

AGENDA ITEM
12B

Date: November 25, 2019

Council Action Date: December 2, 2019

TO: Honorable Mayor and Members of the City Council**FROM:** Gregory G. Diaz, City Attorney**SUBJECT:** Consideration of Emergency "Just Cause for Eviction" Ordinance**SUMMARY**

This Report summarizes an Emergency "Just Cause for Eviction" Ordinance that requires residential rental landlords to have specific reasons or causes for evicting residential rental tenants. This is an Emergency Ordinance under the Charter to help prevent evictions not for cause prior to January 1, 2020's effective date of statewide rent control.

RECOMMENDATION

Introduce and adopt as an Emergency Ordinance after making the findings required by the Charter the Emergency Ordinance, title as follows:

"AN EMERGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SAN BUENAVENTURA, CALIFORNIA,
ADDING CHAPTER 6.1010, 'JUST CAUSE FOR
EVICTION,' TO THE SAN BUENAVENTURA MUNICIPAL
CODE AND DECLARING THE URGENCY THEREOF"

DISCUSSION/ANALYSIS

At the City Council's meeting of November 18, 2019, after hearing from members of the public about concerns that residential rental tenants were being evicted in advance of the January 1, 2020 effective date of statewide rent control, the City Council directed staff to bring back for consideration a "Just Cause for Eviction Ordinance" which would need to be an Emergency Ordinance under the City's Charter.

It has been stated that the need for an Emergency City Ordinance is to fill a gap in existing state laws that allow a residential rental landlord to evict tenants with an otherwise valid lease, are current on their rent, and other obligations so that the landlord

can increase the amount of rent charged to new tenants in advance of the January 1, 2020 effective date of statewide rent control. Such evictions it has been stated pose a hardship for tenants who face sudden, unexpected moves coupled with the financial hardship of having to come up with first and last month’s rent, security deposits, and related moving expenses – particularly during the holiday season.

The Emergency Ordinance is intended to be “self-executing,” meaning the City’s involvement is to be minimal. If adopted, the Emergency Ordinance simply sets up a defense to an eviction and does not require further City involvement. In establishing a defense to an eviction, the Emergency Ordinance is not enforced by the City, but used by a tenant who is current on all their obligations as tenant (including the payment of rent) as an affirmative defense to an eviction proceeding filed by a landlord. Because the Emergency Ordinance is designed as a bridge to the new statewide rent control law, the Emergency Ordinance has a sunset clause whereby it will be of no further force or effect after January 1, 2020 unless the City Council acts to extend the same. It appears that the new statewide rent control law has similar protections for tenants. The Emergency Ordinance will clearly apply to any eviction procedure commenced after tonight as well as to anyone who has received a notice from their landlord, but the landlord has not filed an action in court. It is unclear if it would apply to those who have had a court case filed. This will be a matter for the court to determine.

Key Provisions of the Emergency Ordinance:

The key provisions of the draft Ordinance are as follows:

- Making the emergency findings under the City Charter.
- Stating the purpose of the Emergency Ordinance.
- Stating when the Emergency Ordinance applies.
- Providing the definitions to the terms in the Emergency Ordinance.
- Outlining the exemptions to the Emergency Ordinance.
- Providing for when tenancy may be terminated and the grounds for which tenancy may be terminated.
- Requiring notice to the tenant prior to termination of the tenancy.
- Stating that the Emergency Ordinance is available for use by a tenant who is being evicted with a cause as stated in the Emergency Ordinance to use as an affirmative defense.

- Stating that violations of the Emergency Ordinance shall entitle the tenant to bring an action for injunctive relief and to recover actual damages, costs, and reasonable attorney’s fees.
- Providing that the provisions of the Emergency Ordinance may not be waived by a tenant and declaring any such attempted waiver to be against public policy and therefore void and unenforceable.
- Providing for severability in the event any portion of the Emergency Ordinance is declared invalid.
- Providing that the Emergency Ordinance will sunset and be of no further force or effect on January 1, 2020 unless extended by the City Council.

Emergency Findings Required to Adopt Ordinance

Under Section 706(c) of the City Charter, the City Council is authorized to adopt “emergency ordinances” which become effective immediately upon adoption when the City Council determines the same is necessary to preserve the public peace, health, or safety, and the emergency ordinance contains the reasons for its urgency. Emergency ordinances are an extraordinary occurrence and require special findings to be made by the City Council as well as a supra-majority in order to adopt them. The supra-majority is four-fifths vote of the City Council. With a seven member City Council, four-fifths is actually six of seven affirmative votes. If any members of the City Council are absent from the meeting, a unanimous vote is required to adopt an emergency ordinance.

The proposed Emergency Ordinance provides the following reasons that emergency and urgent action is required.

- The State Legislature recently adopted and the Governor signed AB1482 creating statewide rent control for a large segment of the residential rental market.
- The City has recently been made aware of that there are landlords that are evicting tenants in the City in advance of the new rent control law.
- Even before the Thomas Fire, the City had a relatively low residential rental vacancy rate which has been further strained by the Thomas Fire making it even more difficult for residential rental tenants to find replacement housing.
- Many residential rental tenants are of limited means making higher rents and new security deposits difficult to fund.
- Evicted residential rental tenants of limited means may find themselves without housing during the coldest part of the year and would likely be added to the City’s homeless population.

- The City is already challenged by the number of homeless individuals in the City, with some 555 individuals being identified as homeless of which 318 were classified as unsheltered during the last count on January 22, 2019.
- Adding more individuals and families to the homeless population will make a difficult situation worse and threaten both public health and public safety of both newly homeless and the population at large necessitating the need for urgent action by the adopting of an Emergency Ordinance.
- The Emergency Ordinance will bridge the gap between the date of the City Council meeting and the effective date of statewide rent control, January 1, 2020.

FINANCIAL IMPACT

There are no fiscal impacts related to this recommendation.

ALTERNATIVES

1. Adopt the Emergency Ordinance as submitted; or,
2. Provide direction on specific revisions to the Emergency Ordinance; or,
3. Request additional information; or,
4. Continue the matter to a date certain; or,
5. Decline to take action.

Prepared by: Gregory G. Diaz, City Attorney

ATTACHMENT:

- A Emergency Ordinance Establishing Just Cause for Evictions

ORDINANCE NO. 2019-____

**AN EMERGENCY ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF SAN
BUENAVENTURA, CALIFORNIA, ADDING
CHAPTER 6.1010, "JUST CAUSE FOR
EVICTION," TO THE SAN BUENAVENTURA
MUNICIPAL CODE AND DECLARING THE
URGENCY THEREOF**

WHEREAS, Section 706(c) of the Charter of the City of San Buenaventura authorizes the City Council to adopt emergency ordinances which become effective immediately upon adoption when the City Council determines the same is necessary to preserve the public peace, health, or safety, and the emergency ordinance contains the reasons for its urgency; and,

WHEREAS, The California State Legislature recently passed, and the Governor signed AB1482 which establishes rental control for a large segment of residential rental units effective January 1, 2020; and,

WHEREAS, The City has been made aware that there are landlords around the State, including in the City of San Buenaventura, that are evicting tenants in advance of the January 1, 2020 effective date in or order to establish a higher baseline rent; and,

WHEREAS, The City had a relatively low vacancy rate for residential rental units before the December 4, 2017 Thomas Fire which further put strains on the ability of tenants to find replacement housing; and,

WHEREAS, Many of the residential rental tenants in the City are of limited means and may not be able to afford either higher rent or have the savings to be able to put up a security deposit or both of these; and,

WHEREAS, It is likely that those tenants who are evicted without cause and ones of limited means will find themselves without housing during the coldest part of the year adding to the City's homeless population; and,

WHEREAS, The City already has a significant challenge with the number of homeless individuals in the City, with 555 being identified as homeless of which 318 were identified as unsheltered in the most recent count on January 22, 2019; and,

WHEREAS, Adding more homeless to the City's streets will make a difficult situation worse and threaten both public health for the newly homeless as well as the balance of the City and put at risk the safety and security of the newly homeless individuals and families; and,

WHEREAS, The City Council has determined that one method to help avoid these health and safety risks from occurring is to require that landlords only be able to evict residential rental tenants for the causes/grounds provided for in this Emergency Ordinance while allowing landlords to evict problem tenants; and,

WHEREAS, The City Council finds that this Emergency Ordinance is an important, but limited, bridge for residential rental tenants until the new law established by AB1482 takes effect January 1, 2020.

THE COUNCIL OF THE CITY OF SAN BUENAVENTURA DOES ORDAIN AS FOLLOWS:

SECTION 1. ADDITION TO CODE. Chapter 6.1010, "Just Cause for Eviction," is hereby added to the San Buenaventura Municipal Code to read as follows:

**"CHAPTER 6.1010
JUST CAUSE FOR EVICTION**

Sections:

Sec. 6.1010.010.

Sec. 6.1010.020.

Sec. 6.1010.030.

Sec. 6.1010.040.

Sec. 6.1010.050.

Sec. 6.1010.060.

Sec. 6.1010.070.

Purpose.

**When Just Cause for
Eviction Regulations
Apply.**

Definitions.

Exemptions.

Termination of Tenancy.

Notice to Tenant.

Affirmative Defense.

Sec. 6.1010.080.	Violation of the Chapter.
Sec. 6.1010.090.	Non-Waiver.
Sec. 6.1010.100.	Partial Invalidity.
Sec. 6.1010.110.	Chapter's Provisions Sunset.

Sec. 6.1010.010. Purpose.

The purpose of this Chapter is to promote stability in the San Buenaventura rental housing market. This Chapter protects the rights of residential tenants by limiting the substantive grounds for their eviction, while allowing owners to evict for good cause. The rights conferred by this Chapter are in addition to any provided in state or federal law. It is intended to be self-executing and available to tenants to use as an affirmative defense to an eviction proceeding.

Sec. 6.1010.020. When Just Cause for Eviction Regulations Apply.

This Chapter applies to existing rental units in the City, except as specifically exempted herein.

Sec. 6.1010.030. Definitions.

The following definitions apply to the administration and enforcement of this Chapter:

A. 'Landlord' means an owner, lessor, or sublessor, who receives or is entitled to receive rent for the use and occupancy of any residential rental unit or portion thereof in the City of San Buenaventura, and the agent, representative, successor, or transferee of any of the foregoing.

B. 'Rent' means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in connection with, the use or

occupancy of a residential rental unit. Such consideration shall include, but not be limited to, moneys and fair value of goods or services rendered to or for the benefit of the landlord under the rental agreement, or in exchange for a rental unit or housing services of any kind.

C. 'Rental Agreement' means an agreement, oral, written, or implied, between a landlord and a tenant for the use and/or occupancy of a residential rental unit.

D. 'Rental Unit' means any residential dwelling unit in the City of San Buenaventura together with the land and appurtenant buildings thereto, regardless of zoning status. A Rental Unit does not include a spaced leased in a Mobilehome Park.

E. 'Tenant' means a person entitled by written or oral agreement, sub-tenancy approved by the landlord, or by sufferance, to occupy a residential dwelling unit to the exclusion of others. For purposes of this Chapter and this Chapter only, the term 'tenant' does not include a trespasser, or squatter.

F. 'Tenancy' means the right or entitlement of a tenant to use or occupy a Rental Unit.

Sec. 6.1010.040. Exemptions.

The following shall be exempt from the requirements of this Chapter:

A. Institutional Facilities. Housing accommodations in any hospital, convent, monastery, extended care facility, asylum, nonprofit home for the aged, fraternity, or sorority house, housing accommodations owned, operated, or managed by a bona fide educational institution for

occupancy by its students or other nonprofit institution that Rental Unit requires and provides case management or counseling services as part of the occupation.

B. Government Owned Units. Any Rental Unit owned by any government agency.

C. Rooms Rented to Boarders. A Rental Unit in which the landlord owns the Rental unit, shares kitchen or bath facilities with the tenants, and also occupies the Rental Unit as his or her principal residence.

D. Mobile Homes. Mobile homes subject to Mobile Home Residency Law (California Civil Code, Chapter 2.5).

E. Transient Occupancies. Transient occupancies defined by California Civil Code Section 1940(b).

Sec. 6.1010.050. Termination of Tenancy.

A residential tenancy shall not be terminated, nor shall its renewal be refused, except for one or more of the following reasons:

A. Nonpayment of Rent. The tenant has failed to pay the rent to which the landlord is lawfully entitled under the oral or written agreement between the tenant and landlord.

B. Violation of Obligation of Tenancy. The tenant has violated a lawful obligation or covenant of tenancy, other than the obligation to surrender possession upon proper notice, and failure to cure such violation after having received written notice thereof from the landlord.

C. Nuisance. The tenant is committing a nuisance or permitting a nuisance in, or is causing damage to, the Rental Unit or the appurtenances thereof or to the common areas of the property containing the Rental Unit, or is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the property containing the Rental Unit.

D. Waste. The tenant is committing or making a waste of the Rental Unit or the appurtenances thereof or to the common areas of the property containing the Rental Unit.

E. Illegal Use. The tenant is using or permitting the rental unit to be used for an illegal purpose.

F. Refusal to Sign Rental Agreement. The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement; provided, that such terms do not conflict with any of the provisions of this Chapter. However, the issue of the amount of rent charged under the written extension or renewal agreement shall remain a matter of contract and state law as between landlord and tenant and nothing in this Chapter is intended to change, modify, limit, or expand the rights or protections of either landlord or tenant regarding the amount of rent. The provisions of this Chapter are not intended and shall not be interpreted to establish or impose rent control.

G. Refusal to Provide Access. The tenant has, after written notice to cease, continued to deny landlord access to the unit as required by state law.

H. Correction of Violations. The landlord, after having obtained all necessary permits, seeks to recover possession of the Rental Unit for necessary repair or construction and removal of the tenant is necessary to accomplish the work. Upon recovery of possession of the Rental Unit for such repairs, the landlord shall proceed without unreasonable delay to perform the needed repairs, and, upon completion of the needed repairs, the landlord shall offer tenant the right to return to the Rental Unit on the same terms and conditions that existed at the time the tenant was temporarily displaced. Any notice to evict under this subsection must include a statement informing the tenant of their right to return under this Section and an estimate of the time required to complete the repairs.

I. Withdrawal of Residential Rental Structure from the Rental Market. The landlord seeks to remove the property from the rental market in accordance with the terms of the Ellis Act (California Government Code Section 7060 *et seq.*).

J. Owner or Relative Occupancy. The landlord seeks to recover possession for the landlord's use or occupancy as his or her principal residence or for the use or occupancy as the principal residence of the landlord's spouse, parent, grandparent, brother, sister, child, grandchild, who intend to occupy the rental unit as his/her/their principal residence.

K. Demolition. The landlord seeks to recover possession in good faith in order to demolish or to otherwise permanently remove the Rental Unit from housing use and has obtained the necessary permits, if any, to proceed with demolition.

Sec. 6.1010.060. Notice to Tenant.

Any landlord who seeks to terminate a tenancy pursuant to any of the grounds set forth in this Chapter must inform the tenant in writing on or before the date upon which notice to quit or terminate is given of the grounds under which possession is sought.

Sec. 6.1010.070. Affirmative Defense.

In any action by a landlord to recover possession of a Rental Unit, the tenant may raise as an affirmative defense any violation or noncompliance with the provisions of this Chapter.

Sec. 6.1010.080. Violation of the Chapter.

In addition to any other remedies available under law, any violation of the provisions of this Chapter or application thereof shall entitle the aggrieved tenant to bring a cause of action for injunctive relief and to recover actual damages, costs, and reasonable attorney's fees.

Sec. 6.1010.090. Non-Waiver.

The provisions of this Chapter may not be waived, and any term of any lease, contract, or other agreement which purports to waive or limit a tenant's rights under this Chapter is contrary to public policy, unenforceable, and void.

Sec. 6.1010.100. Partial Invalidity.

If any provision of this Chapter or application thereof is held to be invalid, this invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provisions or applications, and to this end the

provisions and applications of this Chapter are severable.

Sec. 6.1010.110. Chapter's Provisions Sunset.

The provisions of this Chapter shall sunset, be repeated, and terminate on January 1, 2020 unless the City Council re-enacts or extends the same prior to January 1, 2020."

SECTION 2. EFFECTIVE DATE. This Ordinance is an Emergency Ordinance pursuant to City Charter Section 706(c) shall be in full force and effect immediately upon its adoption.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Emergency Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Emergency Ordinance. The City Council hereby declares that it would have adopted this Emergency Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a summary of this Emergency Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

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The foregoing Emergency Ordinance was introduced, passed, and adopted at a regular meeting of the City Council of the City of San Buenaventura on the 2nd day of December, 2019.

APPROVED:


Matt LaVere
Mayor

ATTEST:

Antoinette M. Mann, MMC, CRM
City Clerk

(SEAL)

APPROVED AS TO FORM:

 11/25/2019

Gregory G. Diaz Date
City Attorney