

ORDINANCE NO. _____

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF CHULA VISTA PURSUANT TO CHARTER
SECTION 311(d) ENACTING A TEMPORARY
MORATORIUM ON NO-FAULT EVICTIONS FOR
RESIDENTIAL TENANTS

WHEREAS, prior to the COVID-19 pandemic, there existed a lack of affordable housing in the State of California, including San Diego County (<https://www.gov.ca.gov/2019/03/11/governor-newsom-announces-legislative-proposals-to-confront-the-housing-cost-crisis/>) and which continues to exist to this day; and

WHEREAS, over 42% of the housing stock in the City of Chula Vista is rental housing and 44% of all Chula Vista renters pay more than 50% of their income towards housing costs (2011-2015 CHAS); and

WHEREAS, 47% of Chula Vista's households are of lower income and earn 80% of the Area Median Income or less (\$68,000 annual income for a family of four) and 46% of these households pay more than 50% of their income towards housing costs as renters and homeowners (2011-2015 CHAS); and

WHEREAS, the City's COVID-19 Emergency Rental Assistance Program ("ERAP") via SBCS has received 7,339 ERAP applications, of which 6,189 were processed, through April 21, 2022; and

WHEREAS, Chula Vista residents, particularly those within low wage and service industries, have suffered loss or limited work opportunities and are experiencing unexpected loss of income. These households are at risk of maintaining housing and falling into homelessness; and

WHEREAS, given existing income levels of Chula Vista residents and the existing high cost of housing in San Diego County prior to the COVID-19 pandemic, any further reductions in income and increased housing costs would exacerbate existing housing affordability issues—indeed a recent report shows that Chula Vista rents increased by 16% over the last year (<https://www.cbs8.com/article/news/investigations/your-stories-8/skyrocketing-rent-hikes-across-san-diego-new-report-shows/509-ee7f4ae5-c360-4ea7-bb59-55c4cb5f86d7>); and

WHEREAS, further economic impacts are anticipated (including high inflation, increased food and transportation costs, rising rents, and higher mortgage rates) leaving tenants vulnerable to eviction; and

WHEREAS, it in the interest of protecting the public health and welfare, the City Council of the City of Chula Vista finds that it is essential to avoid unnecessary housing displacement, to protect the City's affordable housing stock, and to prevent housed individuals from falling into homelessness; and

WHEREAS, in August 2020, the California legislature adopted state residential eviction protections for tenants unable to pay rent due to the COVID-19 pandemic and preempted local eviction protections (the state eviction protections were extended to residential tenancies through March 31, 2022); and

WHEREAS, displacement of residential tenants caused by eviction creates undue hardship on these tenants by making it difficult to follow public health orders and guidance of social distancing and isolation, and puts them at risk of homelessness due to the City's documented shortage of affordable housing; and

WHEREAS, through "no-fault" evictions, tenants can be evicted and displaced from their homes despite satisfying monthly rental obligations and acting in good faith to comply with the terms of their lease; and

WHEREAS, a tenant's sudden and immediate displacement caused by a "no-fault" eviction can have a profound impact on the financial, emotional, and professional stability of a tenant's life, which impacts are compounded by the ongoing COVID-19 pandemic; and

WHEREAS, evictions have been associated with higher COVID-19 transmission and mortality through overcrowded living environments, transiency, reduced access to healthcare, and challenges to comply with mitigation strategies; and

WHEREAS, the Council finds that adopting this Ordinance is necessary and appropriate to address the threats to the public health, safety, and welfare of its citizens to ensure residents continue to have stable shelter and to protect residents from avoidable homelessness; and

WHEREAS, this Ordinance further limits the permissible reasons for termination of a residential tenancy and provides additional tenant protections. City Council hereby declares and finds that that this Ordinance more protective than the State Tenant Protection Act of 2019 (AB 1482) and that this Ordinance shall apply rather than the Act.

NOW, THEREFORE, the City Council of the City of Chula Vista does ordain as follows:

Section I. Temporary Moratorium on Evictions.

1. Findings. The City Council of the City of Chula Vista hereby fully incorporates the above Recitals into this Ordinance and finds that they are true and correct.
2. Temporary Moratorium. That a temporary moratorium on no-fault residential evictions in the City of Chula Vista is imposed as follows:

(a) A landlord shall not evict, or endeavor to evict, a tenant where the grounds for terminating the tenancy or occupancy is not based on any alleged fault by the tenant, except in the following circumstances:

- (1) The landlord intends to withdraw all rental units in all buildings or

structures on a parcel of land from the rental market and the landlord has provided all tenants on the parcel with at least one hundred and twenty (120) days prior written notice of the landlord's intent to withdraw all rental units from the rental market;

(2) The landlord seeks to recover possession of the rental unit for repair or construction work necessary to comply with a government or court order that necessitates vacating the rental unit concerning the safety or habitability of the rental unit or where continued occupancy severely threatens the immediate health and safety of the occupants; or

(3) The landlord, or the landlord's parent, grandparent, child, or grandchild intend to occupy the rental unit as their primary residence and the landlord has provided the impacted tenant with at least sixty (60) days prior written notice of the landlord's intent to occupy the rental unit.

(4) As used in this Ordinance, the term "rental unit" means a room or group of two or more rooms designed, intended, or used for human habitation, and includes apartments, condominiums, single-dwelling units, and hotel rooms that are not used solely for transient occupancies as set forth in California Civil Code section 1940(b). Rental unit shall not include mobilehomes and instead they are subject to the State's Mobile Home Residency Law.

(b) As used in this Ordinance, "endeavor to evict" shall include a landlord taking or attempting to take any of the following actions: threatening to or actually serving a notice, filing, or prosecuting any action to obtain possession of the property rented by that tenant or otherwise seeking to evict that tenant, including resorting to notice pursuant to California Code of Civil Procedure sections 1161 or 1162, filing or prosecuting any unlawful detainer action.

(c) Nothing in this Ordinance relieves the tenant of the obligation to pay rent or restricts the landlord's ability to recover rent due.

(d) A residential tenant in the City of Chula Vista may use the protections afforded in this Ordinance as an affirmative defense in an unlawful detainer action.

3. Ordinance to Supplement Existing Law. That this Ordinance is intended to supplement, not to duplicate or contradict, applicable state and federal law and shall be construed in light of that intent. Further, this Ordinance is found to be more protective of tenants than the California Tenant Protection Act of 2019 (Act) and shall apply over the Act to tenants who qualify for protection under this Ordinance.

4. Liberal Construction. That the provisions of this Ordinance, being necessary for the welfare of the City of Chula Vista and its residents, shall be liberally construed to effectuate its purpose, which is to protect tenants from being evicted where grounds for terminating the tenancy or occupancy are not based on any alleged fault by the tenant during recovery from the COVID-19 pandemic.

5. Reservation of Remedies. That the City reserves the right to enforce the administrative remedies in Chula Vista Municipal Code section 1.40 and to pursue any other remedies legally available against individuals knowingly or intentionally violating the provisions of this Ordinance or falsifying information to qualify for the relief granted in this Ordinance.

6. Limitation on Applicability. This Ordinance shall not be applicable to any properties that are being sold, including those that are in escrow and reliant on eviction notices already served as of the effective date of this ordinance.

7. Duration. Unless extended by City Council, this Ordinance shall remain in effect from May 17, 2022, to September 30, 2022.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, but not to contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

1. Based on the facts and circumstances set forth above, it is necessary to establish this Ordinance as an Emergency Ordinance, within the meaning of City of Chula Vista Charter section 311(d), for preserving the public peace, health, safety, and general welfare as a result of the housing crisis and the COVID-19 virus and is hereby effective upon passage by City Council.

2. This Ordinance shall also take effect and be in force on the thirtieth day after its final passage.

3. In the event of conflict of effective dates, this Ordinance shall be effective upon the earliest lawful effective date.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Maria Kachadoorian
City Manager

Glen R. Googins
City Attorney