



Council Agenda Report

To: Mayor Farrer and the Honorable Members of the City Council

Prepared by: Trevor Rusin, Assistant City Attorney

Date prepared: March 26, 2020 Meeting date: April 13, 2020

Subject: Temporary Moratorium on Foreclosures and Residential and Commercial Evictions for Nonpayment of Rent During COVID-19 Pandemic

RECOMMENDED ACTION: Adopt Ordinance No. 463U enacting a temporary moratorium on foreclosures and evictions due to nonpayment of rent by residential and commercial tenants impacted by the COVID-19 virus, finding the same exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency; a four-fifths vote of the City Council is required and, if approved, it will take effect immediately.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2019-2020. This item is part of emergency operations.

BACKGROUND: On March 4, 2020, Los Angeles County declared a local and public health state of emergency in response to the increased spread of COVID-19, the disease caused by the novel coronavirus. As of April 8, 2020, there are 7530 confirmed cases of COVID-19 in Los Angeles County, including 198 deaths, and this number is expected to continue to grow as the virus spreads throughout the community.

On March 12, 2020, California Governor Gavin Newsom declared a State of Emergency in response to the increased spread of COVID-19. The President of the United States has declared a federal emergency as a result of the spread of the COVID-19.

On March 14, 2020, the Director of Emergency Services proclaimed the existence of a local emergency, and on March 16, 2020, the City Council declared a state of local emergency in response to the COVID-19 global pandemic and imposed certain orders in response to the pandemic.

On March 19, 2020, the Governor issued Executive Order N-33-20 ordering all residents of California to stay home except as needed to maintain the operations of critical infrastructure sectors.

The Los Angeles County Health Officer has also issued a series of orders that mirror and expand on this Order, including on March 21, 2020, that (1) prohibit all public and private group events and gatherings, (2) orders all persons to remain in their homes except to travel to and from Essential Businesses, to work at a Healthcare Operation or Essential Infrastructure, to engage in Essential Activities, or to participate in an individual or family outdoor activity, while practicing social distancing. All of the following have been ordered closed immediately: (1) Non-Essential Retail Businesses, (2) Indoor Malls and Shopping Centers (including both Essential and Non-Essential Businesses within, except Essential Businesses that can be accessed from the exterior of the building), (3) Indoor and Outdoor Playgrounds, Flea Markets and Swap Meets, and (4) bars and nightclubs that do not serve food, gyms and fitness centers, movie theaters, live performance theaters, concert halls, arenas, stadiums, bowling alleys, arcades, and wineries, breweries, and tap rooms that provide tastings. On-site dining is prohibited at restaurants and other food facilities. The City is subject to the orders of the County Health Official.

While social distancing and the abovementioned measures are necessary to fight the global pandemic, they can have extreme economic impacts. Fear of the widening public health crisis has impacted consumer behavior with closure of restaurants, bars, and non-essential businesses; events being cancelled; and people reducing their traveling. As a result of this social distancing, people in our community may see their incomes reduced or may have to take time off work to care for their health or the health of family members. In the face of this uncertainty, people may need to make difficult financial decisions and may be unable to pay rent due to reduced income.

On March 16, 2020, Governor Newsom promulgated Executive Order N-28-20 which authorized local governments to exercise their police power to impose substantive limitations on foreclosures and residential and commercial evictions based on nonpayment of rent when the nonpayment of rent arose out of a substantial decrease in household or business income due to the effects of COVID-19.

On March 25, 2020, Governor Gavin Newsom, announced a financial relief package negotiated with participating financial institutions (“Financial Relief Package”). By agreement with participating lenders, borrowers economically impacted by COVID-19 may apply for mortgage payment forbearances for up to 90 days.

Under the Financial Relief Package, for at least 60 days, participating financial institutions also will not initiate foreclosure sales or evictions, consistent with the institutions’ applicable guidelines. As of March 25, 2020, participating financial institutions included Citigroup, JPMorgan Chase, U.S. Bank, Wells Fargo, and roughly

200 state-chartered banks, credit unions, and loan servicers. A searchable and more current list of participating institutions and their contact information can be viewed by going to the California Department of Business Oversight website at <https://dbo.ca.gov/covid19-updates-fi/>.

On March 27, 2020, Governor Newsom expanded on that order with Executive Order N-37-20. This order extended the period a tenant has to respond to an eviction complaint from five days to 60 days for tenants of a residence or dwelling unit who are served with a complaint for nonpayment of rent so long as (1) the tenant paid rent due to the landlord prior to the date of the order, (2) the tenant notifies the landlord in writing within 7 days of the date rent is due that the tenant needs to delay all or some payment due to being sick/caring for someone with COVID-19, experiencing an income reduction due to the COVID-19 response/state of emergency, or missing work to care for a child whose school was closed due to COVID-19. It is in effect through May 31, 2020. The order also states that it does not restrict a local government's authority to order other public health measures that compel individuals to remain present in a particular residential property. It does not address commercial evictions or foreclosures issues

On April 6, 2020, the California Judicial Council also approved emergency orders halting most evictions and foreclosures until 90 days after the Governor declares the state of emergency related to COVID-19 is lifted, or the order is amended or repealed by the Judicial Council

Residential Eviction Moratorium

The attached urgency ordinance is in accordance with Executive Order N-28-20. It imposes a moratorium on evictions for failure to pay rent during this emergency period, if the tenant demonstrates that the tenant is unable to pay the full rent due to financial impacts related to COVID-19. Under the proposed ordinance, a landlord knows of a tenant's inability to pay rent for the covered reasons if the tenant, within 30 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. Notification "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.

For purposes of this moratorium on residential evictions, "financial impacts related to COVID-19" include, but are not limited to, tenant lost household 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.

The moratorium does not relieve the tenant from eventually paying the rent within six months after the expiration of the local emergency. The landlord may not charge a late fee or interest on the rent. The moratorium is intended to be specific to address the crisis within the City's legal authority and no other legal remedies available to landlord are affected by this ordinance.

During a state of emergency, it is a crime for a landlord to take advantage of the situation by evicting a tenant and then raising the rent above the existing tenant's rent under Penal Code s. 396(f). This moratorium will provide additional protections to tenants. In addition to the City's general police power under article XI, section 7 of the California Constitution to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws, during a local emergency, Government Code, § 8634 (and Chapter 2.52 of the Malibu Municipal Code) also authorize the city to promulgate orders and regulations necessary to provide for the protection of life and property. The COVID-19 outbreak presents a health and financial crisis to all and this situation is unprecedented and constantly evolving.

This urgency measure will provide protections to those who have had unforeseen financial impacts due to COVID-19. Displacement through eviction or foreclosure creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close. During the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted. People experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care.

The Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19. Widespread evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency and increase the risk of spread of COVID-19.

This situation is unprecedented, and the circumstances are changing hourly. At the time of writing this report, people are ordered to stay home, large and small social events are cancelled, gatherings are prohibited, schools are all closed, the County of Los Angeles has closed non-essential businesses and gathering places, libraries are closed, municipal operations are shifting to essential emergency operations only, and domestic workers are being asked to stay home. The situation is evolving so rapidly that it is hard

to capture the full scale of the closures. However, many city residents will be unable to work at any job that requires physical presence.

Commercial Eviction Moratorium

For commercial tenants, most retail businesses have been ordered closed and all Californians have been directed to stay home. Businesses are expected to see a sharp drop in revenue, making it difficult to pay workers. The loss of business income as a result of COVID-19 may inhibit City businesses from fulfilling their financial obligations, including payment of rent, payment of wages to workers, and making public utility payments such as water and sewage charges and parking penalties. This moratorium will allow businesses to follow the national, state and local directives to close their businesses without fear of losing their business during this emergency. This moratorium will promote stability in commercial tenancies in order to relieve economic pressures and impacts caused by COVID-19.

The ordinance also relatedly prohibits landlords from charging rent to affected businesses that shut down, and requires pro-rata rent for businesses that are otherwise adversely affected. As with the residential moratorium, the commercial moratorium does not relieve the tenant from eventually paying the rent within six months after the expiration of the local emergency.

Foreclosure Moratorium

In accordance with the Governor's order, the ordinance also suspends residential and commercial foreclosures. While this is a complex area of the law and we expect some federal or state relief on this topic, the City is aware that property owners fear foreclosure during this limited time of emergency. The ordinance does not relieve the mortgagor of liability for any unpaid mortgage payments after the emergency, encourages the parties to create a payment plan in lieu of foreclosure later on, and acknowledges that respective rights and obligations of the parties in any foreclosure proceeding shall be adjudicated in the appropriate court of law

Conclusion

If approved, the ordinance will go into effect immediately upon adoption and will remain in effect until May 31, 2020 and may be extended during the period of local emergency. In order to prevent inconsistencies in the law, the City Manager as the Director of Emergency Services may also suspend the ordinance if a similar federal or state law is adopted.

Other cities in California, including San Jose, West Hollywood, Hayward, Oakland, Sacramento, Los Angeles, San Diego, Palm Springs and Santa Monica have approved, or are considering, similar urgency measures.

The proposed ordinance goes beyond the protections put in place by Order N-37-20 as described above, and also by addressing foreclosure and commercial eviction issues. While the Judicial Council has halted most eviction and foreclosure actions, the proposed ordinance importantly provides protection that is dependent on the City's local declaration or emergency, will be in place even if the Judicial Council lifts or modifies its order, and allows six months after the local emergency is terminated for tenants to become current with rent that is owed.

These proposed measures are extraordinary and should be narrowly tailored and utilized to the minimum extent necessary to achieve the stated goals of preventing the spread of the virus and keeping people in their homes and without imminent fear of foreclosure or eviction during this unprecedented health crisis.

ATTACHMENT: Ordinance No. 463U

ORDINANCE NO. 463U

AN URGENCY ORDINANCE OF THE CITY OF MALIBU ENACTING A TEMPORARY MORATORIUM ON FORECLOSURES AND EVICTIONS DUE TO NONPAYMENT OF RENT BY RESIDENTIAL AND COMMERCIAL TENANTS IMPACTED BY THE COVID-19 VIRUS, FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

The City Council of the Malibu does ordain as follows:

SECTION 1. Findings.

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”).
- B. On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.
- C. On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19.
- D. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.
- E. On March 14, 2020, the Director of Emergency Services proclaimed the existence of a local emergency pursuant to Malibu Municipal Code section 2.52.060.
- F. On March 16, 2020, the City Council ratified the proclamation of the Director of Emergency Services and declared the existence of a local emergency to ensure the availability of mutual aid and an effective the City’s response to COVID-19.
- G. On March 16, 2020, the Governor of the State of California issued Executive Order Executive Order N-28-20, authorizing local governments’ through their police power to impose substantive limitations on residential or commercial evictions for nonpayment of rent for tenants financially impacted by COVID-19 through May 31, 2020.

- H. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 which ordered all individuals living in the State to stay home or at their place of residence, except as needed to maintain continuity of operations of the federal critical infrastructure sectors.
- I. The Los Angeles County Health Officer has issued a series of orders that mirror and expand on this Order, most recently on March 21, 2020, that (1) prohibit all public and private group events and gatherings, (2) orders all persons to remain in their homes except to travel to and from Essential Businesses, to work at a Healthcare Operation or Essential Infrastructure, to engage in Essential Activities, or to participate in an individual or family outdoor activity, while practicing social distancing. All of the following have been ordered closed immediately: (1) Non-Essential Retail Businesses, (2) Indoor Malls and Shopping Centers (including both Essential and Non-Essential Businesses within, except Essential Businesses that can be accessed from the exterior of the building), (3) Indoor and Outdoor Playgrounds, Flea Markets and Swap Meets, and (4) bars and nightclubs that do not serve food, gyms and fitness centers, movie theaters, live performance theaters, concert halls, arenas, stadiums, bowling alleys, arcades, and wineries, breweries, and tap rooms that provide tastings. On-site dining is prohibited at restaurants and other food facilities. The City is subject to the orders of the County Health Official.
- J. The Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to social distancing, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Other counties throughout the state have issued “shelter in place” directives.
- K. As of the date of this ordinance and in order to prevent further exposure, many businesses have imposed work from home policies; meetings, events and social gatherings are being cancelled as people remain at home; customers are not patronizing restaurants and stores or hiring domestic help or travelling. With more businesses moving towards working from home, less of the workforce will be patronizing restaurants, hotels and other retail establishments that employ hourly workers, which is expected to lead to hourly cutbacks and employee terminations.
- L. As a result of the public health emergency and the precautions recommended by health authorities, many tenants in Malibu have experienced or expect soon to experience sudden and unexpected income loss.
- M. The Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased

demands on already strained regional and local health and safety resources, including shelters and food banks.

- N. Most, if not all, local schools are closed to prevent further spread of COVID-19. These school closures will cause children to have to remain at home, leading to many parents adjusting their work schedules to take time off work, whether paid or unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to work due to school closures will economically strain those families who cannot afford to take off time from work to stay at home
- O. The situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction.
- P. This Ordinance is temporary in nature and only intended to promote stability and fairness within the residential and commercial rental market in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes.
- Q. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise authority to adopt this ordinance related to the protection of life and property, to ensure renters can remain in their homes and prevent proliferation of homelessness and further spread of COVID-19. Displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing, and lack of moving services and supplies as stores and businesses close. During the COVID-19 pandemic outbreak, affected tenants who have lost income due to impact on the economy or their employment may be at risk of homelessness if they are evicted for non-payment as they will have little or no income and thus be unable to secure other housing if evicted.
- R. People experiencing homelessness are especially vulnerable to the spread of COVID-19 due to an inability to practice social distancing and a lack of access to health care. The Governor has ordered the State to take extraordinary measures to secure shelter for homeless populations during this emergency to limit exposure to and spreading of COVID-19. Widespread evictions of tenants vulnerable to eviction due to financial hardship occurring due to COVID-19 would exacerbate the challenge of sheltering the homeless during this emergency and increase the risk of spread of COVID-19.
- S. Promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close, and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction.

- T. The City desires to prohibit evictions due to nonpayment of rent for residential and commercial tenants where the failure to pay rent results from income loss resulting from COVID-19.
- U. This Ordinance is adopted pursuant to the City's police powers and powers afforded to the city in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and Section 2.52 of the Malibu Municipal Code to protect the peace, health, and safety of the public. The Malibu City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City and finds urgency to approve this ordinance immediately based on the facts described herein and detailed in the staff report. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of life and property.

SECTION 2. Temporary Moratorium on Evictions for Non-Payment of Rent by Residential Tenants Impacted by the COVID-19 Crisis.

A During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay full rent due to financial impacts related to COVID-19.

B. 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 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. A landlord knows of a tenant's inability to pay rent within the meaning of this ordinance if the tenant, within 30 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 promptly thereafter. 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.

C. For purposes of this ordinance "financial impacts related to COVID-19" include, but are not limited to, tenant lost household 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.

D. This ordinance applies to nonpayment eviction notices and unlawful detainer actions based on such notices, served or filed on or after the date on which a local emergency was proclaimed.

E. This ordinance may be asserted as an affirmative defense in the event that an unlawful detainer action is commenced in violation of this ordinance. A landlord's failure to comply with this ordinance shall render any notice of termination of tenancy void. A landlord's failure to comply with this ordinance does not constitute a criminal offense

F. 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 or interest 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 during the period of the local state of emergency, and for a period of six months after the end of the local emergency. Nonpayment of rent, if the tenant is in compliance with the provisions of this Ordinance, shall not be grounds for eviction during the six month period after the end of the local emergency, so long as the tenant pays rent in a timely manner after the period of local emergency and is repaying the past due rent that accrued during the emergency period. To the extent it applies, this ordinance is intended to be more restrictive than Civil Code Section 1946.2 by further limiting the reasons for termination of a residential tenancy during the six month repayment period. Landlords are strongly encouraged to offer payment plans to tenants after the period of local emergency, which may go beyond the six month repayment period upon mutual written agreement of the parties. Tenants may draw down on a security deposit during the repayment period to pay back rent and such security deposit shall be replenished by the end of the six month repayment period or longer if mutually agreed upon in writing between the parties.

G. No other legal remedies available to landlord are affected by this ordinance.

SECTION 3. Temporary Moratorium on Evictions for Non-Payment of Rent by Commercial Tenants Impacted by the COVID-19 Crisis.

A. During the period of local emergency declared in response to COVID-19, no commercial landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant's businesses is subject to the Orders referenced in Section 1 above or is otherwise limited or closed (voluntarily or by mandate) to prevent or reduce the spread of COVID-19 and the tenant demonstrates lost income and inability to pay full rent as a result of such limitation or closure or other demonstrated financial impact related to COVID-19.

B. A landlord knows of a tenant's lost income and inability to pay rent within the meaning of this Order if the tenant, within 30 days after the date rent is due, notifies the landlord in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant's business related to COVID-19, with appropriate supporting documentation supplied promptly thereafter. If a tenant suffers only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds to the income they generated during the period of loss. For purposes

of this Order, “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. All financial information provided to the landlord shall be kept in confidence and only used for evaluating the tenant’s claim or enforcing this provision.

C. This ordinance may be asserted as an affirmative defense in the event that an unlawful detainer action is commenced in violation of this ordinance. A landlord’s failure to comply with this ordinance shall render any notice of termination of tenancy void. A landlord’s failure to comply with this ordinance does not constitute a criminal offense

D. 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 or interest 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 during the period of the local state of emergency, and for a period of six months after the end of the local emergency. Nonpayment of rent, if the tenant is in compliance with the provisions of this Ordinance, shall not be grounds for eviction during the six month period after the end of the local emergency, so long as the tenant pays rent in a timely manner after the period of local emergency and is repaying the past due rent that accrued during the emergency period. Landlords are strongly encouraged to offer payment plans to tenants after the period of local emergency, which may go beyond the six month repayment period upon mutual written agreement of the parties.

E. No other legal remedies available to landlord are affected by this order.

SECTION 4. Temporary Suspension on Residential and Commercial Foreclosures.

A. No foreclosure action against a property owner shall be initiated or proceed during the period of declared local emergency in the City of Malibu related to the COVID-19 virus for any mortgagor with a demonstrated financial impact related to COVID-19. Nothing in this ordinance shall relieve the mortgagor of liability for any unpaid mortgage payments, which the mortgagee may seek after expiration of the local emergency and the mortgagor must pay within six months of the expiration of the local emergency, unless a different time is agreed to between the parties. The respective rights and obligations of the parties in any foreclosure proceeding shall be adjudicated in the appropriate court of law with jurisdiction over the matter at the conclusion of the local emergency or rescission of this ordinance.

B. No other legal remedies available to parties to any foreclosure proceeding are affected by this order.

C. Mortgagees are strongly encouraged to offer payment plans to mortgagors to avoid foreclosure after the period of local emergency.

SECTION 5. In accordance with the Governor of the State of California’s Executive Order N-28-20, this ordinance shall remain in effect until May 31, 2020. In order to prevent inconsistencies, the

Director of Emergency Services may suspend the effectiveness of any provision in this ordinance in the event that the President of the United States, Congress, Governor of the State of California or California State Legislature or other body with jurisdiction adopts an order or legislation that similarly prohibits evictions and foreclosures for failure to pay rent by individuals impacted by the COVID-19 crisis. This ordinance shall be retroactive to March 14, 2020, when the local emergency was declared, so long as the tenant or mortgagor are in possession of the property in question at the time this ordinance is passed.

SECTION 6. Severability.

If any section, subsection, sentence, clause, phrase or word of this Chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

SECTION 7. Environmental Review.

The City Council finds that adoption and implementation of this ordinance is not a “project” for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be to maintain the status quo. No new development will result from the proposed action. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Malibu, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations).

SECTION 8. Urgency Declaration; Effective Date.

The City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as the City and public would suffer potentially irreversible displacement of commercial and residential tenants resulting from evictions and foreclosure for failure to pay rent during the COVID-19 crisis. During this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City’s affordable housing stock, and to prevent housed individuals from falling into homelessness. Promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close and allowing employees to avoid public contact, during times of a public health crisis without fear of imminent eviction or foreclosure. Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent and mortgages. Under Government Code Section 8634 and Malibu Municipal Code Section 2.52, this ordinance is necessary to provide for the protection of life and property for the reasons set out herein. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property,

require that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

SECTION 9. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this 13th day of April 2020.

KAREN FARRER, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney