



## Staff Report

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File #: REPORT 21-0392, Version: 1

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Honorable Mayor and Members of the Hermosa Beach City Council  
Meeting of June 22, 2021

Regular

### **COMMERCIAL EVICTION MORATORIUM AND RESIDENTIAL SUBSTANTIAL REMODEL EVICTION PROTECTIONS**

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

#### **Recommended Action:**

Staff recommends City Council take the following actions:

1. Adopt by four-fifths vote of Council an ordinance titled, "An Urgency Ordinance of the City of Hermosa Beach Extending the Temporary Moratorium on Commercial Evictions During the COVID-19 Pandemic and Setting Forth the Facts Constituting Such Urgency;"
2. Adopt by four-fifths vote of Council, an ordinance titled, "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;" and
3. Introduce and waive first reading of an ordinance titled, "An 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."

#### **Executive Summary:**

The City Council will consider adoption of an urgency ordinance and non-urgency ordinance that will continue to require landlords to obtain permits before evicting residential tenants to substantially remodel rental property. Council will also receive an update regarding the Governor's June 11, 2021 Executive Order authorizing local commercial eviction moratorium through September 30, 2021 and be presented with an option to extend its commercial eviction moratorium ordinance to the same date.

#### **Background and Discussion:**

##### **Commercial Eviction Moratorium**

At a regular meeting held on June 8, 2021, the City Council voted to pursue "Option 1" described in the staff report for Item XIV.e. Option 1 provides:

- a. Allow the Commercial Eviction Moratorium to sunset on June 30, 2021;
- b. Take no action to readopt a Residential Eviction Moratorium;

- c. Extend the requirement that residential landlords obtain building permits before evicting tenants to demolish or substantially remodel property; and
- d. Aggressively promote the state rental assistance program on the City's website and other local media.

At the time of the meeting, the Governor's Executive Order N-03-21, which authorized cities to enact local commercial eviction moratorium, was set to expire on June 30.

Three days after the meeting, on June 11, 2021, the Governor issued Executive Order N-08-21 to extend the expiring order through September 30, 2021. In light of this significant development, staff has prepared an urgency ordinance to extend the City's commercial eviction moratorium if City Council chooses to do so.

### **Permits Required Prior to Eviction of Residential Tenants to Demolish or Substantially Remodel Property**

City Council also 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 has prepared two ordinances, one is a non-urgency ordinance and the other an urgency ordinance. We are recommending adoption of both.

The non-urgency ordinance will not go into effect until 30 days after its adoption at the next City Council meeting scheduled for July 7, 2021. If adopted, it will be added to the Hermosa Beach Municipal Code. Unlike the urgency ordinance, which allows for protections to go into immediate effect based on urgency findings, the non-urgency ordinance is supported by facts that justify the City's exercise of its police powers to close a loophole in the Tenant Protection Act of 2019.

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. However, some landlords have abused this no-fault, just cause ground for eviction by using it as a pretext to evict tenants. If a landlord fails to obtain permits before serving an eviction notice in violation of the ordinance, then the tenant would be able to use the landlord's violation as a defense in eviction proceedings. The City of Long Beach and the City of Los Angeles enacted similar local protections before the COVID-19 emergency was declared.

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 will sunset on June 30, 2021, and landlords may be more inclined to serve eviction notices come July 1, 2021. The urgency ordinance is thus meant to function as a stop-gap measure until the non-urgency ordinance can go into effect. In contrast with the City's existing requirement that landlords obtain permits before evicting tenants, the proposed ordinances now incorporate the terminology of the Tenant Protection Act of 2019 and uses its definition of "substantially remodel":

*"Substantially remodel" means the replacement or substantial modification*

*of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental 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.*

Staff recommends adoption of both the urgency and non-urgency ordinances in order to prevent a lapse in protection from the premature or pretextual eviction of residents from their homes.

### ***Past Council Actions***

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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 Commercial 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 to Extend the Eviction Moratorium in 20-1406U in its entirety in light of Newsom's Financial Relief Package announced on March 23, 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 Amending the Temporary Moratorium on Residential Evictions to Comply 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

**Fiscal Impact:**

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

**Attachments:**

1. An ordinance titled, "An Urgency Ordinance of the City of Hermosa Beach Extending the Temporary Moratorium on Commercial Evictions During the COVID-19 Pandemic and Setting Forth the Facts Constituting Such Urgency."
2. An ordinance titled, "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 Facts Constituting Such Urgency.”

3. An ordinance titled, “An 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.”
4. Table of Covid-19 Related Items

**Respectfully Submitted by:** Michael Jenkins, City Attorney

**Legal Review:** Monica Castillo, Assistant City Attorney

**Approved:** Suja Lowenthal, City Manager