

Memo from City Attorney

To: City Council

Re: Findings and Ordinance Amendment

Memo dated March 19, 2020

Special Meeting of March 20, 2020

[NOT ATTORNEY CLIENT PRIVILEGED]

Executive Summary

Two questions have been asked since the 3/20/2020 10:00 AM Special Meeting Agenda was posted. This memo is intended to answer two questions: (1) what findings, if any, are required to adopt this ordinance, and (2) may this ordinance be introduced, amended and adopted on the same night.

The short answers are that (1) only urgency findings are required but no substantive findings, and (2), yes, this ordinance may be amended and adopted the same night. Below the questions are repeated and answered with explanations.

Question 1. Required Findings

Question 1: Are findings required to adopt the eviction ordinance and if so what kind?

Answer to Question 1. The ordinance to suspend evictions is a legislative, not adjudicative act. Its a bit like a zoning text amendment. It affects a broad class of people equally, unlike a use permit or application to approve a subdivision. The decision to suspend evictions is pure Council policy. Because it is a legislative act, no substantive findings are required for the eviction issues.

Question 2. Ordinance Amendment on Night Introduced

The second question is whether the ordinance to suspend evictions can be amended on the night of introduction when non-emergency ordinance ordinances cannot be amended and adopted on the night of introduction. It can be amended the same night because the Charter allows it. I have highlighted the relevant Charter provisions in yellow.

Here are the relevant sections of the Charter. Read together, these sections say an urgency ordinance may be introduced, amended and adopted at the same meeting.

Article VI: Legislation

SECTION 601. ADOPTION OF ORDINANCES. Each ordinance shall be introduced in writing. With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the Council on the day of its introduction, nor within six (6) days thereafter, nor at any time other than a regular or adjourned regular meeting, nor until such ordinance shall have been published as required by this Charter. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not less than six (6) days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

SECTION 602. ORDINANCES: EMERGENCY. Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five (5) affirmative votes.

SECTION 607. PUBLICATION OF ORDINANCES. The City Clerk shall cause at least the title and a summary of each proposed ordinance, with the exception of those ordinances which take effect upon adoption referred to in this Article, to be published in a newspaper of general circulation in the City at least three (3) days prior to its adoption. The City Clerk shall cause at least the title and a summary of each ordinance which takes effect upon adoption to be published at least once in the official newspaper of the City within fifteen (15) days after its adoption.

SECTION 608. ORDINANCES: EFFECTIVE DATE. No ordinance adopted by the Council shall become effective until thirty (30) days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election;
- (b) An improvement proceeding ordinance adopted under some law or procedural ordinance;
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property;
- (d) An emergency ordinance adopted in the manner provided for in this Article;
- (e) An ordinance annexing areas to the City; or
- (f) An ordinance providing for a tax levy or appropriation for the usual current expenses of the City.

END OF MEMO