

ORDINANCE NO. U-

AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH
ADDING CHAPTER 8.69 TO TITLE 8 (HEALTH AND SAFETY) OF THE
HERMOSA BEACH MUNICIPAL CODE TO REGULATE EVICTIONS
BASED ON INTENT TO DEMOLISH OR SUBSTANTIALLY REMODEL
RESIDENTIAL RENTAL PROPERTY 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. 20-1406U, 20-1407U, 20-1409U, 20-1414U, 20-1417U, 20-1420U, 20-1422U, and 21-1425U are still applicable and incorporated herein by reference.
- B. The City adopted an urgency ordinance during the COVID-19 pandemic that requires landlords to first obtain building permits to demolish or substantially remodel residential real property before tenants can be evicted to perform the work. The ordinance was extended multiple times and is set to expire on June 30, 2021.
- C. The Tenant Protection Act of 2019, Civil Code Section 1946.2, permits landlords to evict tenants based on the intent to demolish or substantially remodel their residential real property. History has shown that some unscrupulous landlords have abused this just cause ground for eviction by using it as a pretext to evict tenants. Some renters have alerted the City to this problem and after vacating their homes, saw work being done to the property that did not necessitate their eviction.
- D. To ensure that landlords' intent is genuine and that tenants are not evicted earlier than necessary, the City Council finds that residential landlords should not be able to evict tenants before obtaining all necessary approvals and permits to perform the proposed work. This is particularly important as the State's residential eviction moratorium, the COVID-19 Tenant Relief Act, will expire on June 30, 2021 and landlords may want to evict tenants at the first opportunity on July 1.
- E. Pursuant to Civil Code Section 1946.2, the City finds that this Ordinance is more protective than Civil Code Section 1946.2 by requiring property owners to obtain necessary permits prior to terminating a lawful residential tenancy. The City Council also finds that this Ordinance is consistent with and furthers the intent of Civil Code Section 1946.2.
- F. 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.

SECTION 2. Chapter 8.69, entitled "Evictions Based on the Intent to Demolish or Substantially

Remodel Residential Property” is hereby added to Title 8 (Health and Safety) of the Hermosa Beach Municipal Code to read as follows:

CHAPTER 8.69 EVICTIONS BASED ON INTENT TO DEMOLISH OR SUBSTANTIALLY REMODEL RESIDENTIAL PROPERTY

8.69.010	Definitions.
8.69.020	Requirements.
8.69.030	Applicability.
8.69.040	Remedies.

8.69.010 Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this section.

“Residential real property” means any dwelling or unit that is intended for human habitation.

“Substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a government agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

“Tenancy” means the right to lawfully occupy residential real property and includes a lease or sublease.

8.69.020 Requirements.

Before an owner of residential real property may terminate a lawful tenancy to demolish or substantially remodel residential real property pursuant to the Tenant Protection Act of 2019 (California Civil Code Section 1946.2) the owner shall first secure all permits necessary to demolish or substantially remodel the residential real property.

To the extent applicable, the owner must provide relocation assistance in accordance with the California Civil Code Section 1946.2 for a no-fault just cause eviction.

These requirements are in addition to and do not supersede any other obligation the owner may have under applicable local, state, and federal law. No other legal remedies available to owners are affected by this Chapter.

8.69.030 Applicability.

This Chapter 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 July 1, 2021; but, where the time to vacate the property has not passed.

This Chapter shall not apply to the residential real properties or circumstances described in California Civil Code Section 1946.2(e).

8.69.040 Remedies.

This Chapter may be asserted as an affirmative defense in an unlawful detainer proceeding. An owner's failure to comply with this Chapter does not constitute a criminal offense.

SECTION 3. 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 4. 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 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 5. 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 potentially suffer unwarranted and/or premature evictions of residential tenants after the state residential eviction moratorium sunsets on June 30, 2021. Unless this ordinance is immediately adopted, residential tenants in good standing will be without protections from landlords who lack a bona fide intent to substantially remodel or demolish their properties for at least a month. 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 6. 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 22nd day of June 2021.

Justin Massey, Mayor

ATTEST:

Eduardo Sarmiento, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

Michael Jenkins, City Attorney