



COUNCIL RESOLUTION

AGENDA MATTER:

ADOPTION OF RESOLUTION NO. ____ -2020 IMPOSING A TEMPORARY MORATORIUM ON THE EVICTION OF RESIDENTIAL OR COMMERCIAL TENANTS UNABLE TO PAY RENT BECAUSE OF COVID-19

EXECUTIVE SUMMARY:

On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 19 ("COVID-19"). On March 16, 2020, the City Council adopted Resolution 4984-2020 declaring the existence of a local emergency due to COVID-19 to allow the City to take any necessary steps to carry out plans for the protection of persons and property within the City in response to the COVID-19 outbreak and to recover any costs the City may incur as a result thereof. Furthermore, on March 19, 2020, the Governor established a statewide Executive Order N-33-20 closing all non-essential services and businesses and ordering the public to stay at home in order to prevent the spread of COVID-19 throughout the state. Because of directives from federal, state and local health officials, most events have been canceled, schools have been closed, and residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease. Restaurant and retail business has significantly declined and parents have missed work to care for homebound school-age children, resulting in workers being impacted by lost wages and layoffs. In Barstow, The Outlets at Barstow, hotels and countless businesses across the city have temporarily closed, suspended or severely restricted operations. As a result, workers are experiencing a loss of wages due to business closures, loss of working hours, layoffs, or out-of-pocket medical costs caused by COVID-19. All of these factors will undoubtedly impact tenants - both residential and commercial - and their ability to pay rent, leaving them vulnerable to eviction.

DISCUSSION:

Providing tenants with short-term protection from eviction due to the inability to pay rent will help stabilize the rental housing market by reducing displacement. During this state of emergency, and in the interests of protecting the public health and preventing transmission of the Coronavirus, it is essential to avoid unnecessary displacement of tenants and potential homelessness. To that end, prohibiting evictions on a temporary basis is important until the spread of the virus can be minimized and the emergency restrictions lifted. If approved, the proposed Resolution authorizes the City Manager to take action to halt residential evictions (including single family and multi-family homes, mobile homes or other structures lawfully used as a residential dwelling) and commercial evictions (including a business or commercial enterprise renting or leasing a structure used for business purposes) connected with the COVID-19 pandemic in line with the Governor's Executive Orders N-28-20 and N-37-20.

FISCAL IMPACT:

The adoption of this resolution will not have any fiscal impact on the City's budget. However, it could help the City avoid additional costs resulting from a potential increase in homelessness if the Resolution is not adopted.

RECOMMENDED ACTION:



Joint Special Council/BFPD
04/20/20 07:00 PM
City Manager Department
Nikki Salas
Resolution
Doc ID: 4119

COUNCIL RESOLUTION

That the City Council adopt Resolution No. ____-2020, imposing a temporary moratorium on the eviction of residential or commercial tenants unable to pay rent because of COVID-19, and waive the full reading.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Carmen Hernandez, Mayor Pro Tem
SECONDER:	James M. Noble, Council Member
AYES:	Noble, Hernandez, Silva, Hackbarth-McIntyre

RESOLUTION NO. 4987-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BARSTOW IMPOSING A TEMPORARY MORATORIUM ON THE EVICTION OF RESIDENTIAL OR COMMERCIAL TENANTS UNABLE TO PAY RENT BECAUSE OF COVID-19

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”). On March 10, 2020, the San Bernardino County Public Health Officer and the Board of Supervisors declared a public health emergency in San Bernardino County due to COVID-19. On March 16, 2020, pursuant to Resolution No. 4984-2020, the City Council did proclaim the existence of a local emergency pursuant to Government Code Section 8630, Subdivision (a). Due to directives from federal, state, and local health officials, residents have been ordered to avoid public gatherings and stay at home to prevent the spread of this disease;

WHEREAS, on March 16, 2020, the Governor issued Executive Order N-28-20. The order suspends any state law that would preempt or otherwise restrict the city’s exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19;

WHEREAS, on March 27, 2020, the Governor issued Executive Order N-37-20. The order provides tenants whose ability to pay rent is limited due to loss of income from COVID-19 with an additional 60 days to respond to a Complaint seeking to evict the tenant for non-payment, and also suspends enforce of any writ of possession of such tenants through May 31, 2020, but does not otherwise restrict evictions;

WHEREAS, the City has been impacted by the health crisis of this global pandemic. Sporting events, concerts, plays, and conferences have been canceled. School closures have occurred and may continue. Employees have been advised to work at home. As a result, restaurant and retail business has significantly declined and workers have been impacted by lost wages and layoffs. Parents have had to miss work to care for home-bound school-age children. As the virus spreads, workers may have to stay home for extended periods;

WHEREAS, many tenants have experienced sudden income loss, and further income impacts are anticipated. The loss of wages caused by the effects of COVID-19 may impact tenants’ ability to pay rent when due, leaving tenants vulnerable to eviction;

WHEREAS, providing tenants with a short-term protection from eviction due to the inability to pay rent will help avoid increasing the homeless population and stabilize the rental housing market by reducing displacement;

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the Coronavirus, it is essential to avoid unnecessary displacement of tenants. Prohibiting evictions on a temporary basis is needed until the spread of the virus can be minimized and the emergency restrictions lifted;

WHEREAS, nothing in this resolution waives a tenant's obligations to pay back rent owed once this resolution is no longer effective;

WHEREAS, the City Council has the authority to adopt this resolution under Government Code Section 8630, and also its authority under California Constitution Art XI, section 7, and pursuant to the Governor's Order N-28-20.

NOW, THEREFORE, BE IT RESOLVED THAT:

SECTION 1. Moratorium on evictions due to nonpayment of rent during the COVID-19 emergency.

- A. **Term.** This Section 1 remains in effect until the expiration of the Governor's Executive Orders N-28-20, and N-37-20 including any extensions (the "Term").
- B. **Scope.** This resolution applies to all residential and commercial tenants within the City of Barstow.
 - i. **Evictions.** It is hereby ordered that no landlord shall evict a residential or commercial tenant in the City of Barstow if the tenant is able to show an inability to pay rent due to financial impacts related to COVID-19. Tenants may use the protections afforded in this section as an affirmative defense in an unlawful detainer action. This section shall remain in effect during the pendency of the Governor's Executive Order N-37-20 and any extensions thereof. Any tenant who receives a notice of eviction may bring a civil action against the landlord to contest the validity of the notice pursuant to this section.
 - ii. This section applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date of this Resolution.
 - iii. "Financial impacts related to COVID-19" include, but are not limited to, tenant lost household income as a result of any of the following:
 - 1. Being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
 - 2. Lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19;
 - 3. Compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency;
 - 4. Extraordinary out-of-pocket medical expenses; or

5. Child-care needs arising from school closures related to COVID-19.

C. Repayment of Rent Required. Nothing in this resolution shall relieve the tenant of liability for any unpaid rent nor restrict the landlord's ability to recover rent due. Tenants will have up to six months following the expiration of this Resolution to repay any back due rent, verifiably caused by COVID-19 related circumstances.

SECTION 2. Emergency Declaration/Effective Date. The City Council declares this resolution to be an emergency measure, to take effect immediately upon adoption pursuant to California Government Code section 36934. The facts constituting the emergency are as follows: The directives from health officials to contain the spread of COVID-19 has resulted in loss of business, furloughs, loss of wages, and lack of work for employees. To protect the public health, safety, and welfare, the City must act to prevent eviction of tenants who are unable to pay rent due to wage losses caused by the effects of COVID-19. An emergency measure is necessary to protect tenants from eviction for a temporary period.

SECTION 3. Future Governor's Order. If the Governor issues an executive order which prohibits residential and commercial evictions throughout the state due to COVID-19 related impacts, then that order shall control, and this resolution shall no longer be in effect. Otherwise, this resolution shall remain in full effect, and landlords shall meet the requirements of both this Resolution and the Governor's order.

SECTION 4. Severability. If any portion of this resolution is found to be unenforceable, each such provision shall be severed, and all remaining portions of this resolution shall be enforced to the maximum extent legally permissible.

SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this resolution as required by law.

PASSED, APPROVED AND ADOPTED THIS 20TH DAY OF APRIL 2020.


Julie Hackbarth-McIntyre, Mayor

ATTEST:


JoAnne V. Cousino, City Clerk

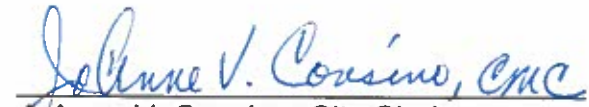
I, JoAnne V. Cousino, City Clerk of the City of Barstow, do hereby certify that the foregoing Resolution No. 4987-2020 is the actual Resolution duly and regularly adopted by the City Council at a regular meeting on the 20th day of April 2020, by the following vote:

AYES: DIRECTOR SILVA, NOBLE, VICE CHAIR HERNANDEZ AND
CHAIR HACKBARTH-MCINTYRE

NOES: NONE

ABSENT/VACANT: ONE

ABSTAIN: NONE


JoAnne V. Cousino, City Clerk

