

ORDINANCE NO. 21-__U

AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH
EXTENDING PORTIONS OF AND CLARIFYING THE TEMPORARY
MORATORIUM ON RESIDENTIAL EVICTIONS TO COMPORT WITH
RECENT CHANGES IN STATE LAW 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. The findings set forth in Ordinance No. 20-1407U, 20-1409U, 20-1414U, 20-1417U, 20-1420U, and 20-1422U and 21-1425U are still applicable and incorporated herein by reference.
- B. The City Council desires to prevent the spread of COVID-19, prevent homelessness and avoid displacement during safer at home orders and during the COVID-19 pandemic and to provide clear and limited bases on which a landlord may endeavor to evict a tenant consistent with state law.
- C. On March 27, 2020 Governor Gavin Newsom issued Executive Order N-37-20, which provides a 60-day extension for tenants to respond to an eviction complaint based on nonpayment of rent. As another indicator of the critical need for residents to remain at home, this order expressly preserves local authority to enact any public health measure that may compel an individual to remain physically present in any particular residential property.
- D. On May 13, 2020, Los Angeles County Department of Public Health issued a new Safer at Home Order for Control of COVID-19, which extended the order for people to remain in their residences except for essential business and requires all persons to practice physical distancing of at least six feet apart and wear a cloth face covering whenever they may have contact with people outside their household. On July 4, 2020, given the surge in COVID-19 cases in Los Angeles County, the Department issued a revised order urging residents to remain in their homes as much as practicable. The status of county and state health orders are still evolving daily.
- E. On June 30, 2020 Governor Newsom issued Executive Order N-71-20 extending the authorization for local governments to halt evictions of renters impacted by the COVID-19 pandemic through September 30, 2020.
- F. On September 1, 2020 Governor Newsom signed Assembly Bill 3088 (AB 3088), which enacted the COVID-19 Tenant Relief Act of 2020 ("the Act"). Among other things, this law supersedes portions of the City's temporary moratorium on residential evictions for nonpayment of rent and adopts a moratorium through January 31, 2021 so long as tenants comply with the Act's requirements. The Act provides specific provisions for cities with existing moratorium ordinances. As a result, the City is restating its urgency ordinance for the purpose of conforming to the new state law.

- G. Effective November 30, 2020, the County Department of Public Health enacted a new Health Officer Order requesting individuals to remain in their homes as much as possible and to avoid crowding and mingling with non-household members. The Order came after many Americans gathered and traveled over the Thanksgiving holiday in the midst of a winter surge of COVID-19 cases and deaths. According to the County Department of Public Health, daily peaks are now more than double the County's peak of daily cases during the summer surge. The region is currently experiencing a surge following the winter holiday season.
- H. With Intensive Care Unit ("ICU") bed capacity rapidly decreasing throughout California, the Governor of the State of California issued a State Regional Stay at Home Order on December 3, 2020, that would trigger greater restrictions on a region consisting of multiple counties depending on that region's ICU hospital bed availability. Once a region has less than 15 percent ICU availability, all counties within the region are required to follow the State Regional Stay at Home Order within 24 hours for at least three weeks. The Southern California Region, which the City of Hermosa Beach is a part of, was at zero percent ICU capacity on January 15, 2021.
- I. On January 5, 2021, the State Public Health Officer issued a new order directing counties with 10 percent or less of ICU capacity under the Regional Stay at Home Order where the regional ICU capacity is at 0 percent, to prioritize services to those who are the sickest and cancel or reschedule elective surgeries. The order is intended to reduce pressure on strained hospitals, and redistribute the responsibility of medical care across the state so patients can continue to receive lifesaving care.
- J. On January 25, 2021, the California Department of Public Health (CDPH) ended the Regional Stay at Home Order, lifting the order for all regions statewide, including Southern California. This action allowed all counties to return to the Blueprint for a Safer Economy framework which uses color-coded tiers to indicate which activities and businesses can open based on local case rates and test positivity. Los Angeles County is in the strictest tier, the Purple Tier.
- K. On January 29, 2021, Governor Newsom signed SB 91 (COVID-19 Tenant Relief Act, "the Act") to amend and replace AB 3088, extending the statewide residential eviction moratorium to June 30, 2021. The Act keeps in place the same requirements tenants must follow to receive eviction protections, but extends certain time limits of AB 3088. It also creates a State Rental Assistance Program that would offer landlords of lower income tenants payment for back-rent.
- L. The situation is unprecedented and evolving rapidly. Further economic impacts are anticipated, leaving tenants vulnerable to eviction. News reports have cited a UCLA study last year, which determined that as many as 449,000 people in L.A. County could face eviction due to the economic slump caused by the COVID-19 pandemic and tenants' inability to pay rent.

- M. The intent of this Ordinance is to extend the existing deadlines for the existing local residential eviction moratorium through June 30, 2021, and to comport with recent changes in state law.
- N. This Ordinance is adopted pursuant to the City's police powers and powers afforded to the City in the time of a national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law and HBMC Chapter 2.56 to protect the peace, health, and safety of the public. The Hermosa Beach 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.

SECTION 2. The Temporary Moratorium on Evictions for Non-Payment of Rent by Residential Tenants Impacted by the COVID-19 Crisis, as most recently amended in Urgency Ordinance No. 21-1425U is clarified as needed to comport with state law and restated in full as follows:

A. With respect to residential evictions for non-payment of rent due to financial impacts from COVID-19, the following applies:

1. The “repayment period” for deferred rent that came or will come due between March 1, 2020 through September 30, 2020, inclusive, is October 1, 2020 through March 31, 2021.

2. For the period of time of March 16, 2020 through September 30, 2020 (the “local moratorium period”), no residential landlord shall endeavor to evict a tenant for nonpayment of rent, if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19, subject to subparagraphs (a) and (b) below. A landlord shall not commence an eviction during the six months after the end of the local moratorium period, so long as the tenant pays rent in a timely manner after the local moratorium period and is repaying the past due rent that accrued during the local moratorium period. A landlord may not charge or collect a late fee or interest for rent that is delayed for the reasons stated in this Paragraph 2. The parties may agree in writing to a longer repayment plan or reduced rental obligation in accordance with the “Act”.

(a) A landlord who knows that a tenant cannot pay some or all of the rent temporarily due to financial impacts related to COVID-19 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 or an explanation within 30 days of the notice to support the claim. 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.

(b) For purposes of this Paragraph 2, “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.

(c) Other legal remedies available to landlords are not affected by this Paragraph 2.

(d) These protections in Paragraph 2 pre-dated AB 3088 and SB 91. State law may provide additional protections against eviction for nonpayment of rent due to financial impacts related to COVID-19 during this local moratorium period.

3. For the period of time of October 1, 2020 through June 30, 2021, tenants shall follow the preconditions for eviction protection under the Act to receive eviction protection, which include providing a declaration of hardship to their landlords within 15 days of receipt of an eviction notice and payment of partial rent (25% of all rent that came due from October 1, 2020 through June 30, 2021). Tenants shall repay the remaining rent due by the end of the repayment period unless earlier forgiven by landlords through the State Rental Assistance Program created by the Act.

4. Landlords are encouraged to offer payment plans to tenants, and any agreement between landlord and tenant to allow longer repayment periods or reduced rental obligations shall be in compliance with the Act.

5. Upon mutual written agreement of landlord and tenant, a tenant may draw down on a security deposit at any time to pay back rent. This provision does not authorize landlords to apply a security deposit to satisfy COVID-19 rental debt, as the term is defined by the Act, absent the aforementioned mutual written agreement.

6. In accordance with the Act, tenants that comply with the terms of this ordinance have a defense from eviction and the corresponding rental obligations will not be deemed past due until the close of the repayment period set out above.

7. For the period of December 8, 2020 through June 30, 2021, no residential landlord shall terminate a tenancy to demolish or substantially remodel the residential real property unless and until the landlord secures all permits necessary to perform the work. For purposes of this Section, “substantially remodel” means to make a modification of the property that requires a permit from the City. This ordinance shall apply to tenancy termination notices, notices to quit and other eviction notices, and the unlawful detainer actions based on such notices, served or filed on or before December 8, 2020; but, where the time to vacate the property has not passed.

(a) To the extent applicable, landlords must provide relocation assistance and satisfy other requirements in accordance with the Tenant Protection Act of 2019 (Cal. Civil Code § 1496.2) for a no-fault just cause eviction.

(b) No other legal remedies available to landlords are affected by this Paragraph 7.

SECTION 3. 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.

SECTION 4. 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.

SECTION 5. 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 and extend the existing urgency ordinance for an additional period of time. 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 Hermosa Beach, 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 6. 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 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, especially given state and county directives to stay at home. 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. This ordinance reflects the statewide approach to residential eviction protection, while maintaining important and impactful local provisions. This urgency ordinance is needed during the emergency in the interest of protecting the public health and preventing transmission of COVID-19, to avoid unnecessary housing displacement, to protect the City’s affordable housing stock, and to prevent housed

individuals from falling into homelessness, especially given state and county directives to stay at home. 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.

SECTION 7. 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 9th day of February 2021.

Mayor

ATTEST:

City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

City Attorney