

ORDINANCE NO. 20-1406U

AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH ENACTING A TEMPORARY MORATORIUM ON FORECLOSURES AND EVICTIONS DUE TO NONPAYMENT OF RENT BY RESIDENTIAL AND COMMERCIAL TENANTS IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19), AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

The City Council of the City of Hermosa Beach 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 which 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 a 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 16, 2020, the City Council proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective City response to the novel coronavirus (“COVID-19”).
- F. On March 16, 2020, the Governor of the State of California issued 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.
- G. On March 16, 2020, the Los Angeles County Public Health Officer issued an order countywide that (1) prohibits gatherings where at least 50 or more people are expected to attend, (2) puts limits and regulations on gatherings of 10-49 people,

(3) limits restaurants to drive-through/takeout/delivery only, and (4) closes bars (that don't serve food), gyms, movie theaters, etc.

- H. 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 strict adherence to social distancing guidelines, 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 essentially "shelter in place" directives.
- I. On March 19, 2020 the Los Angeles County Public Health Officer issued a second countywide order, the Safer at Home for control of COVID-19 Order, which was further clarified on March 21, 2020. This public health order prohibits all public and private group gatherings and events and requires people to stay in their homes with limited exceptions; and requires closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters and all similar gathering places. The purpose of the order is to further restrict and limit gathering of persons and require closures of non-essential retail businesses in an effort to stem or slow the spread of the virus.
- J. On March 19, 2020, the Governor of the State of California, also issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors.
- 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 Hermosa beach 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.

- 1 N. Most, if not all, local schools are closed to prevent further spread of COVID-19.
2 These school closures will cause children to have to remain at home, leading to
3 many parents adjusting their work schedules to take time off work, whether paid or
4 unpaid. Hourly wage earners are unlikely to be paid for time off. The inability to
5 work due to school closures will economically strain those families who cannot
6 afford to take off time from work to stay at home
- 7 O. The situation is unprecedented and evolving rapidly. Further economic impacts
8 are anticipated, leaving tenants vulnerable to eviction.
- 9 P. This Ordinance is temporary in nature and only intended to promote stability and
10 fairness within the residential and commercial rental market in the City during the
11 COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby
12 serving the public peace, health, safety, and public welfare and to enable tenants in
13 the City whose income and ability to work is affected due to COVID-19 to remain
14 in their homes.
- 15 Q. In the interest of public health and safety, as affected by the emergency caused by
16 the spread of COVID-19, it is necessary to exercise authority to adopt this
17 ordinance related to the protection of life and property, to ensure renters can
18 remain in their homes and prevent proliferation of homelessness and further spread
19 of COVID-19. Displacement through eviction creates undue hardship for tenants
20 through additional relocation costs, stress and anxiety, and the threat of
21 homelessness due to the lack of alternative housing, and lack of moving services
22 and supplies as stores and businesses close. During the COVID-19 pandemic
23 outbreak, affected tenants who have lost income due to impact on the economy or
24 their employment may be at risk of homelessness if they are evicted for non-
25 payment as they will have little or no income and thus be unable to secure other
26 housing if evicted.
- 27 R. People experiencing homelessness are especially vulnerable to the spread of
28 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.

1 T. The City desires to prohibit evictions due to non-payment of rent for residential
2 and commercial tenants where the failure to pay rent results from income loss
resulting from the novel coronavirus (COVID-19).

3 U. This Ordinance is adopted pursuant to the City's police powers and powers
4 afforded to the city in time of national, state, county and local emergency during an
5 unprecedented health pandemic, such powers being afforded by the State
6 Constitution, State law and the Chapter 2.56 of the Hermosa Beach Municipal
7 Code to protect the peace, health, and safety of the public. The Hermosa Beach
8 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 health, life and property.

9
10 **SECTION 2.** Temporary Moratorium on Evictions for Non-Payment of Rent by Residential
Tenants Impacted by the COVID-19 Crisis.

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

14 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
15 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
16 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,
17 and provides documentation or explanation to support the claim. For purposes of this ordinance,
18 "in writing" includes email communications to a landlord or the landlord's representative with
whom the tenant has previously corresponded by email. Any medical or financial information
19 provided to the landlord shall be held in confidence, and only used for evaluating the tenant's
claim.
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21 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
22 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
23 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
24 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.
25

26 D. This ordinance applies to nonpayment eviction notices and unlawful detainer actions
27 based on such notices, served or filed on or after the date on which a local emergency was
proclaimed.
28

1 E. This ordinance grants a defense in the event that an unlawful detainer action is
2 commenced in violation of this ordinance. Violation of this ordinance shall be punishable as set
forth in Chapter 2.56 of the Hermosa Beach Municipal Code.

3 F. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which
4 the landlord may seek after expiration of the local emergency, and the tenant must repay within
5 six months of the expiration of the local emergency. A landlord may not charge or collect a late
6 fee for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent
7 that is delayed for the reasons stated in this ordinance through the eviction process. A landlord
8 shall not commence an eviction during the six months after the end of the local emergency, so
9 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. Nonpayment of rent in accordance
with the terms of this ordinance shall not be grounds for eviction of a tenant even after expiration
of the local emergency. Landlords are strongly encouraged to offer payment plans to tenants after
the period of local emergency.

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

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

13 A. During the period of local emergency declared in response to COVID-19, no
14 commercial landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant
15 demonstrates that the tenant's businesses is subject to the Orders referenced in Section 1 above or
16 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 rent as a result of such
limitation or closure or other demonstrated financial impact related to COVID-19.

17 B. A landlord knows of a tenant's lost income and inability to pay rent within the
18 meaning of this Order if the tenant, within 30 days after the date rent is due, notifies the landlord
19 in writing of the lost income and inability to pay rent due to a limitation or closure of the tenant's
20 business related to COVID-19, with appropriate supporting documentation. If a tenant suffers
21 only a partial loss of income, the tenant shall pay the pro-rated share of their rent that corresponds
22 to the income they generated during the period of loss. For purposes of this Order, "in writing"
23 includes email communications to a landlord or the landlord's representative with whom the
tenant has previously corresponded by email. 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.

24 C. This Ordinance grants a defense in the event that an unlawful detainer action is
25 commenced in violation of this ordinance. Violation of this ordinance shall be punishable as set
forth in Chapter 2.56 of the Hermosa Beach Municipal Code.

26 D. Nothing in this ordinance shall relieve the tenant of liability for the unpaid rent, which
27 the landlord may seek after expiration of the local emergency and the tenant must pay within six
28 months of the expiration of the local emergency. A landlord may not charge or collect a late fee
for rent that is delayed for the reasons stated in this ordinance; nor may a landlord seek rent that is

1 delayed for the reasons stated in this ordinance, through the eviction process during or after the
2 period of local emergency. A landlord shall not commence an eviction during the six months after
3 the end of the local emergency for non-payment of rent, so long as the tenant pays rent in a timely
4 manner after the period of local emergency and is repaying the past due rent that accrued during
5 the emergency period. Nonpayment of rent in accordance with the terms of this ordinance shall
6 not be grounds for eviction of a tenant even after expiration of the local emergency. Landlords are
7 strongly encouraged to offer payment plans to tenants after the period of local emergency.

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

9 **SECTION 4.** Temporary Suspension on Residential and Commercial Foreclosures.

10 A. No foreclosure action against a property owner shall be initiated or proceed during the
11 period of declared local emergency in the City of Hermosa Beach for any mortgagor with a
12 demonstrated financial impact related to COVID-19. Nothing in this ordinance shall relieve the
13 mortgagor of liability for any unpaid mortgage payments, which the mortgagee may seek after
14 expiration of the local emergency and the mortgagor must pay within six months of the expiration
15 of the local emergency, unless a different time is agreed to between the parties. A mortgagee may
16 not charge or collect a late fee or penalty for payments that are delayed for the reasons stated in
17 this ordinance. The respective rights and obligations of the parties in any foreclosure proceeding
18 shall be adjudicated in the appropriate court of law with jurisdiction over the matter at the
19 conclusion of the local emergency or rescission of this ordinance.

20 B. Violation of this ordinance shall be punishable as set forth in Chapter 2.56 of the
21 Hermosa Beach Municipal Code.

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

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

26 **SECTION 5.** In accordance with the Governor of the State of California's Executive Order N-28-
27 20, this ordinance shall remain in effect until May 31, 2020. In order to prevent inconsistencies,
28 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.

SECTION 6. Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance 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.

1 **SECTION 7. Environmental Review.**

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

13 **SECTION 8. Urgency Declaration; Effective Date.**

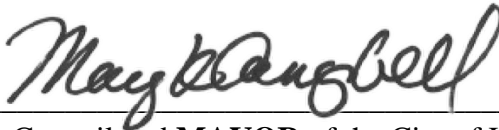
14 The City Council finds and declares that the adoption and implementation of this
15 ordinance is necessary for the immediate preservation and protection of the public peace,
16 health and safety as detailed above and as the City and public would suffer potentially
17 irreversible displacement of commercial and residential tenants resulting from evictions
18 and foreclosure for failure to pay rent during the COVID-19 crisis. During this local
19 emergency, and in the interest of protecting the public health and preventing transmission
20 of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the
21 City’s affordable housing stock, and to prevent housed individuals from falling into
22 homelessness, especially given state and county directives to stay at home. Promoting
23 stability amongst commercial tenancies is also conducive to public health, allowing
24 businesses to follow the advice and directives of public health officials to close and
25 allowing employees to avoid public contact during times of a public health crisis without
26 fear of imminent eviction or foreclosure. Loss of income as a result of COVID-19 may
27 inhibit City residents and businesses from fulfilling their financial obligations, including
28 payment of rent and mortgages. Under Government Code Section 8634 and HBMC
Chapter 2.56, 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.

29 **SECTION 9. Certification.**

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

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PASSED, APPROVED AND ADOPTED this 24th day of March, 2020.



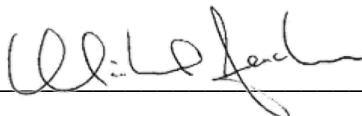
PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, California

ATTEST:



City Clerk

APPROVED AS TO FORM:



Michael Jenkins, City Attorney