



MEMORANDUM

TO: CITY COUNCIL

**FROM: JAMES A. BERGMAN, CITY MANAGER
TIMOTHY J. CARMEL, CITY ATTORNEY**

SUBJECT: ADDITION OF EMERGENCY AGENDA ITEM – MARCH 24, 2020 CITY COUNCIL MEETING RELATING TO COVID-19 PANDEMIC; CONSIDERATION OF RESOLUTION EXPRESSLY AFFIRMING ACTIONS OF THE COUNTY OF SAN LUIS OBISPO RELATED TO THE COVID-19 PANDEMIC AS APPLICABLE AND ENFORCEABLE WITHIN CITY JURISDICTION AND MAKING RELATED DETERMINATIONS REGARDING THE PROCLAIMED LOCAL EMERGENCY

DATE: MARCH 24, 2020

RECOMMENDED ACTION:

It is recommended that the City Council: 1) determine by majority vote that an emergency situation exists in the City as a result of the COVID-19 pandemic and add item 11.b. to the agenda, and 2) adopt a Resolution Expressly Affirming Actions of the County of San Luis Obispo Related to the COVID-19 Pandemic as Applicable and Enforceable Within City Jurisdiction and Making Related Determinations Regarding the Proclaimed Local Emergency.

BACKGROUND:

Pursuant to Government Code section 54954.2(b)(1), a legislative body may take action on items of business not appearing on the posted agenda upon a determination by majority vote of the legislative body that an emergency situation exists as defined in Government Code section 54956.5. Section 54956.5(a)(1) defines an emergency as a work stoppage, crippling activity, or other activity that severely impairs public health, safety or both.

The COVID-19 pandemic is clearly an emergency as evidenced by the emergency declarations of the Federal, State and County governments. Although Government Code section 41601 and Health and Safety Code section 101029 provide authority for the City of Arroyo Grande to enforce the County's Emergency Services Director's Orders, at a teleconference meeting attended by all the city attorneys in the County and several members of County Counsel's office, including County Counsel, it was agreed that it would be prudent for each city to adopt a resolution expressly affirming actions of the County related to the pandemic, including specifically County Emergency Service Director

CITY COUNCIL

**ADDITION OF EMERGENCY AGENDA ITEM – MARCH 24, 2020 CITY COUNCIL MEETING
RELATING TO COVID-19 PANDEMIC; CONSIDERATION OF RESOLUTION EXPRESSLY
AFFIRMING ACTIONS OF THE COUNTY OF SAN LUIS OBISPO RELATED TO THE COVID-
19 PANDEMIC AS APPLICABLE AND ENFORCEABLE WITHIN CITY JURISDICTION AND
MAKING RELATED DETERMINATIONS REGARDING THE PROCLAIMED LOCAL
EMERGENCY**

MARCH 24, 2020

PAGE 2

Orders 3 and 4, establishing regulations for the suspension of evictions and mandatory shelter at home regulations, respectively. Adoption of the Resolution Expressly Affirming Actions of the County of San Luis Obispo Related to the COVID-19 Pandemic as Applicable and Enforceable within City Jurisdiction will provide clear authority and consistency in enforcement of these important regulations. The City of San Luis Obispo adopted such a resolution on March 20, 2020.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE EXPRESSLY AFFIRMING ACTIONS OF THE COUNTY OF SAN LUIS OBISPO RELATED TO THE COVID-19 PANDEMIC AS APPLICABLE AND ENFORCEABLE WITHIN CITY JURISDICTION AND MAKING RELATED DETERMINATIONS REGARDING THE PROCLAIMED LOCAL EMERGENCY

WHEREAS, section 8.12.060 of the Arroyo Grande Municipal Code empowers the Director of Emergency Services to proclaim a local emergency when the City Council is not in session and to subsequently have the City Council ratify the local emergency proclamation when the City of Arroyo Grande is affected or likely to be affected by a threatened local emergency and the Director of Emergency Services proclaimed a local emergency on March 16, 2020 regarding the COVID-19 pandemic and the City Council will consider ratifying said proclamation at its regular meeting on March 24, 2020; and

WHEREAS, the Secretary of Health and Human Services issued a Determination that a Public Health Emergency Exists and has existed as of January 27, 2020; and

WHEREAS, the President of the United States has declared a State of National Emergency; the Governor of the State of California has proclaimed a State of Emergency for the State of California and issued Executive Orders and direction regarding measures to mitigate the spread of cases of COVID-19 within the State of California; the San Luis Obispo County Emergency Services Director has proclaimed a local emergency; and the San Luis Obispo County Public Health Director has declared a public health emergency related to the spread of cases of COVID-19 within the State of California and all recitals set forth therein, are included as though fully set forth herein; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued Executive Order N-28-20, which suspends any State law that would preempt or otherwise restrict a local government's exercise of its police powers to impose substantive restrictions on residential or commercial evictions based on nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic, or any local, state, or federal government response to COVID-19 that is documented; and

WHEREAS, on March 18, 2020 the San Luis Obispo County Emergency Services Director issued Local Emergency Order and Regulation Nos. 3 and 4 providing for suspension of commencement of eviction proceedings related to COVID-19 and mandatory shelter at home regulations, respectively; and

WHEREAS, on March 19, 2020, the Governor issued Executive Order N-33-20, including the Order of the State Public Health Officer mandating all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>; and

RESOLUTION NO.

PAGE 2

WHEREAS, the City of Arroyo Grande will be required to help enforce all restrictions imposed by the State of California and by the County of San Luis Obispo acting as the health agency and, to the extent there are conflicts in the State and County home shelter orders, the City intends to adhere to the most restrictive standard, unless otherwise directed by the County Emergency Services Director or Public Health Officer; and

WHEREAS, in accordance with the Governor's Executive Order N-28-20 and San Luis Obispo County's Local Emergency Order and Regulation No. 3 COVID-19, there is an urgent need to issue limitations on the authority of landlords to commence evictions of tenants within the jurisdiction of the City in order to protect the health, safety and welfare of citizens within the jurisdiction of the City in light of the proclaimed State and local emergency and the declared local public health emergency regarding the COVID-19 pandemic; and

WHEREAS, the COVID-19 pandemic continues to spread rapidly worldwide and in the U.S., continuing to present an immediate and significant risk to public health and safety, and resulting in serious illness or death to vulnerable populations, including the elderly and those with underlying health conditions; and

WHEREAS, heightened levels of public health and safety planning and preparedness have been necessitated in preparation for and response to confirmed cases of COVID-19 in the County of San Luis Obispo, and rapid response not lending itself to otherwise applicable notice and approval timelines has been and will be necessary to respond to the rapidly evolving pandemic and to mitigate against the spread of COVID-19 and its resulting public health and safety impacts; and

WHEREAS, in the absence of such actions, County-wide health services may become overwhelmed and unable to keep up with medical demand for care and availability of hospital or care facility capacity.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Arroyo Grande that:

SECTION 1. All recitals set forth above, and all recitals included in support of Federal, State and County actions referenced herein, are adopted as though fully set forth herein as findings in support of this Resolution.

SECTION 2. A local emergency continues to exist throughout the City of Arroyo Grande, and the City has been undertaking, and will continue through cessation of this emergency to undertake, necessary measures and incur necessary costs, which are directly related to the prevention of the spread of COVID-19 and are taken in furtherance of: the Secretary of Health and Human Services' determination that a public health emergency has existed since January 27, 2020; the City Director of Emergency Services' Proclamation of Local Emergency on March 16, 2020; the Governor's Proclamation of a State of Emergency on March 4, 2020; the President of the United States' Declaration of a National Emergency on March 13, 2020; the County Emergency Services Director's Proclamation of Local

RESOLUTION NO.

PAGE 3

Emergency and the County Public Health Director's Declaration of a Public Health Emergency on March 13, 2020, and related orders and directions.

SECTION 3. During the existence of said local emergency, the powers, functions, and duties of the Director of Emergency Services and the Arroyo Grande City Council shall be those prescribed by state law, ordinances, and resolutions of this City and by the City of Arroyo Grande Emergency Operations Plan, notwithstanding otherwise applicable procedures, timelines or methods of action and the Director of Emergency Services is expressly authorized to take any and all actions in furtherance of emergency powers to address the local emergency.

SECTION 4. San Luis Obispo County Emergency Services Director Orders 3 and 4, establishing regulations for the suspension of commencement of evictions and mandatory shelter at home regulations, respectively, as currently in effect or as subsequently amended by the County Emergency Services Director or County Board of Supervisors, are hereby expressly affirmed, acknowledged and declared to be enforceable within the City of Arroyo Grande and shall be enforceable under Municipal Code section 8.12.100.

SECTION 5. The Director of Emergency Services and Administrative Services Director or their designees are hereby directed and authorized to pursue recovery from all available State and Federal agencies for reimbursement for COVID-19 related City costs and expenses from and after the Determination That a Public Health Emergency Exists since January 27, 2020.

SECTION 6. A copy of this Resolution shall be posted on all outside public access doors of City Hall of the City of Arroyo Grande and the City Council Chambers, in other readily accessible public places within the City and on the City's website, and personnel of the City of Arroyo Grande shall endeavor to make copies of this Resolution available to the news media.

Upon motion of Council Member _____, seconded by Council Member _____, and on the following roll call vote:

AYES:

NOES:

ABSENT:

The foregoing Resolution was approved this 24th day of March, 2020.

**RESOLUTION NO.
PAGE 4**

CAREN RAY RUSSOM, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO FORM:

TIMOTHY J. CARMEL, CITY ATTORNEY