



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** March 30, 2020
FROM: Matthew Bronson, City Manager/Emergency Services Director
PREPARED BY: David Hale, City Attorney
SUBJECT: Urgency Ordinance Affirming Actions of the County of San Luis Obispo Related to the COVID-19 Pandemic

RECOMMENDATION

Adopt an Urgency Ordinance affirming actions of the County of San Luis Obispo and their enforceability within the City of Grover Beach

BACKGROUND

As a consequence of the COVID-19, numerous organizations at many different levels of government, have declare national and local emergencies consistent with their authority and based upon enabling legislation authorizing these actions. The World Health Organization has declared COVID-19 a pandemic. The President of the United State has proclaimed a Declaration of a National Emergency and on March 4, 2020, the Governor of the State of California has declared a State of Emergency for the State of California and has issued numerous Executive Orders and directions regarding measures to mitigate the spread of cases of COVID-19 within the state.

Most recently, on March 27, 2020, Governor Newsom issued Executive Order N-37-20 which sets out limitations upon which landlords are restricted from filing any writ to evict a tenant from a residence or dwelling for nonpayment of rent that satisfies the requirements of Executive Order N-37-20. In addition to the Executive Orders issued previously by the Governor, the San Luis Obispo County Emergency Services Director issued countywide Executive Orders on March 18 and 19, 2020 (Regulations No. 3 and No. 4), which suspended commencement of evictions related to COVID-19 and established a Shelter at Home Order which was subsequently ratified by the County Health Officer on March 21, 2020.

Local agencies generally have the ability to enforce the above enumerated orders and regulations. California Health and Safety Code Section 101029 and Government Code Section 41601 authorizes the Grover Beach Police Department to enforce orders of the County Public Health Officers issued for purposes of preventing the spread of any contagious, infectious, or communicable disease. Approval and adoption by the Council of this Urgency Ordinance will not only affirm the enforceability of the County orders and regulations within the city, but further enhance the ability of the City Attorney's Office to act in a prosecutorial function in any court proceedings arising from any enforcement action by the Police Department.

FISCAL IMPACT

There is no fiscal impact from adopting this ordinance.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Adopt the Urgency Ordinance affirming actions of the County of San Luis Obispo and their enforceability within the City of Grover Beach; or
2. Do not adopt the Urgency Ordinance; or
3. Provide alternative direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.

ATTACHMENTS

1. Urgency Ordinance

URGENCY ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH 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 DETERMINATIONS REGARDING THE PROCLAIMED LOCAL EMERGENCY

WHEREAS, the federal Centers for Disease Control and Prevention (“CDC”) have confirmed thousands of cases of individuals who have severe respiratory illness caused by a novel coronavirus, called COVID-19, as well as deaths caused by this illness; and

WHEREAS, the World Health Organization declared COVID-19 a pandemic, and the CDC announced that community spread of COVID-19 is likely to occur in the United States; and

WHEREAS, the President of the United States has proclaimed a Declaration of a National Emergency and, on March 4, 2020, the Governor of the State of California has declared 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; and

WHEREAS, the increase of reported cases and deaths associated with COVID-19 also prompted the County of San Luis Obispo to declare a local public health emergency on March 13, 2020; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued an executive order, 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, Section 5304 of the Grover Beach Municipal Code and the Emergency Service Act (Gov. Code §§ 8550 et seq.) empower the Director of Emergency Services (City Manager) to declare a local emergency when the City is affected by extreme peril to the safety of persons and property within the territorial limits of the city caused by such conditions as an epidemic, and the City Council ratified the Director’s emergency declaration at an emergency meeting on March 16, 2020 regarding the COVID-19 pandemic; and

WHEREAS, on March 18, 2020, the San Luis Obispo County Emergency Services Director issued Local Emergency Order and Regulation No. 3, providing for suspension of commencement of evictions related to COVID-19; and

WHEREAS, on March 18, 2020, the San Luis Obispo County Emergency Services Director further issued a Countywide Shelter at Home Order and Regulation No. 4 for the County of San Luis Obispo that took effect on Thursday, March 19, 2020 at 5:00 pm., and that was further amended and ratified by the County Health Officer on March 21, 2020 (“Order No. 4”); 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>;

WHEREAS, Health & Safety Code Section 101029 and Government Code Section 41601 authorize the City’s peace officers to enforce orders of the State and County Public Health Officers issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease; 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 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;

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, THE CITY COUNCIL OF THE CITY OF GROVER BEACH DOES HEREBY ORDAIN AS FOLLOWS:

PART 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 Ordinance.

PART 2. A local emergency continues to exist throughout the City of Grover Beach, 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' Declaration of a Local Emergency on March 16, 2020; the Governor's Declaration of a State of Emergency on March 4, 2020; the President of the United States' Proclamation Declaring a National Emergency on March 13, 2020; the County Emergency Services Director's Declaration of a Local Emergency and the County Public Health Director's Declaration of a Public Health Emergency on March 13, 2020, and related orders and directions.

PART 3. During the existence of said local emergency, the powers, functions, and duties of the City of Grover Beach Director of Emergency Services and the Grover Beach City Council shall be those prescribed by state law, ordinances, and resolutions of this City and by the City of Grover Beach 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.

PART 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, are hereby expressly affirmed, acknowledged and declared to be enforceable within the City of Grover Beach and shall be enforceable under Municipal Code Sections 5300 et seq and other pertinent provisions of the Municipal Code.

PART 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.

PART 6. In accordance with the Governor of the State of California's Executive Order N-28-20, this ordinance shall remain in effect until May 31, 2020 unless extended by the City Council. In order to prevent inconsistencies, the Director of Emergency Services may suspend the effectiveness of any provisions in this ordinance in the event that the President of the United States, Congress, Governor of the State of California or California

State Legislature or other body with jurisdiction adopts an order or legislation that similarly prohibits evictions and foreclosures for failure to pay rent by individuals impacted by the COVID-19 crisis.

PART 7. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Urgency Ordinance.

PART 8. Urgency Declaration; Effective Date. The City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as the City and public would suffer potentially irreversible displacement of commercial and residential tenants resulting from evictions and foreclosure for failure to pay rent during the COVID-19 crisis. 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, especially given state and county directives to stay at home. Promoting stability amongst commercial tenancies is also conducive to public health, allowing businesses to follow the advice and directives of public health officials to close and allowing employees to avoid public contact during times of a public health crisis without fear of imminent eviction or foreclosure. Loss of income as a result of COVID-19 may inhibit City residents and businesses from fulfilling their financial obligations, including payment of rent and mortgages. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

PART 9. Publication. The City Clerk shall certify to the adoption of this Urgency Ordinance. Not later than fifteen (15) days following the passage of this Urgency Ordinance, the Urgency Ordinance, along with the names of the City Council members voting for and against the Urgency Ordinance, shall be published in a newspaper of general circulation in the City of Grover Beach.

PASSED, APPROVED, and ADOPTED by the City Council on March 30, 2020, on the following roll call vote, to wit:

AYES: Council Members -
NOES: Council Members -
ABSENT: Council Members -
ABSTAIN: Council Members -
RECUSED: Council Members -

**** D R A F T ****

JEFF LEE, MAYOR

Attest:

WENDI SIMS, CITY CLERK

Approved as to Form:

DAVID P. HALE, CITY ATTORNEY