

The Buena Park City Council has adopted eviction protections for Buena Park residential tenants that have been negatively impacted by COVID-19. Specifically, the City Council adopted an ordinance (city law) that prohibits tenants from being evicted from a residence or dwelling unit if:

- ✓ the tenant has incurred significant medical expenses; or,
- ✓ has suffered a significant loss or reduction in household income as a result of COVID-19, and,
- ✓ as a result, the tenant is unable to pay rent.

Tenants experiencing a qualifying financial difficulty because of COVID-19 are advised to provide notice to their landlord of their inability to pay rent as soon as possible and generally no later than 7 days after rent is due. If a qualifying tenant receives a threat of eviction or payment demand from their landlord, the City recommends providing the landlord a copy of this notice and the ordinance.

The Governor and California Courts have adopted additional protections against eviction for residential tenants impacted by COVID-19, and specific information is available on the agencies' websites: [www.gov.ca.gov](http://www.gov.ca.gov) or [www.courts.ca.gov](http://www.courts.ca.gov)

The City is unable to provide specific legal or individualized guidance to tenants, but nonprofit organizations such as the Fair Housing Foundation (800)446-3247 or [info@fhfca.org](mailto:info@fhfca.org), are available to assist.

**URGENCY ORDINANCE NO. 1680**

**URGENCY ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF BUENA PARK, CALIFORNIA, AMENDING AND CLARIFYING A LOCAL MORATORIUM ON RESIDENTIAL AND COMMERCIAL EVICTIONS FOR TENANTS SUFFERING FINANCIAL IMPACTS FROM COVID-19, CONSISTENT WITH EXECUTIVE ORDER N-37-20 OF THE CALIFORNIA GOVERNOR**

**A. Recitals.**

(i) In late December 2019, several cases of unusual pneumonia began to emerge in the Hubei province of China, and on January 7, 2020, a novel coronavirus now known as COVID-19 was identified as the source of the illness;

(ii) The first case of COVID-19 in the United States was confirmed in late January, and over the ensuing two (2) months the pandemic spread throughout the United States creating a significant health risk to residents, causing the closure of schools across the country, bringing the national and local economies to a standstill, and threatening to overwhelm healthcare facilities;

(iii) On March 4, 2020, California Governor Gavin Newsom proclaimed a “state of emergency” in response to COVID-19, and has since issued several Executive Orders that include extraordinary measures directed at slowing the spread of COVID-19 and reducing impacts to residents and businesses;

(iv) For example, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, thereby authorizing local governments’ to impose a local moratorium on the eviction of residential and commercial tenants that are unable to pay rent because of financial impacts caused by COVID-19, or because of a federal, state, or local government’s response to COVID-19;

(v) On March 17, 2020, the City Council for the City of Buena Park adopted a Resolution proclaiming a “local emergency” in response to COVID-19, thereby formalizing the City’s initiation of its Emergency Operations Plan, allowing prompt response to emergency conditions at the local level, and providing the City access to federal, state, and local resources during the crisis, and said “local emergency” is scheduled to remain in effect until at least May 23, 2020;

(vi) On March 24, 2020, and pursuant to Executive Order N-28-20, the City Council adopted Urgency Ordinance No. 1679 (“Ordinance No. 1679”), thereby imposing a local moratorium in the City of Buena Park on the eviction of residential and business tenants that are unable to pay rent because of the financial impacts of COVID-19 (“Moratorium”);

(vii) Subsequently on March 27, 2020, Governor Newsom issued Executive Order N-37-20, clarifying and supplementing Executive Order N-28-20 by extending the deadline for residential tenants to respond to a landlord’s complaint for unlawful detainer from five (5) days, to sixty-five (65) days, and providing a clarifying definition of the residential tenants that qualify for such protection;

(viii) On April 6, 2020, the California Judicial Counsel, the governing body for the Courts of the State of California, issued Emergency Court Rules effectively prohibiting the filing, processing, or enforcement of unlawful detainer actions in California Courts until the "state of emergency" declared by the Governor expires;

(ix) Based upon the clarification provided in Executive Order N-37-20 relative to the rights of tenants to avoid eviction actions if experiencing financial difficulties associated with COVID-19, the City Council finds and declares that adoption of this Urgency Ordinance is necessary and appropriate to ensure the Moratorium enacted by Ordinance No. 1679 remains consistent with the authority granted by the Governor for the State of California, and for purposes allowing residents to simultaneously take advantage of protections afforded under state and local law;

(x) The City Council finds and declares that the conditions and public interests giving rise to the Moratorium, as set forth in detail in Ordinance No. 1679 adopted by the City Council on March 24, 2020, continue to exist and are incorporated by this reference, and that this subsequent Ordinance is necessary and appropriate. This Urgency Ordinance is expressly authorized by Executive Order N-28-20 and Executive Order N-37-20, and is a temporary moratorium intended to promote stability and fairness within the residential and commercial rental markets in the City during the COVID-19 pandemic outbreak, and to prevent avoidable homelessness thereby serving the public peace, health, safety, and public welfare, and to enable tenants in the City whose income and ability to work is affected due to COVID-19 to remain in their homes;

(xi) The City Council further finds and declares that it is necessary and appropriate to adopt this Urgency Ordinance as an urgency measure, pursuant to Article XI, Section 5, of the California Constitution and Government Code section 36937, given that displacement through eviction destabilizes the living and business situation of tenants and impacts the health of Buena Park's residents by uprooting children from schools, disrupting the social ties and networks that are integral to citizens' welfare and the stability of communities within the City; displacement through eviction creates undue hardship for tenants through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing; the ability to stay indoors is necessary to prevent the spread of COVID-19 and protect the public health and safety; which justify adoption of this Urgency Ordinance as an urgency measure to be effective immediately upon adoption by a four-fifths vote of the City Council;

(xii) All legal prerequisites to the adoption of this Urgency Ordinance have occurred, and the City Council has duly considered all evidence presented in connection with its consideration of this Urgency Ordinance.

**B. Ordinance.**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUENA PARK, CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS.** The facts set forth in the Recitals, Part A, of this Ordinance are true and correct, and incorporated into this Urgency Ordinance as substantive findings.

**SECTION 2. URGENCY DECLARATION.** This Ordinance is adopted as an urgency measure pursuant to Government Code Section 36937 for the immediate preservation of the public health, safety, and welfare, and is adopted and justified based on the findings of the City Council in Recitals, Part A, of this Ordinance; which are supported by substantial evidence in the record associated with the City Council's consideration hereof.

**SECTION 3. MORATORIUM.** A Moratorium on evictions for non-payment of rent by residential tenants and commercial tenants impacted by the COVID-19 pandemic is imposed as set forth herein.

**SECTION 4. SCOPE OF MORATORIUM.** During the term of the Moratorium:

**A. Evictions of Residential Tenants for Failure to Pay Rent.** No landlord, or agent of a landlord, shall evict or attempt to evict a tenant from a residence or dwelling unit for nonpayment of rent, if the tenant satisfies all of the following requirements:

1. Prior to the effective date of the Moratorium, or at any time during the term of the Moratorium, the tenant paid rent due to the landlord pursuant to an agreement.

2. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed seven (7) days, that the tenant needs to delay all or some payment of rent because of an inability to pay rent due to a significant reduction in household income caused by COVID-19, including but not limited to the following:

(A) The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19, or was caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;

(B) The tenant experienced a lay-off, loss of hours, or other economic or employer-related income reduction resulting from COVID-19, the state of emergency, or any federal, state, or local government response to COVID-19;

(C) The tenant needed to miss work to care for a child whose school was closed in response to COVID-19; or

(D) The tenant incurred significant out-of-pocket medical expenses associated with a suspected or confirmed case of COVID-19.

3. The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, or signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time upon payment of back-due rent.

4. Notwithstanding the seven (7) day notice requirement of subsection A.(2), consistent with Ordinance No. 1679, notice of a tenant's inability to pay rent that was due between March 17, 2020, and April 14, 2020, shall be provided to a landlord no later than thirty (30) days after the due date.

**B. No-Fault Evictions of Residential Tenants.** No landlord, or agent of a landlord, may proceed or attempt to proceed with a no-fault eviction of a tenant of a residence or dwelling

unit if the tenant satisfies any of the requirements of subsection A.(2) above. A “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.

**C. Evictions of Commercial Tenants for Failure to Pay Rent.** No landlord, or agent of a landlord, shall evict or attempt to evict a commercial tenant for non-payment of rent if the commercial tenant satisfies all of the following requirements:

1. Prior the effective date of the Moratorium, or at any time during the term of the Moratorium, the tenant paid rent due to the landlord pursuant to an agreement.

2. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed seven (7) days, that the tenant needs to delay all or some payment of rent because of an inability to pay rent due to a significant reduction in business income caused by COVID-19, including but not limited a reduction in operating hours or consumer demand associated with, or a loss of business income resulting from a full or partial closure of the business in voluntary or involuntary compliance with a federal, state, or local government response to COVID-19. Notwithstanding the foregoing seven (7) day notice requirement, consistent with Ordinance No. 1679, notice of a tenant’s inability to pay rent that was due between March 17, 2020, and April 14, 2020, shall be provided to a landlord no later than thirty (30) days after the due date.

**D. Government Response to COVID-19.** For purposes of this Moratorium, “a federal state, or local government response to COVID-19” includes, but is not limited, “stay at home,” quarantine, curfew, or similar business closure-or-limiting orders issued by a federal, state, or local government in efforts to stop the spread of COVID-19.

**E. Ongoing Rent Obligations.** Nothing in this Moratorium shall relieve the tenant of liability for the unpaid rent, which the landlord may seek to collect after expiration of the local emergency, and subject to the limitations of California law, the tenant must pay within six (6) months of the expiration of the Moratorium.

**F. No Penalties for Late Payments.** A landlord, or agent of a landlord, shall not charge or collect a late fee for rent that is delayed for the reasons stated in this Moratorium; nor may a landlord or agent of a landlord seek to recover rent that is delayed for the reasons stated in this Moratorium through the eviction process.

**SECTION 5. PROHIBITION ON RESIDENTIAL RENT INCREASES.** For the term of this Moratorium, landlords are prohibited from increasing rent for any tenant of a residence or dwelling unit above the rate the tenant paid as of the effective date of this ordinance.

**SECTION 6. NATURE AND USE.** The Moratorium may be asserted as an affirmative defense in an unlawful detainer action, but the City of Buena Park provides not guarantee, representation, or affirmation of any kind relative to the rights of any tenant hereunder. Any failure to comply with this Moratorium shall not constitute a criminal offense. This Moratorium shall not be read in any way to prohibit any terminations of tenancy for just cause, or other terminations of tenancy where this Moratorium does not apply. This Moratorium is an act in furtherance of a local response to curb the impacts of COVID-19 on the public health, safety, and welfare, and in furtherance of authority vested by the Governor of the State of California.

**SECTION 7. EFFECTIVENESS.** This Ordinance shall take effect immediately as an urgency measure, and it shall supersede Urgency Ordinance No. 1679 to the extent of a conflict, but the Moratorium originally enacted by Urgency Ordinance No. 1679 shall continue and remain in full force and effect, as clarified by this Ordinance. The Moratorium shall be deemed to have taken effect as of March 17, 2020, the date of the City Council's proclamation of a "local emergency," and shall remain in full force and effect for the period of time set forth in Executive Order No. 28-20, Executive Order No. 37-20, or as the same may be extended from time to time, unless sooner terminated or repealed by the City Council.

**SECTION 8. SEVERABILITY.** The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

**SECTION 9.** This Ordinance is adopted as an urgency ordinance and shall take effect immediately upon a 4/5 vote of the City Council.

**SECTION 10.** The City Clerk of the City of Buena Park shall certify to the passage of the Ordinance and shall cause the same to be posted in the manner required by law.

PASSED AND ADOPTED this 14th day of April 2020, by the following called vote:

AYES: COUNCILMEMBERS: Park, Brown, Swift, Traut, Smith

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None

ATTEST:

  
City Clerk



  
Mayor

I, Adria Jimenez, City Clerk of the City of Buena Park, California, do hereby certify that the foregoing ordinance was introduced and passed at a regular meeting of the City Council of the City of Buena Park held on the 14<sup>th</sup> day of April 2020.

  
City Clerk