



CITY OF FILLMORE
CENTRAL PARK PLAZA
250 Central Avenue
Fillmore, California 93015-1907
(805) 524-3701 • FAX (805) 524-5707

TO: Mayor and City Council

FROM: David W. Rowlands, City Manager

DATE: March 24, 2020

RE: CITY COUNCIL CONSIDERATION OF CITY OF FILLMORE LOCAL EMERGENCY RESOLUTIONS REGARDING COVID-19 – PROHIBITING EVICTIONS AND UTILITY DISCONNECTIONS AND UTILITY LATE FEES

DISCUSSION

The City of Fillmore's Emergency Services Director declared a Local Emergency on Friday, March 13, 2020 due to the Public Health threat caused by global Coronavirus (COVID-19) pandemic. Although there were zero confirmed cases in Fillmore as of March 18, the declaration was undertaken out of an abundance of caution to allow City staff the ability to protect the health, safety, and welfare of our community members and employees as the pandemic plays out. This declaration was made, in part, in response to the Ventura County Public Health Department's March 12th announcement declaring a local emergency and the Governor's recent declaration of a state of emergency.

The City of Fillmore's emergency declaration enabled City officials and staff to mobilize resources, formalize an emergency action and contingency plan, and obtain additional resources should an outbreak occur in the City.

The March 13th proclamation was made by the City Manager, who is the designated Director of Emergency Services, pursuant to Municipal Code Section 15.04.050(a). California Government Code Sections 8558 and 8630, et seq., and Fillmore Municipal Code Section 15.04.060(a)(1) empower the City's Director of Emergency Services to declare a local emergency when the City Council is not in session. On Tuesday, March 17th, at a special council meeting, the City Council adopted Resolution 20-3751 to affirm the declaration of a local emergency.

The Governor of the State of California has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19, such that many individuals and their families may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks.

In light of this, on Tuesday, March 17, 2020, the Governor issued Executive Order N-28-20, which waived any provisions of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions, including but not limited to Civil Code Sections 1940 *et seq.* or 1954.25 *et seq.*, until May 31, 2020, unless extended. the executive order also requested that the Public Utilities Commission monitor public and private utility providers to protect customers for critical utilities including water service in response to COVID-19 as ensuring that all people continue to have access to running water during this public health crisis will enable compliance with public health directives that people regularly wash their hands will help to prevent the further spread of COVID-19.

As a result, staff is recommending the following:

1. That the City Council enact a temporary moratorium on evictions for non-payment of rent by residential or commercial tenants impacted by the COVID-19 crisis.
2. That the City Council temporarily waive utility billing late fees for non-payment by residential or commercial tenants impacted by the COVID-19 crisis.
3. That the City Council temporarily waive utility disconnections for non-payment by residential or commercial tenants impacted by the COVID-19 crisis.

FISCAL IMPACT

The fiscal impact of the utility items is not currently known. There eviction moratorium has no fiscal impact on the City.

RECOMMENDATION

That the City Council adopt Resolution 20-3752 and Resolution 20-3753 to enact the above-described protections.

ATTACHMENTS

1. Resolution 20-3752
2. Resolution 20-3753

RESOLUTION 20-3752

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FILLMORE TEMPORARILY PROHIBITING EVICTIONS

WHEREAS, in December, 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19) was first identified in Wuhan City, Hubei Province, China; and

WHEREAS, COVID-19 has since spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS, the California Department of Public Health has activated its Medical and Health Coordination Center, and the Office of Emergency Services recently activated the State Operations Center to provide support and guide actions to preserve public health; and

WHEREAS, on March 4, 2020, Governor Newsom declared the existence of a state of emergency for the State of California and on March 12, 2020, the County declared the existence of a local emergency for Ventura County; and

WHEREAS, on March 12, 2020, the City Manager, in his role as the City's Director of Emergency Services, proclaimed the existence of a local emergency to activate the City's Emergency Operations Center due to threats to people within the City from COVID-19, and this local emergency was affirmed on March 17, 2020 when the local emergency proclamation was ratified by the City Council; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Ventura County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants in Fillmore have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of California ("Governor") has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19, and such individuals and their families may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including paying rent, while further economic impacts are anticipated, leaving tenants vulnerable to eviction; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, 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, on March 17, 2020, the Governor issued Executive Order N-28-20, which waived any provisions of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions, including but not limited to Civil Code Sections 1940 *et seq.* or 1954.25 *et seq.*, until May 31, 2020, unless extended; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to issue and implement this Resolution to protect life, property and civil order.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FILLMORE, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The recitals above are true and correct.

Section 2. A temporary moratorium on eviction for non-payment of rent by residential tenants impacted by the COVID-19 crisis is imposed as follows:

a. During the period of local emergency declared in response to COVID-19, no landlord shall endeavor to evict a tenant in either of the following situations: (1) for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to financial impacts related to COVID-19 or (2) for a no-fault eviction unless necessary for the health and safety of tenants, neighbors, or the landlord. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above shall not serve a notice pursuant to Code of Civil Procedure Section 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent. A landlord knows of a tenant's inability to pay rent within the meaning of this Resolution if the tenant, within 30 days after the date that rent is due, notifies the landlord in writing of lost income and inability to pay full rent due to financial impacts related to COVID-19, and provides documentation to support the claim. For purposes of this Resolution, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim. Nothing in this Resolution shall relieve a tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. A landlord may not charge or collect a late fee for rent that is delayed for the reasons stated in this Resolution; nor may a landlord seek rent that is delayed or the reasons stated in this Resolution through the eviction process.

b. For purposes of this Resolution, “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. For purposes of this Resolution, “no-fault eviction” refers to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant, including but not limited to eviction notices served pursuant to Code of Civil Procedure sections 1161(1), 1161(5), or 1161c.

d. This Resolution 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 on which a local emergency was proclaimed.

e. The violation of this Resolution shall be punishable as set forth in Section 1.08.040 of the Fillmore Municipal Code. In addition, this Resolution grants a defense in the event that an unlawful detainer action is commenced in violation of this Resolution.

f. This Resolution shall be superseded by a duly enacted Resolution of the City Council that expressly supersedes this Resolution.

Section 3. This Resolution shall become effective immediately.

PASSED, APPROVED AND ADOPTED this ___th day of _____, 2020.

Tim Holmgren, Mayor

ATTEST:

Olivia Carrera Lopez, City Clerk

APPROVED AS TO FORM:

Tiffany J. Israel, City Attorney

CITY OF FILLMORE)

COUNTY OF VENTURA)§

STATE OF CALIFORNIA)

I, Oliva Carrera Lopez, City Clerk of the City of Fillmore, California, do hereby certify that the foregoing Resolution No. 20-3752 was duly passed and adopted by the City Council of the City of Fillmore at the regular meeting thereof, held on the ___th day of _____, 2020, and was signed by the Mayor of the said City, and that the same was passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Oliva Carrera Lopez, City Clerk

RESOLUTION 20-3753

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FILLMORE
SUSPENDING THE DISCONTINUATION OR SHUT OFF OF WATER SERVICE FOR
RESIDENTS AND BUSINESSES AND WAIVING LATE FEES FOR DELINQUENT
WATER AND/OR SEWER BILLS FOR 60 DAYS**

WHEREAS, in December, 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19) was first identified in Wuhan City, Hubei Province, China; and

WHEREAS, COVID-19 has since spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS, the California Department of Public Health has activated its Medical and Health Coordination Center, and the Office of Emergency Services recently activated the State Operations Center to provide support and guide actions to preserve public health; and

WHEREAS, on March 4, 2020, Governor Newsom declared the existence of a state of emergency for the State of California and on March 12, 2020, the County declared the existence of a local emergency for Ventura County; and

WHEREAS, on March 12, 2020, the City Manager, in his role as the City's Director of Emergency Services, proclaimed the existence of a local emergency to activate the City's Emergency Operations Center due to threats to people within the City from COVID-19, and this local emergency was affirmed on March 17, 2020 when the local emergency proclamation was ratified by the City Council; and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Health, and the Ventura County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residents and businesses in Fillmore have experienced or expect soon to experience sudden and unexpected income loss; and

WHEREAS, the Governor of the State of California ("Governor") has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19, and such individuals and their families may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-28-20, which, in part, asks the California Public Utilities Commission to monitor public and private utility providers to protect customers for critical utilities including water service in response to COVID-19; and

WHEREAS, loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including public utility payments such as water and sewage charges; and

WHEREAS, ensuring that all people in the City continue to have access to running water during this public health crisis will enable compliance with public health directives that people regularly wash their hands will help to prevent the further spread of COVID-19; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to issue and implement this Resolution to protect life, property and civil order.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FILLMORE, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The recitals above are true and correct.

Section 2. As a result of the local emergency, for a period of 60 days from the date of this Resolution, the City hereby suspends: (a) the discontinuation or shut off of water service for residents and businesses in the City for non-payment of water and sewer bills; and (b) the imposition of late payment penalties or fees for delinquent water and/or sewer bills.

Section 3. The violation of this Resolution shall be punishable as set forth in Section 1.08.040 of the Fillmore Municipal Code.

Section 4. This Resolution shall become effective immediately.

PASSED, APPROVED AND ADOPTED this ___th day of _____, 2020.

Tim Holmgren, Mayor

ATTEST:

Olivia Carrera Lopez, City Clerk

APPROVED AS TO FORM:

Tiffany J. Israel, City Attorney

CITY OF FILLMORE)

COUNTY OF VENTURA)§

STATE OF CALIFORNIA)

I, Oliva Carrera Lopez, City Clerk of the City of Fillmore, California, do hereby certify that the foregoing Resolution No. 20-3753 was duly passed and adopted by the City Council of the City of Fillmore at the regular meeting thereof, held on the ___th day of _____, 2020, and was signed by the Mayor of the said City, and that the same was passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Oliva Carrera Lopez, City Clerk