



Legislation Details (With Text)

File #: REPORT 21-0194 **Version:** 1 **Name:**
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File created: 3/18/2021 **In control:** City Council
On agenda: 3/23/2021 **Final action:**
Title: ADOPTION OF AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH EXTENDING THE TEMPORARY MORATORIUM ON COMMERCIAL EVICTIONS DURING THE COVID-19 PANDEMIC, EXTENDING COMMERCIAL TENANT PROTECTIONS FROM PREMATURE EVICTION BASED ON LANDLORD INTENT TO DEMOLISH OR SUBSTANTIALLY REMODEL, 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 Ordinance 21-1428U Commercial Eviction Moratorium, 2. 2. Table of COVID-19 Related Items

Date	Ver.	Action By	Action	Result
3/23/2021	1	City Council		

**Honorable Mayor and Members of the Hermosa Beach City Council
Meeting of March 23, 2021**

Regular

ADOPTION OF AN URGENCY ORDINANCE OF THE CITY OF HERMOSA BEACH EXTENDING THE TEMPORARY MORATORIUM ON COMMERCIAL EVICTIONS DURING THE COVID-19 PANDEMIC, EXTENDING COMMERCIAL TENANT PROTECTIONS FROM PREMATURE EVICTION BASED ON LANDLORD INTENT TO DEMOLISH OR SUBSTANTIALLY REMODEL, AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

(City Attorney Michael Jenkins)

(Assistant City Attorney Lauren Langer)

Recommended Action:

Staff recommends City Council adopt an Urgency Ordinance No 21-1428U of the City of Hermosa Beach to extend the temporary moratorium on commercial evictions during the COVID-19 pandemic, extend commercial tenant protections from premature eviction based on landlord intent to demolish or substantially remodel, 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 of Hermosa Beach (“City”) has an eviction moratorium in place protecting commercial tenants from eviction for failure to pay rent due to financial impacts related to COVID-19, effectively deferring payment of rent during the defined moratorium period. The City’s commercial eviction moratorium period is set to expire on March 31, 2021. The proposed ordinance would extend through June 30, 2021: (1) the moratorium period for commercial tenants, in line with Governor Newsom’s current Executive Order N-03-21, authorizing adoption of commercial eviction moratorium ordinances at the local level through June 30, 2021; and (2) the requirement that landlords obtain permits before evicting commercial tenants for the demolition or substantial remodeling of leased properties. Extending these commercial tenant protections through June 30, 2021 would align with the expiration date of the statewide residential eviction moratorium known as the COVID-19 Tenant Relief Act.

Background:

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 tenants. The moratorium has been extended multiple times by subsequent urgency ordinances.

Commercial Eviction Moratorium

The current urgency ordinance allows commercial tenants to avoid eviction for non-payment of rent due to financial impacts related to COVID-19 and ultimately, to defer paying that rent during the moratorium period. The moratorium is set to expire on March 31, 2021, after which time tenants will be required to begin paying back deferred rent.

The proposed ordinance would extend the moratorium period for commercial tenants through June 30, 2021, which is in line with Governor Newsom’s current Executive Order N-03-21, authorizing commercial eviction moratorium ordinances at the local level. Commercial tenants must continue to provide documentation that their businesses are closed or operations limited to prevent spread of COVID-19 to receive protection under the City’s moratorium, and pay a pro-rated share of their rent if they suffered only a partial loss of net income. For each month tenants are unable to pay full rent, tenants must provide to landlords notice of their inability to pay and documentation. The amount of time to repay rent in arrears would continue to be six months after the end of the moratorium period (the “repayment period”), and landlords would not be allowed to evict a tenant during that six-month period if the tenant is paying rent that is due in a timely manner and repaying past due rent. If the commercial moratorium period is extended, the commercial tenant repayment period would be July 1, 2021 through December 31, 2021.

In sum, the proposed ordinance makes the following changes to the commercial eviction moratorium:

1. Extends the moratorium through June 30, 2021; and
2. Modifies the repayment period to July 1, 2021 through December 31, 2021.

Option of Deferring to the Los Angeles County Eviction Moratorium

Though we do not recommend deferring to the County's commercial eviction moratorium over the City's moratorium at this time, Council should be aware of the County eviction moratorium currently in effect through June 30, 2021.

In late February, Los Angeles County extended its Temporary Eviction Moratorium through June 30, 2021. The Los Angeles County Temporary Eviction Moratorium bans the eviction of commercial (and residential) tenants for COVID-19 related nonpayment of rent. The County Moratorium applies to commercial tenancies in both unincorporated areas and incorporated cities located within the County, except in a city that has adopted an eviction moratorium that provides greater protections to commercial tenants than that of the County.

Should the City Council decide not to extend the City's commercial eviction moratorium, commercial tenants that fall within the City's local protections would still be protected under the County Moratorium until June 30, 2021. Under the County Moratorium, tenants with nine or fewer employees will have 12 months after the end of the Moratorium to repay past-due rent. Landlords of these smaller businesses will be required to accept tenants' self-certification of their inability to pay rent, which may be provided verbally or in writing. Tenants with 10 or more, but less than 100, employees will have six months to repay owed rent. These larger businesses must provide landlords written documentation demonstrating their inability to pay rent. These protections would not apply to tenants that are multi-national, publicly-traded, or have more than 100 employees. The County Moratorium encourages, but does not require, commercial tenants to pay partial rent during the County moratorium.

Commercial Tenant Protections from Eviction for Landlord to Demolish or Substantially Remodel Property

The City currently prohibits commercial landlords from terminating a commercial tenancy in order to demolish or substantially remodel the property unless and until they obtain all permits necessary to commence the work. The prohibition does not prevent commercial landlords from evicting tenants from property they want to demolish or substantially remodel; it merely changes the sequence of steps needed before they may do so. "Substantially remodel" means to make a modification of the property that requires a permit from the City. The urgency ordinance that enacted these protections applies to tenancy termination notices, and eviction notices, and unlawful detainer actions based on such notices, served or filed on or before January 26, 2021; but, where the time to vacate the property has not passed. These tenant protections will expire on March 31, 2021, the end date of the City's existing commercial moratorium period.

The proposed ordinance would extend these commercial tenant protections through June 30, 2021 to

be coterminous with the City's commercial eviction moratorium, should Council vote to extend the moratorium.

The degree of the health and economic impact of the pandemic is unprecedented and unknown. Millions of people have filed for unemployment, further fueling a decline in business revenues. The City has been hit hard economically. By preventing premature evictions, the proposed ordinance ensures that employees remain employed for as long as possible and vacated commercial spaces do not stay empty for long periods, potentially resulting in blight, vandalism, and trespassing. In light of the foregoing, the proposed ordinance should be adopted on an urgency basis, taking effect immediately pursuant to Government Code section 36937, for the preservation of the public peace, health, and safety of residents living within the City, based on the facts described herein and set forth in the Urgency Ordinance.

Fiscal Impact:

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. Urgency Ordinance No. 21-1428U of the City of Hermosa Beach to extend the temporary moratorium on commercial evictions during the COVID-19 pandemic, extend commercial tenant protections from premature eviction based on landlord intent to demolish or substantially remodel, and setting forth the facts constituting such urgency.
2. Table of COVID-19 related items.

Respectfully Submitted by: Michael Jenkins, City Attorney

Legal Review: Lauren Langer, Assistant City Attorney

Noted for Fiscal Impact: Viki Copeland, Finance Director

Approved: Suja Lowenthal, City Manager