



Legislation Details (With Text)

File #: REPORT 21-0106 **Version:** 1 **Name:**
Type: Action Item **Status:** Municipal Matter
File created: 2/4/2021 **In control:** City Council
On agenda: 2/9/2021 **Final action:**
Title: ADOPTION OF AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, 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
(City Attorney Michael Jenkins)
(Assistant City Attorney Lauren Langer)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 1. Urgency Ord re Eviction Moratorium_Extending Duration 06.30.21-CLEAN, 2. 2. Urgency Ord re Eviction Moratorium_Extending Duration 06.30.21-REDLINE, 3. 3. Table of COVID-19 Related Items

Date	Ver.	Action By	Action	Result
2/9/2021	1	City Council		

Honorable Mayor and Members of the Hermosa Beach City Council Meeting of February 9, 2021

Regular

ADOPTION OF AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, 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

(City Attorney Michael Jenkins)
(Assistant City Attorney Lauren Langer)

Recommended Action:

Staff recommends that City Council Adopt an Urgency Ordinance of the City of Hermosa Beach to extend portions of and clarify the temporary moratorium on residential evictions to comport with recent changes in state law and setting forth the facts constituting such urgency (**Attachment 1**).

The urgency ordinance requires four-fifths vote of the city council and if approved, will take effect immediately.

Executive Summary

The City Council will consider updating the City's temporary residential eviction moratorium to comport with the passage of Senate Bill 91 (SB 91) and extending the local eviction protections to be coterminous with state law through June 30, 2021, through adoption of an urgency ordinance.

Background:

On January 29, 2021, Governor Newsom signed Senate Bill 91 (SB 91), immediately enacting the “COVID-19 Tenant Relief Act” (“the Act”). The Act augments AB 3088 from last year and extends some of its time limits to provide additional rental debt relief and protections to residential tenants and small landlords/homeowners. Most significantly, the Act extends the state’s residential eviction moratorium from January 31, 2021 to June 30, 2021 and creates a State Rental Assistance Program.

Summary of Proposed Ordinance Changes:

1. Clarifying that for the period of time 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).
2. Clarifies that state rental protection program may offer rental forgiveness for low-income tenants and that additional protections may also be available under state law during the local moratorium period.
3. Extends the local residential eviction moratorium through June 30, 2021 to be coterminous with the state law. The local protections prohibit a residential landlord from terminating a residential tenancy in order to demolish or substantially remodel the property until the landlord obtains all permits necessary to commence the work.
4. Makes other minor clarifications to comport with SB 91.

Background of Residential Eviction Protections for Failure to Pay Rent Due to the COVID-19 Emergency

On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to address the global pandemic caused by a respiratory disease which has been named “COVID-19”. On March 15, 2020, the Mayor of City, declared a state of local emergency. At a special meeting on March 16, 2020, the City Council approved and ratified the declaration of local emergency. On March 24, 2020, the City passed an Urgency Ordinance, which instituted an eviction moratorium covering nonpayment of rent due to COVID-19 retroactive to March 16, 2020 for commercial and residential tenants.

To prevent a wave of evictions and piecemeal regulations throughout the state, Governor Newsom signed Assembly Bill 3088 (“AB 3088”) on August 31, 2020. The bill, which took immediate effect, enacted the COVID-19 Tenant Relief Act of 2020 (“Act”) to provide statewide eviction protections for residential tenants experiencing a financial hardship relating to COVID-19. AB 3088, among other things, prohibited residential tenants from being evicted for failure to pay rent due to a COVID-19-related hardship occurring between March 1 and January 31, 2021. Since Hermosa Beach had a local eviction moratorium in place through the end of September, tenants could rely on local protection through the end of September. However, the most prudent course of action would be to

also comply with state procedures for the month of September if the landlord requested. Among those requirements was the obligation to pay at least 25% of the total deferred rent that came due September 1, 2020 through January 31, 2021 no later than January 31, 2021. AB 3088 also prevented extensions of local residential eviction moratoria and set their repayment periods.

To reflect AB 3088's effects on the City's local ordinance, on September 22, 2020, City Council adopted an Urgency Ordinance (Ordinance No. 20-1417U) to clarify provisions of the moratorium on residential evictions to reflect state law. Namely, the ordinance clarified that the City's local moratorium on residential evictions for nonpayment of rent due to COVID-19 would end September 30, 2020. For purposes of educating the public, the ordinance explained the requirements for eviction protection under state law, including the return of COVID-19 hardship declarations to landlords and partial payment of deferred rent. As required by state law, the September ordinance also set the City's six-month repayment period for COVID rental debt as October 1, 2020 through March 31, 2021. The state law did not allow the City to change those dates.

Senate Bill 91 - 2021 Statewide Eviction Moratorium

On January 29, 2021, Governor Newsom signed Senate Bill 91 (SB 91), immediately enacting the "COVID-19 Tenant Relief Act" ("the Act"). The Act augments AB 3088 and extends some of its time limits to provide additional rental debt relief and protections to residential tenants and small landlords/homeowners. Most significantly, the Act extends the state's residential eviction moratorium from January 31, 2021 to June 30, 2021 and creates a State Rental Assistance Program.

Tenant Relief Act

The requirements to qualify for eviction protection remain largely the same. The Act continues to prohibit residential tenants from being evicted for failure to pay rent due to a COVID-19-related hardship occurring between March 1 and August 31, 2020, provided that the tenant timely returns a written declaration of hardship to the landlord. (Note: Hermosa Beach tenants were also protected under the *local* ordinance for that time period as well).

The Act now gives tenants more time to pay COVID-19 rental debt under the state protections. Under AB 3088, residential tenants experiencing COVID-19-related hardships between September 1, 2020 and January 31, 2021 were protected from eviction provided they paid at least 25% of the rent due during this period. The new state law extends this period to June 30, 2021, allowing tenants five more months to come up with the 25% minimum rent payment. This extension also means that nonpayment of rent that came due between March 1, 2020 through June 30, 2021 (formerly January 31, 2021) cannot ever be grounds for eviction for tenants who comply with the Act's preconditions for protection (timely returning signed hardship declarations and paying at least 25% of rent owed between September 1, 2020 and June 30, 2021). If a residential tenant fails to take the steps needed to qualify for eviction protection by June 30, 2021, the landlord may file an unlawful detainer action to evict the tenant as early as July 1, 2021 under the state law.

Though ambiguously worded, the Act suggests that cities may again adopt residential tenant

protections for non-payment of rent starting July 1, 2021. We will monitor the state law and report back on any extensions of the schedule in the state law, or any renewed authorization to regulate locally. Until then, the Act prevails over and preempts provisions of any existing local residential eviction moratorium that would interfere with the Act's rental payment requirements for rent that came due or will come due between March 1, 2020 and June 30, 2021.

Additionally, while the City provided a six-month repayment period prior to AB 3088 and SB 91, the state law now provides longer to repay rent than the local moratorium did. So, tenants and landlords should be aware of state law procedures for eviction protection (timely returning signed hardship declarations and paying at least 25% of rent owed between September 1, 2020 and June 30, 2021 upon request from landlord).

State Rental Assistance Program

A notable difference from AB 3088 is the Act's creation of the State Rental Assistance Program funded by federal appropriations. The Program allows landlords of low-income tenants or the tenants themselves to apply for rental assistance, prioritizing rent in arrears over prospective rent. If a landlord applies, the landlord may receive 80% of unpaid rental debt accumulated from April 1, 2020 through March 31, 2021. To receive payment, the landlord must give up the right to evict an eligible tenant based on COVID-19 rental debt (rent that came due from March 1, 2020 through June 30, 2021). If a landlord declines to participate in the Program, the tenant can apply, but will only receive up to 25% of unpaid rental debt accumulated from April 1, 2020 through March 31, 2021. The mechanics on how the Program will be administered are still being developed and the County of Los Angeles will most likely implement the program. The City will release information for the public as more information becomes known.

To conform to the new law, staff recommends a few minor amendments to the eviction moratorium ordinance, as described in the beginning of this report. A redline (**Attachment 2**) and clean copy of the ordinance are provided to show the changes to the ordinance (**Attachment 1**).

Additional Local Eviction Protections

On December 8, 2020, the City adopted an urgency ordinance (Urgency Ordinance No. 20-1422U) that amended the temporary moratorium on residential evictions to prohibit residential landlords from terminating a residential tenancy in order to demolish or substantially remodel the property unless and until the landlords obtain all permits necessary to commence the work. The ordinance does not prevent landlords from evicting tenants from residential property if they want to demolish or substantially remodel; it merely changes the sequence of steps needed before they may do so. "Substantially remodel" is defined by the ordinance to mean, to make a modification of the property that requires a permit from the City. The ordinance applies to tenancy termination notices, and eviction notices, and 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. Ordinance No. 20-1422U expired on January 31, 2021. On January 26, 2021, the City Council extended the duration of this protection through March 31, 2021. The City now seeks to extend the duration of this protection

through June 30, 2021 to reflect the duration of the new residential eviction moratorium under SB 91.

Fiscal Impact:

There is no anticipated direct fiscal impact from this ordinance. The City of Hermosa Beach initially incurs all costs related to the City's response to the COVID-19 Pandemic, but will submit requests for cost recovery to the California Office of Emergency Services (CalOES) for Federal Emergency Management Agency (FEMA) reimbursement.

Attachments:

1. CLEAN: Urgency Ordinance No. 21-XXXX to extend and clarify the temporary moratorium on residential evictions to comport with state law and setting forth the facts constituting such urgency.

2. REDLINE: Urgency Ordinance No. 21-XXXX to extend and clarify the temporary moratorium on residential evictions to comport with state law and setting forth the facts constituting such urgency.

3. Table of COVID-19 related items.

Respectfully Submitted by: Lauren Langer, Assistant City Attorney

Legal Review: Lauren Langer, Assistant City Attorney

Approved: Suja Lowenthal, City Manager