



## MEMORANDUM

**TO: CITY COUNCIL**

**FROM: MICHAEL STEVENS, ADMINISTRATIVE SERVICES DIRECTOR**

**SUBJECT: CONSIDERATION OF A RESOLUTION AUTHORIZING WAIVER OF LATE PAYMENT PENALTIES AND INTEREST FOR TRANSIENT OCCUPANCY TAX (TOT)**

**DATE: APRIL 14, 2020**

**SUMMARY OF ACTION:**

Authorizing the Administrative Services Director to waive any late payment penalties and interest associated with unpaid Transient Occupancy Taxes (TOT) during March and April 2020.

**IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

The Resolution does not propose to waive TOT payments, yet extends the payment deadline for two months in response to impacts due to the Coronavirus pandemic. The financial impact of waiving and not collecting the otherwise applicable penalties and interest over the two-month period is negligible.

**RECOMMENDATION:**

It is recommended the City Council adopt a Resolution authorizing the City's Administrative Services Director to waive any otherwise applicable late payment penalties and interest on delinquent TOT remittances for the months of March and April 2020 and extend the payment deadline until August 31, 2020.

**BACKGROUND:**

On Tuesday, March 24, 2020, the City Council adopted a Resolution ratifying the existence of a local emergency in response to the health crisis and pandemic brought on by COVID-19 (Coronavirus). In an effort to slow the spread of the disease, the County of San Luis Obispo has given the "shelter at home" directive for all non-essential services and activities. In addition, the Centers for Disease Control and Prevention is urging all people to follow social distancing measures. The impact of these historic measures has had a significant impact on local economic activity, particularly with regards to travel and

**CITY COUNCIL**

**DISCUSSION AND CONSIDERATION OF RESOLUTION REGARDING WAIVER OF LATE PAYMENT PENALTIES AND INTEREST FOR TRANSIENT OCCUPANCY TAX (TOT)**

**APRIL 14, 2020**

**PAGE 2**

tourism. Lodging properties throughout the County are experiencing reduced revenues because of decreased occupancy.

**ANALYSIS OF ISSUES:**

It is in the best interest of the City to assist the lodging businesses that generate TOT revenue, since these businesses contribute directly to the City's financial well-being. This action is considered temporary and the intent is to help lodging businesses impacted by the Coronavirus get through this difficult time. However, the City like any business needs to maintain its own cash flow and must weigh the financial impact of delaying current TOT payments into the summer period. The Resolution would authorize the City's Administrative Services Director to waive any otherwise applicable late payment penalties and interest on delinquent TOT remittances for the months of March and April 2020 and extend the payment deadline until August 31, 2020. Most TOT payments are normally due in the month after collection. Regular TOT payment deadlines would return beginning with the May TOT collection, which is due June 30, 2020. Staff recommends that the Council still require that lodging businesses submit their TOT forms on time so that staff can accurately estimate the expected revenue due in the current fiscal year.

In order to qualify for the waiver of late payment penalties and interest for March and April TOT payments, lodging businesses must:

- File their March and April TOT returns based on standard deadlines. Payment of TOT would be due August 31, 2020.
- March and April filings must include payment of the Tourism Management District (TMD) and Tourism Business Improvement District (TBID) assessments.

In the first six months of the current fiscal year, the City collected \$632,406 in TOT revenue, which equates to a 15% increase from the same period last year. The TOT estimated payments from March and April 2020 are \$57,385. However, the estimated impact from waiving late penalties and interest from March and April is immaterial. In FY 2018-19, the total amount collected for TOT penalties and interest was \$168.

**ALTERNATIVES:**

1. Adopt the Resolution authorizing the Administrative Services Director to waive late payment penalties and interest for March and April TOT payments and extend the payment deadline until August 31, 2020;
2. Modify the Resolution to waive late payment penalties and interest for a different time frame;
3. Do not adopt the Resolution; or
4. Provide direction to staff.

**CITY COUNCIL**

**DISCUSSION AND CONSIDERATION OF RESOLUTION REGARDING WAIVER OF LATE PAYMENT PENALTIES AND INTEREST FOR TRANSIENT OCCUPANCY TAX (TOT)**

**APRIL 14, 2020**

**PAGE 3**

**ADVANTAGES:**

This action will help lodging businesses impacted by reduced occupancy during the Coronavirus by allowing them to delay TOT payments for the months of March and April until the end of August without the City assessing penalties and interest.

**DISADVANTAGES:**

This action will delay TOT payments and reduce cash flow until August. It is not anticipated that the delay in TOT payments for the two months will significantly impact the City financially.

**ENVIRONMENTAL REVIEW:**

No environmental review is required for this item.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
ARROYO GRANDE AUTHORIZING THE  
ADMINISTRATIVE SERVICES DIRECTOR TO WAIVE  
LATE PAYMENT PENALTIES AND INTEREST FOR  
DELINQUENT TRANSIENT OCCUPANCY TAX RECEIVED  
FOR STAYS DURING MARCH AND APRIL 2020 AND  
EXTENDING THE PAYMENT DEADLINE UNTIL AUGUST  
31, 2020**

**WHEREAS**, a local emergency relating to the COVID-19 pandemic has been declared in the City of Arroyo Grande; and

**WHEREAS**, the Centers for Disease Control and Prevention, the California Department of Health, and San Luis Obispo County have all issued shelter in place orders to enforce social distancing, prohibited group events, and taken other precautions to protect public health and prevent transmission of this highly communicable virus; and

**WHEREAS**, the effects of the various orders and actions needed to slow the spread of COVID-19 have resulted in significant economic effects on lodging businesses in the City, and hotel and motel room reservations have dramatically decreased; and

**WHEREAS**, hotels, motels, and other lodging businesses in the City provide not only a place for visitors to stay while in the City, but also generate additional revenue in the form of increased sales tax dollars from visitors' purchases at local stores and restaurants; and

**WHEREAS**, if hotels, motels, and other lodging businesses in the City were forced to close permanently as a result of the decrease in room reservations, there will be at minimum a significant delay in such businesses reopening, and there may be a permanent reduction in the number of hotel rooms in the City, resulting in reductions in City revenue and the elimination of an essential amenity for visitors to the City; and

**WHEREAS**, hotels, motels, and other lodging businesses in the City are subject to Chapter 3.24 of the Arroyo Grande Municipal Code, which requires those businesses to collect from their guests a 10% occupancy tax, referred to as the transient occupancy tax, which then must be remitted to the City; and

**WHEREAS**, Arroyo Grande Municipal Code Section 3.24.080 provides that "Any operator who shall fail to remit any tax imposed by the provisions of this chapter within the time required shall pay a penalty in the amount of ten (10) percent of the tax in addition to the amount of the tax"; and

**RESOLUTION NO.**

**PAGE 2**

**WHEREAS**, the City Council wishes to temporarily waive penalties and interest for late payment of currently due transient occupancy taxes due to the COVID-19 pandemic that is acutely and disproportionately impacting the local lodging and hotel industry.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Arroyo Grande as follows:

1. The recitals set forth herein are true, correct and incorporated herein.
2. The Administrative Services Director is authorized to waive late payment penalties and interest imposed by Chapter 3.24 of the Arroyo Grande Municipal Code for Transient Occupancy Tax (TOT) revenues received by lodging establishments for March 2020 and April 2020 transient occupancy lodging services and to extend the payment deadline until August 31, 2020.
3. In order to qualify for the waiver of late payment penalties and interest for March and April TOT, lodging businesses must:
  - a. File their March and April TOT returns based on standard deadlines. Payment of TOT will be due August 31, 2020; and
  - b. March and April filings must include payment of the Tourism Management District and Tourism Business Improvement District assessments.
4. Nothing herein shall relieve any person or entity of its obligation to pay and to remit to the City amounts otherwise due pursuant to Chapter 3.24 and any late payment penalties and interest that otherwise would have become due for failure or refusal to pay amounts due for March and April 2020 shall be assessed and shall become due and payable to the City if the referenced TOT payments due to the City have not been made in full by August 31, 2020.

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and on the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

The foregoing Resolution was passed and adopted this 14<sup>th</sup> day of April, 2020.

**RESOLUTION NO.  
PAGE 3**

---

**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

---

**KELLY WETMORE, CITY CLERK**

**APPROVED AS TO CONTENT:**

---

**JAMES A. BERGMAN, CITY MANAGER**

**APPROVED AS TO FORM:**

---

**TIMOTHY J. CARMEL, CITY ATTORNEY**