



Legislation Details (With Text)

File #: REPORT 21-0606 **Version:** 1 **Name:**
Type: Action Item **Status:** Municipal Matter
File created: 10/7/2021 **In control:** City Council
On agenda: 10/12/2021 **Final action:**
Title: CORRECTION TO ORDINANCE REGARDING RESIDENTIAL
SUBSTANTIAL REMODEL EVICTION PROTECTIONS
(City Attorney Michael Jenkins)
(Assistant City Attorney Monica Castillo)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 1. Ordinance - Substantial Remodel Residential Evictions, 2. 2. Urgency Ordinance - Substantial Remodel Residential Evictions

Date	Ver.	Action By	Action	Result
10/12/2021	1	City Council		

**Honorable Mayor and Members of the Hermosa Beach City Council
Meeting of October 12, 2021**

Regular

CORRECTION TO ORDINANCE REGARDING RESIDENTIAL SUBSTANTIAL REMODEL EVICTION PROTECTIONS

(City Attorney Michael Jenkins)
(Assistant City Attorney Monica Castillo)

Recommended Action:

Staff recommends City Council:

1. Introduce and waive first reading of an ordinance titled, "An Ordinance of the City of Hermosa Beach Amending 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";
2. Direct that the proposed ordinance be returned for a second reading at the next regular meeting of City Council in two weeks; and
3. Adopt by four-fifths vote of Council, an ordinance titled, "An Urgency Ordinance of the City of Hermosa Beach Amending 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."

Executive Summary:

On June 22, 2021, the City Council of Hermosa Beach adopted Urgency Ordinance No. 21-1434U

and introduced an identical non-urgency ordinance to require landlords to obtain permits before evicting residential tenants to demolish or substantially remodel rental property. There was no second reading of the non-urgency ordinance to effectuate its adoption. The adopted urgency ordinance, Ordinance No. 21-1434U, however, contained a drafting error that incorrectly states the ordinance applies to tenancy termination notices, notices to quit and other eviction notices and unlawful detainer actions based on such notices, served “on or before July 1, 2021” instead of “on or *after* July 1, 2021.” The City Council is now asked to consider adopting a proposed non-urgency ordinance and urgency ordinance that will correct this error

Background:

At the June 8, 2021 regular meeting, City Council directed staff to prepare an ordinance to codify the requirement for residential landlords to obtain permits before evicting tenants to demolish or substantially remodel property. Pursuant to this direction, staff prepared two ordinances, an urgency and non-urgency ordinance with identical operative language. At the June 22, 2021 meeting, Council adopted the urgency ordinance and introduced and waived first reading of the non-urgency ordinance. There was no second reading of the non-urgency ordinance. As a result, the non-urgency ordinance was not ultimately adopted, but the urgency ordinance (Ordinance No. 21-1434U), was adopted effective June 22, 2021, and is codified as Chapter 8.69 of the Hermosa Beach Municipal Code.

Due to a drafting error in the urgency ordinance, it is recommended that the City Council adopt a proposed non-urgency ordinance to correct the error.

Past Council Actions

Meeting Date	Description
March 16, 2020	Resolution No. 20-7230 Confirming the Proclamation of a Local Emergency and Initiating Commercial and Residential Eviction Moratoriums
March 24, 2020	Urgency Ordinance No. 20-1406U, Temporary Moratorium on Evictions for Nonpayment of Rent by Residential Tenants and Commercial Tenants, and Temporary Suspension on Residential and Commercial Foreclosures
April 14, 2020	Urgency Ordinance No. 20-1407U, To Amend the Temporary Moratorium on Foreclosures and Evictions Due to Non-Payment of Rent by Residential and Commercial Tenants Impacted by COVID-19. Amended the Eviction Moratorium in 20-1406U in its entirety in light of Governor Newsom's Financial Relief Package announced on March 25, 2020.
May 26, 2020	Urgency Ordinance No. 20-1409U, Extending the Temporary Moratorium on Evictions
July 28, 2020	Urgency Ordinance No. 2020-1414U, Extending the Temporary Moratorium on Evictions During the COVID-19 Pandemic
September 22, 2020	Urgency Ordinance No. 20-1417U, Clarifying the Temporary Moratorium on Evictions During the COVID-19 Pandemic
November 24, 2020	Urgency Ordinance No. 20-1420U, Temporary Moratorium on Commercial Evictions During the COVID-19 Pandemic
December 8, 2020	Urgency Ordinance No. 20-1422U, Amending the Temporary Moratorium on Residential Evictions During the COVID-19 Pandemic
January 26, 2021	Urgency Ordinance No. 21-1425U, Clarifying and Extending the Temporary Commercial and Residential Moratorium on Evictions During the COVID-19 Pandemic
February 9, 2021	Urgency Ordinance No. 21-1426U, Extending Portions of and Clarifying the Temporary Moratorium on Residential Evictions to Comport with Recent Changes in State Law
March 23, 2021	Urgency Ordinance No. 21-1428U, 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
June 22, 2021	City Council of Hermosa Beach adopted Urgency Ordinance No. 21-1434U and introduced an identical non -urgency ordinance to require landlords to obtain permits before evicting residential tenants to demolish or substantially remodel rental property.

Discussion:

The urgency ordinance, Ordinance No. 21-1434U, contained a drafting error in Section 8.69.030 "Applicability", that incorrectly states the ordinance applies to tenancy termination notices, notices to quit and other eviction notices, and unlawful detainer actions based on such notices, served "on or before July 1, 2021" instead of "on or *after* July 1, 2021."

Existing Section 8.69.030 of the Hermosa Beach Municipal Code states as follows: “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.” (emphasis added)

The proposed urgency and non-urgency ordinances will correct the typo in bold above to state that: “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 **after** July 1, 2021; but, where the time to vacate the property has not passed.” (emphasis added)

The proposed non-urgency and urgency ordinances will make no other changes to previously adopted Ordinance No. 21-1434U. The urgency ordinance is identical to the non-urgency ordinance except it would go into immediate effect if approved. This is particularly important given that the State’s residential eviction moratorium ended on September 30, 2021, and landlords within the City have already attempted to evict tenants claiming the want to substantially remodel units, which may be in bad faith. The urgency ordinance is thus meant to function as a stop-gap measure until the non-urgency ordinance can go into effect.

Both ordinances are declarative of existing law and merely memorialize the original intent of the City Council. Staff recommends that the City Council: (1) introduce and waive first reading of the proposed ordinance, and direct staff to return the proposed ordinance for a second reading in two weeks; and (2) adopt by four-fifths vote of the Council the urgency ordinance in order to prevent a lapse in protection from the premature or pre-textual eviction of residents from their homes.

Fiscal Impact:

There is no fiscal impact to the City associated with the recommended action.

Attachments:

1. An ordinance titled, “An Ordinance of the City of Hermosa Beach Amending 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.
2. An urgency ordinance titled, “An Urgency Ordinance of the City of Hermosa Beach Amending 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.”

Respectfully Submitted by: Michael Jenkins, City Attorney

Legal Review: Monica Castillo, Assistant City Attorney

Approved: Suja Lowenthal, City Manager