered to self isolate or remain in quarantine and the owner's entry to the unit would violate such order; or*
 - d. *The tenant has created or is maintaining a dangerous and unsanitary condition and that condition has not been promptly abated or repaired; provided that, the landlord gives written notice to the tenant and to the City, describing in detail the nature of the dangerous and unsanitary condition, the reason eviction is necessary, and the steps taken by the landlord to avoid eviction. The City may request additional documentation and may order*

suspension of the eviction process if it determines that suspension is necessary in order to prevent abuse of the intent of this Public Order; or

- e. In cases where eviction is necessary to address an imminent and objectively verifiable threat to the health or safety of a member of the tenant's household or other residents of the rental property, or to the landlord or landlord's employees; provided that, the landlord gives written notice to the tenant and to the City, describing in detail the nature of the imminent threat, the reason eviction is necessary to address the threat, and the steps taken by the landlord to avoid eviction. The City may request additional documentation and may order suspension of the eviction process if it determines that suspension is necessary in order to prevent abuse of the intent of this Public Order.*
- 2. Nothing in this Public Order shall be construed to relieve tenants of liability for unpaid rent. Tenants will have a period of six months following the expiration of this Public Order to repay any back rent due.*
- 3. Tenants may use the protections afforded in this Public Order as an affirmative defense in an unlawful detainer action.*
- 4. The Residential Tenant Eviction Moratorium set forth in this Public Order shall apply to any eviction notice and unlawful detainer action described in this Public Order, regardless of the date it is served or filed, if the tenant has not vacated the rental unit as of the effective date of this Public Order.*
- 5. A landlord is further prohibited from charging or collecting late charges or fees when payment of rent is delayed during the period this Public Order is in effect.*

On April 2, 2020, the City Council adopted Resolution No. 2020-R-16, confirming the March 27 Order pursuant to CCMC Section 3.09.020.B.1.h(2).

On April 27, 2020, the City Council considered whether to extend the period for the payment of unpaid rent to 12 months. Finding there to be a public interest in ensuring tenants have a sufficient recovery period once the Residential Tenant Eviction Moratorium has expired, preserving and increasing housing security and stability, and preventing residents from falling into homelessness due to the COVID-19 health crisis, the City Council directed the City Manager to extend the period for the payment of unpaid rent to 12 months.

On April 28, 2020, the City Manager issued a public order consistent with the City Council's April 27th direction ("April 28 Order").

The March 16 Order, March 27 Order and April 28 Order are collectively referred to as "Public Order."

Ordinance Nos. 2020-006, 2020-007 and Resolution No. 2020-R016 are collectively referred to as the "Urgency Measure."

AUTHORITY: Section 3.C of Ordinance No. 2020-006 provides the City Manager the authority to promulgate rules and implementation measures (collectively, "Implementation Measures") with regard to the Residential Tenant Eviction Moratorium, which are consistent with the provisions of the Public Order and the Urgency Measure.

IMPLEMENTATION MEASURES:

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

- A. "Back Rent" means that portion of Rent owed by a Protected Tenant that remains unpaid upon expiration of the Local Emergency Period.
- B. "Housing Division" means the Housing Division of the Culver City Community Development Department.
- C. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of a Rental Unit, Mobilehome or Mobilehome Park lot, and the agent, representative, or successor of any of the foregoing.
- D. "Local Emergency Period" means the term of the Public Order, including all supplemental orders, extension or amendments.
- E. "Mobilehome" means a structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit, to be used with or without a foundation system.
- F. "Mobilehome Park" means an area or tract of land where two or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate Mobilehomes used for human habitation for permanent, as opposed to transient, occupancy.

- G.** “Mobilehome Owner” means a person who owns a Mobilehome and rents or leases the Mobilehome Park lot on which the Mobilehome is located.
- H.** “Mobilehome Resident” means a person who rents a Mobilehome for occupancy.
- I.** “Notice of Termination” means any notice, including notice given under Code of Civil Procedure Section 1161, informing a Tenant, Mobilehome Owner, or Mobilehome Resident of the termination of its tenancy.
- J.** “Permitted Eviction” means eviction in accordance with Section 5 of these Implementation Measures for one or more of the following reasons:
 - i.** Nonpayment of Rent where the Tenant fails to satisfy the requirements in Section 6 and Section 7 of these Implementation Measures; or
 - ii.** The Tenant is using the Rental Unit for an illegal purpose and has failed to correct the condition after being given reasonable notice and opportunity to cure; or
 - iii.** The Tenant’s refusal to allow the Landlord to enter the Rental Unit as authorized by Section 1954 of the Civil Code and Sections 13113.7 and 17926.1 of the Health and Safety Code, except in cases where an occupant of the Rental Unit has been ordered to self isolate or remain in quarantine and the Landlord’s entry to the Rental Unit would violate such order; or
 - iv.** The Tenant has created or is maintaining a dangerous and unsanitary condition and that condition has not been promptly abated or repaired; provided that, the Landlord gives written notice to the Tenant and to the Housing Division, describing in detail the nature of the dangerous and unsanitary condition, the reason eviction is necessary, and the steps taken by the Landlord to avoid eviction. The Housing Division may request additional documentation and may order suspension of the eviction process if it determines that suspension is necessary in order to prevent abuse of the intent of the Public Order; or
 - v.** In cases where eviction is necessary to address an imminent and objectively verifiable threat to the health or safety of a member of the Tenant’s Household or other residents of the rental property, or to the Landlord or Landlord’s employees; provided that, the Landlord gives written notice to the Tenant and to the Housing Division, describing in detail the nature of the imminent threat, the reason eviction is necessary to address the threat, and the steps taken by the Landlord to avoid eviction. The Housing Division may request additional documentation and may order suspension of the eviction process if it determines that

suspension is necessary in order to prevent abuse of the intent of the Public Order.

- K. "Protected Tenant" means each and every Tenant, Mobilehome Resident, or Mobilehome Owner who is not subject to a Permitted Eviction.
- L. "Rent" means the sum of all periodic payments and all nonmonetary consideration demanded or received by a Landlord from a Tenant for the use or occupancy of the Rental Unit, including Tenant's access to and use of services provided by the Landlord related to the use or occupancy of the Rental Unit. Rent includes, without limitation, the fair market value of goods accepted, labor performed, or services rendered.
- M. "Rental Unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, and which household pays Rent for use and occupancy for periods of at least seven days whether or not such use is legally permitted, and includes Mobilehomes, Mobilehome Park lots, all owner-occupied single-family homes, and accessory dwelling units.
- N. "Tenant" means any person entitled by written or oral agreement, or by sufferance, to the use or occupancy of a Rental Unit.
- O. "Tenant Household" means one or more persons who occupy a Rental Unit, including each dependent of any person whose primary residence is the Rental Unit.

Section 2. Scope. The Public Order applies to every Rental Unit located in the City of Culver City.

Section 3. Application. The Residential Tenant Eviction Moratorium shall apply to every Notice of Termination, eviction notice and unlawful detainer action seeking to recover occupancy of a Rental Unit, regardless of the date it is served or filed, if the Rental Unit has not been completely vacated as of the effective date of Ordinance No. 2020-006 (March 18, 2020).

Section 4. Prohibitions.

- A. A Landlord is prohibited from evicting any Protected Tenant in the City of Culver City for the duration of the Local Emergency Period.
- B. A Landlord is prohibited from charging or collecting late charges or fees when a Protected Tenant is unable to pay Rent during the Local Emergency Period.

- C. Until 12 months after expiration of the Local Emergency Period, a Landlord may not use the eviction process to seek Back Rent from a Protected Tenant who was unable to pay Rent during the Local Emergency Period.

Section 5. Permitted Evictions. During the Local Emergency Period, a Landlord may evict a Tenant from a Rental Unit only if the eviction qualifies as a Permitted Eviction under the definition set forth in Section 1 of these Implementation Measures.

- A. At the same time as the Landlord gives a Notice of Termination to the Tenant, the Landlord must provide to the Housing Division a copy of the notice and a description of the circumstances cited by the Landlord as the basis for a Permitted Eviction. The Housing Division must also be provided with such additional information and documentation as it deems necessary to determine whether the eviction qualifies as a Permitted Eviction. This documentation requirement is necessary in order to prevent abuse of the intent of the Public Order and of these Implementation Measures.
- B. Nonpayment of Rent for the reasons given in Civil Code section 1942.4 and similar laws authorizing withholding of Rent on the basis of the Landlord's failure to maintain the habitability of the Rental Unit may not form the basis of a Permitted Eviction.
- C. A Permitted Eviction for purposes of health and safety may be based upon a threat of violent crime, which includes any statement made by a Tenant, or at his or her request, by his or her agent to any person who is on the premises that includes the Rental Unit or to the Landlord, or his or her agent, threatening the commission of a crime which will result in death or great bodily injury to another person, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, when on its face and under the circumstances in which it is made, it is so unequivocal, immediate and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, but not including a threat that is committed against a person who is residing in the same Rental Unit as the person making the threat.
- D. Acts constituting domestic violence or sexual assault or stalking against the Tenant or a member of Tenant's household cannot form the substantial basis of a Permitted Eviction that terminates the tenancy of the victim of such acts.

Section 6. Protected Tenant's Nonpayment of Rent. A Landlord who has knowledge that a Tenant cannot pay some or all of the Rent during the Local Emergency Period shall not serve a Notice of Termination 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. For purposes of this Section 6, a Landlord shall be presumed to have “knowledge” of a Tenant’s inability to pay Rent if the Tenant, within 30 days after the date that Rent is due, notifies the Landlord in writing of Tenant’s inability to pay the full amount of the Rent then due, and provides the documentation set forth in Section 7 of these Implementation Measures. For purposes of this Section, “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.

Section 7. Documentation of Inability to Pay Rent.

- A.** A Tenant who is unable to pay Rent and wishes to secure the protection of the Public Order must provide to the Landlord a signed and dated declaration under penalty of perjury, stating that the Tenant is unable to pay Rent and describing the reasons for the inability to pay. The declaration must include the following statement, or its substantial equivalent, above the Tenant’s signature: “I DECLARE UNDER THE PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE REPRESENTATIONS HEREIN ARE TRUE AND CORRECT.”
- B.** The Tenant must also make a diligent and good faith effort to provide such documentation of the Tenant’s inability to pay Rent as is readily available to the Tenant. The Tenant’s signed declaration and legible copies of one or more of the following documents, or other documentation appropriate to the circumstances, may be used to create a rebuttable presumption that the Tenant has an inability to pay Rent and is a Protected Tenant entitled to the protections of the Public Order:
 - i.** Written communication from the Tenant’s employer that Tenant’s hours have been reduced or wages have been suspended, or that Tenant has been terminated;
 - ii.** Employer paycheck stubs and time cards;
 - iii.** Notification from a school declaring a school closure or other public notice of a school closure;
 - iv.** Proof of out-of-pocket medical expenses;
 - v.** Proof of out-of-pocket child care expenses;
 - vi.** Proof of being under medical care or medical quarantine.
- C.** A Landlord may not require a particular form of documentation from the Tenant and must objectively and in good faith consider the documentation that is provided.
- D.** The City may, at any time and in its sole discretion, request copies of the Tenant’s declaration and submitted documentation and additional documentation

from Landlord or Tenant in order to ensure that the intent of the Public Order and these Implementation Measures is not abused.

- E. All medical and financial information provided to the Landlord or the Housing Division shall be held in a separate confidential and secured file, and must only be used for evaluating the Tenant's inability to pay Rent.

Section 8. Voluntary Agreements Between Landlord and Tenant.

- A. Nothing in the Public Order or these Implementation Measures prevents a Landlord from reducing a Tenant's Rent during the Local Emergency Period; provided, however, that if the Tenant is unable to pay the reduced Rent, the Tenant will remain eligible for the protections of the Public Order and these Implementation Measures. For Rental Units that are subject to the rent limits imposed by the City's Interim Rent Control Ordinance (Ordinance No. 2019-011), subsequent Rent increases must not result in Rent that exceeds the amount permitted under Section 4.A. of the Ordinance.
- B. Nothing in the Public Order or these Implementation Measures prevents a Tenant who is unable to pay the full amount of Rent from voluntarily paying a portion of the Rent during the Local Emergency Period. However, a Landlord may not seek partial payment of Rent.
- C. Nothing in the Public Order or these Implementation Measures prevents a Landlord and Tenant from mutually agreeing to terms of payment from the Landlord in consideration of the Tenant's agreement to vacate the Rental Unit. The agreement must be in writing and be signed and dated by the Tenant and the Landlord and must include a copy of the March 27, 2020 Public Order and these Implementation Measures as an attachment. A copy of the buy-out agreement must be provided to the Housing Division. The Housing Division may, in its sole discretion, require additional information from the Tenant and Landlord as it deems necessary to prevent abuse of the intent of the Public Order and these Implementation Measures. In cases where the Landlord would be obligated to pay a relocation payment to Tenant pursuant to Section 6 of the City's Interim Rent Control Ordinance (Ordinance No. 2019-011), the payment may not be less than the amount required by Section 6 of the Ordinance and the Landlord must comply with the procedural requirements of that Section. Further, the agreement must contain the Tenant's written acknowledgement that they have received a copy of the Ordinance and are aware of the relocation payment requirement in Section 6.

Section 9. Payment of Back Rent. Nothing in the Public Order or these Implementation Measures shall relieve a Tenant of liability for unpaid Rent. A Protected Tenant who was unable to pay Rent during the Local Emergency Period will have a

period of 12 months after the expiration of the Local Emergency Period to pay all Back Rent. During that 12-month grace period, the Landlord may collect Rent as it accrues for each rental period but may not terminate the tenancy of the Protected Tenant for nonpayment of Back Rent. If during the Local Emergency Period the Landlord exercises a legal right to draw upon the Protected Tenant's deposit under Civil Code Section 1950.5 for payment of Rent, then the Protected Tenant may elect to have payment of Back Rent during the 12-month 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. Upon the expiration of the 12-month grace period, the Landlord may take such actions as allowed by State and local law to collect any Back Rent that remains unpaid, including seeking recovery of possession of the Rental Unit.

Section 10. Inspection and Copying of Records. Landlords must retain for a period of at least one year after expiration of the Local Emergency 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 Local Emergency Period and must permit inspection and copying of such records and documents by the Housing Division or its agents. For every Notice of Termination that is given and every unlawful detainer proceeding that is commenced or prosecuted based on a Protected Tenant's failure to pay Rent during the 12-month 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 12-month grace period.

Section 11. Retaliation and Harassment Prohibited. Retaliatory action against a Tenant for filing a complaint with the Housing Division (or exercising any other legal right) is prohibited under California law. A Landlord may not increase Rent, decrease housing services, terminate tenancy, attempt to recover possession, or threaten any of these, in retaliation for the Tenant's exercise of his or her rights. (California Civil Code §1942.5(d).) A Landlord who engages in such retaliatory acts may be liable for actual damages and punitive damages of not less than \$100 or more than \$2,000 for each retaliatory act. (California Civil Code §1942.5(h).)

Further, California law prohibits tenant harassment. A Landlord may not harass a Tenant in order to get him or her to leave a Rental Unit. A Landlord may not unlawfully take or withhold the Tenant's personal property, extort property from the Tenant, engage in threatening or menacing conduct, interfere with the Tenant's quiet enjoyment of the premises, unlawfully enter the Tenant's unit, or threaten to disclose immigration status in order to get a Tenant to vacate a Rental Unit. (California Civil Code §§1940.2(a)(1)-(5).) A Landlord who engages in such harassment may be liable for civil penalties of up to \$2,000 for each violation. (California Civil Code § 1940.2(b).) Additionally, a Landlord may not interrupt utility service, block the Tenant's access to the property, remove outside doors or windows, or remove the Tenant's property or furnishings from the Rental Unit in order to terminate a Tenant's occupancy. (California Civil Code §§789.3(a)-(b).) Such actions will result in liability for actual damages, statutory damages of \$100 per day or part of a day that the Landlord is in violation, and attorney's fees. (California Civil Code §§ 789.3(c)-(d).)

Section 12. Affirmative Defense. A Landlord that seeks to terminate the tenancy of a Tenant must comply with the Public Order and these Implementation Measures. Non-compliance with an 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 section 1161, as amended.

Section 13. Enforcement.

- A. The rules and implementation measures promulgated by the City Manager, pursuant to the authority provided under the Urgency Ordinance, 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 Ordinance.
- 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 14. 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.

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Section 15. Interim Rent Control Ordinance. The Residential Tenant Eviction Moratorium and these Implementation Measures are not intended, nor shall they be deemed, to relieve Landlords or Tenants from any of their obligations under the City's Interim Rent Control Ordinance (Ordinance No. 2019-011) ("IRCO"). For purposes of the Public Order and these Implementation Measures, if there is a conflict with the terms of the IRCO or the regulations promulgated thereunder, the terms that provide greater protection to the Tenant shall apply.

Date: _____

4/29/2020



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