



# CITY COUNCIL STAFF REPORT



**September 10, 2024**

## **ITEM TITLE**

Housing Update: Hear a Report on the Chula Vista Residential Tenant Protection Ordinance, Chula Vista Municipal Code Chapter 9.65

**Report Number:** 24-0232

**Location:** No specific geographic location

**Department:** Housing and Homeless Services

**G.C. § 84308:** No

**Environmental Notice:** The activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act (“CEQA”) State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

## **Recommended Action**

Council hear the report.

## **SUMMARY**

City Council adopted Chapter 9.65 (“CVMC 9.65”) of the Chula Vista Municipal Code establishing “Residential Tenant Protections” on October 25, 2022, via Ordinance No. 2022-3527. CVMC 9.65 was subsequently amended to incorporate changes to state law on February 20, 2024 via Ordinance No. 2024-3565. Chapter 9.65 is intended to provide enhanced protections to Chula Vista residents that extend beyond the State of California’s Tenant Protection Act of 2019. Its provisions specifically address no-fault terminations of tenancy based on substantial remodels or demolitions of rental properties, removal of rental properties from the rental market, a government or court order, and owner or family move-ins. The adopted provisions in CVMC 9.65 further define and prohibit harassment and retaliation against tenants, and provide remedies and tools for enforcement.

This item seeks to provide an update on ordinance implementation and ongoing public comment related to potential fines for violations of Chapter 9.65.

## **ENVIRONMENTAL REVIEW**

The Director of Development Services has reviewed the proposed activity for compliance with CEQA. The activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because the proposal consists of a reporting action, is not for a site-specific project(s) and will not result in a direct or indirect

physical change in the environmental. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not applicable.

## **DISCUSSION**

### **Local Tenant Protections**

On [October 25, 2022](#) City Council adopted Chula Vista Municipal Code [Chapter 9.65](#) - Residential Tenant Protection (“CVMC 9.65”) to require just cause for termination of residential tenancies consistent with Civil Code Section [1946.2](#) under the Tenant Protection Act of 2019, [Assembly Bill 1482](#) (AB1482), to further limit the reasons for termination of a residential tenancy, to require greater tenant relocation assistance in specified circumstances, and to provide additional tenant protections.

[California Senate Bill 567](#) (SB567) amended Civil Code Section 1946.2 and became effective April 1, 2024. In order to remain consistent and maintain local protections, the City amended CVMC 9.65 on [February 20, 2024](#) via Ordinance No. 2024-3565.

### **Implementation**

Since the effective date of the Ordinance on March 1, 2023, the City has been notified by owners/landlords of no-fault terminations of tenancy for 103 units subject to CVMC 9.65, mainly (over 85%) citing substantial rehabilitation or demolition as the reason for termination. In all cases, the City provided a follow-up voluntary information package to impacted tenants and the City has received fifteen responses to date, which have been assessed and resources referred as appropriate. Specifically, one household was issued Tenant Based Rental Assistance (TBRA) and three are being assessed for eligibility. The City has assessed no fines to property owners during this time. A dashboard has been established on the City’s dedicated webpage for Landlord and Tenants to provide real time information on implementation at <http://www.chulavistaca.gov/landlordtenant>.

### **Public Comment**

Staff recognizes community concern regarding potential civil penalties for violations of CVMC 9.65 and the concern regarding the possibility of enforcement action occurring without the City first providing a warning. During the February 20, 2024 amendment, Section 9.65.080(C)(2) was updated to specify that civil penalties for violations of section 9.65.050 (Harassment and Retaliation Against Tenant Prohibited) may be assessed at a rate of up to \$5,000 per violation per day; however other civil penalties would be issued in accordance with CVMC 1.41, which allows a rate not to exceed \$2,500 per violation per day for most violations of the City’s municipal code. It was always anticipated that most minor clerical errors could be rectified with a warning and without issuance of any penalties.

As is the case for any violation of a provision of the City’s municipal code, controlling constitutional law provisions require that any penalties assessed by the City be proportionate to the nature of the violation. Additionally, although the City is not required to provide a warning prior to commencing enforcement, the City may provide a warning in appropriate circumstances. Due to the number of potential types of violations under CVMC 9.65, and given the fact that the circumstances of each violation may vary widely, it would be inappropriate for the City to pre-determine a uniform method of enforcement. For example, if a landlord unlawfully and intentionally terminates a tenancy without cause, a \$2,500 civil penalty may be warranted,

while a warning would be futile given that the tenant has already been evicted. Conversely, in the event a landlord makes an unintentional error in providing notice to the tenant that can be corrected without a substantial or negative impact on the tenant, a warning and instructions to provide a corrected notice may be precisely the appropriate level of enforcement. In either case, the landlord subject to an enforcement action has the right to appeal their penalty/the enforcement action administratively, in addition to the option to seek additional judicial review of the City's action if they disagree with the outcome of the administrative appeal. In sum, the City's enforcement actions, as to CVMC 9.65 and any other provision of the municipal code, are ruled by established legal principals and subject to administrative and judicial oversight.

It should be noted that the City's primary intervention with regard to the provisions of CVMC 9.65 involves contracted fair housing and tenant-landlord services from CSA San Diego (CSA). Together, CSA and the City mediate disputes and review documents to ensure compliance with CVMC 9.65 and other state laws. In fact, since adoption of CVMC 9.65, City and CSA have collaboratively worked with both landlords and tenants on a handful of cases to ensure compliance with noticing requirements and relocation benefits for properties subject to CVMC 9.65. In all cases, CSA and the City have been able to ensure corrections and compliance without the need to issue fines under Section 9.65.080(C)(2). A letter received and included as Attachment 1 demonstrates the type of positive feedback the City has received.

### **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not a site- specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code §87100, et seq.).

Councilmember McCann may, however, have a conflict of interest given his ownership interest in rental property and property management business. Otherwise, Staff is not independently aware, and has not been informed by any other City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

### **CURRENT-YEAR FISCAL IMPACT**

There is no current year fiscal impact to the General Fund as a result of this action. With only a few terminations reported to date, the budget has been able to absorb the increased costs of administration.

### **ONGOING FISCAL IMPACT**

There is no ongoing fiscal impact to the General Fund as a result of this action as currently presented. Implementation of the Ordinance is anticipated to continue to have minor indirect costs for staff time to collect data, respond to and educate residents. Staff will continue to evaluate impacts and provide City Council with updates related to administrative changes and/or budgetary impacts.

### **ATTACHMENTS**

1. Feedback Letter

*Staff Contact: Stacey Kurz, Director of Housing & Homeless Services*