



# COMMERCIAL EVICTION URGENCY ORDINANCE

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# AGENDA



- **Background**
- **Policy Rationales**
- **Legal Basis**
- **Review of Ordinance Provisions**
- **Next steps**



# BACKGROUND

- **March 16, 2020**
  - **Shelter-in-Place Order and Emergency Proclamation (County, San Bruno)**
  - **State Order authorizing local jurisdictions to adopt residential and commercial moratoria on evictions**
- **March 23, 2020**
  - **County adopts moratorium on residential evictions covering entire County**
- **April 7, 2020**
  - **County adopts moratorium on commercial evictions covering only unincorporated areas**
- **April 28, 2020**
  - **City Council provides direction to draft ordinance**



# POLICY RATIONALES

- **Severe and unprecedented economic and societal dislocation**
- **Public interest in small businesses remaining open**
  - **Provide essential services during pandemic; supports public health, safety and welfare**
- **Public interest in other small businesses reopening when allowed**
  - **Essential to future health, safety and welfare of community**



# POLICY RATIONALES (CONT.)

- **Other considerations**
  - **More equal bargaining positions between commercial landlords/tenants than residential**
  - **Some landlords may qualify as “small businesses”**
  - **Courts not hearing any eviction cases until 90 days after shelter-in-place order lifted by Governor**



# LEGAL BASIS FOR ORDINANCE

- **Government Code section 36937: urgency ordinance to protect public peace, health, safety and welfare**
- **Requires factual findings**
  - **Courts will generally defer to City Council's findings**
- **Requires 4/5 vote of City Council**



# REVIEW OF ORDINANCE PROVISIONS

- Prohibits commercial evictions of tenants with less than \$5M in annual gross receipts
- Effective until 5-31-2020 unless extended
  - Applies to all unexpired notices of eviction
- Requires landlord to notify tenant of ordinance and time to submit documentation for COVID-19 related inability to pay
- Tenant can defer paying rent for 90 days plus three additional 30-day periods to 11-27-2020



# REVIEW OF ORDINANCE PROVISIONS (CONT.)

- Prohibits late fees
- Allows landlords to request hardship waiver
- Enforcement by parties, not City
- City Council can extend if state orders authorizing cities to enact commercial eviction moratoria are extended past 5-31-2020





# NEXT STEPS

- Questions, public input, discussion
- Adopt ordinance by 4/5 vote