

ORDINANCE NO. 707

AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE PROVIDING THAT ALL STATE AND COUNTY ORDERS AND REGULATIONS, APPLICABLE WITHIN THE JURISDICTION OF THE CITY OF ARROYO GRANDE, AND ISSUED IN RESPONSE TO COVID-19, AS BEING EXPRESSLY ENFORCEABLE BY CITY OFFICIALS

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 is a respiratory disease that may result in serious illness or death and is easily transmissible from person to person, and according to the federal Centers for Disease Control and Prevention ("CDC") as of June 24, 2020, there are over 2,336,615 confirmed cases of COVID-19 in the United States and over 121,117 deaths due to COVID-19 in the United States; and

WHEREAS, on March 4, 2020, the Governor declared the existence of a state of emergency in the State of California due to the threat posed by COVID-19; and

WHEREAS, on March 11, 2020, the Director-General for the World Health Organization declared that COVID-19 can be characterized as a "pandemic"; and

WHEREAS, on March 13, 2020, the President of the United States declared that the outbreak of COVID-19 in the United States constitutes a national emergency; and

WHEREAS, in accordance with Section 8.12.060 of the Arroyo Grande Municipal Code, the City Manager, in his capacity as the Director of Emergency Services, proclaimed a local emergency on March 17, 2020 regarding the COVID-19 pandemic and the City Council ratified the emergency proclamation through adoption of Resolution No. 4974 at its regular meeting on March 24, 2020; and

WHEREAS, Arroyo Grande Municipal Code Section 8.12.065(C) provides that the City Council is to review the need for a continuing emergency declaration at regularly scheduled meetings at least every twenty-one (21) days until the emergency is terminated and in accordance with that requirement, the City Council has continued to determine that a local emergency continues to exist throughout the City of Arroyo Grande; and

WHEREAS, the Governor, the State Public Health Officer, the San Luis Obispo County Emergency Services Director, and the San Luis Obispo County Health Officer have promulgated and issued, and will reasonably continue to promulgate and issue, various orders, rules, and regulations concerning the COVID-19 state of emergency that are applicable within the jurisdiction of the City of Arroyo Grande ("Orders"), pursuant to State and County law, including but not limited to the California Emergency Services Act (Gov. Code §§ 8550, *et seq.*) and the California Public Health & Safety Code; and

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WHEREAS, COVID-19 has rapidly spread throughout California, the County of San Luis Obispo, and the City of Arroyo Grande, necessitating stringent public health emergency orders as well as guidance from federal, State, and local authorities; and

WHEREAS, the COVID-19 pandemic continues to spread rapidly within California, the County of San Luis Obispo, and the City of Arroyo Grande, continues to present an immediate and significant risk to public health and safety, and can result in serious illness or death, especially 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 fast 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; and

WHEREAS, the health, safety, and welfare of City of Arroyo Grande ("City") residents, businesses, visitors, and staff are of utmost importance to the City; and

WHEREAS, Executive Order N-25-20, issued by Governor Newsom on March 12, 2020, requires that all Californians follow public health guidelines and grants the State the ability to enforce California Department of Public Health (CDPH) rules, and on June 18, 2020, the CDPH issued "Guidance for the Use of Face Coverings," which expressly "...mandates that face coverings be worn state-wide in the circumstances and with the exceptions outlined [therein]..." and which Governor Newsom has stated is mandatory in nature; and

WHEREAS, as necessary for public health and safety, the City desires express authority for City enforcement of the Orders (applicable as a matter of law within the jurisdiction of the City), using City law, including but not limited to and through application of Chapter 1.18 (Administrative Citations), which is being adopted concurrently as an Urgency Ordinance with this Ordinance, with administrative fines to be as established by City Council Resolution, and Chapter 1.16 (Penalty Provisions) of the Arroyo Grande Municipal Code, which provides for enforcement of violations as infractions and/or misdemeanors; and

WHEREAS, the City Council desires to expressly provide, through passage of this uncodified urgency ordinance, that State and County orders and regulations issued, and to be issued, in response to COVID-19, to the extent they apply within the jurisdiction of the City, are applicable and enforceable within City jurisdiction pursuant to the authority provided to City officers and employees under the Arroyo Grande Municipal Code, and that administrative fines and penalties may be levied daily against violators.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and incorporated herein by this reference. The recitals, included in support of federal, State, and County actions referenced herein, are adopted as though set forth fully herein as findings in support of this uncodified urgency ordinance.

SECTION 2. Governor's Executive Orders and State Directives. All directives included in present and subsequent state of emergency Executive Orders concerning the COVID-19 pandemic issued by the Governor of the State of California and the orders, rules, and regulations issued by the State Public Health Officer and the California Department of Public Health concerning the COVID-19 state of emergency, which are applicable as a function of law within the jurisdiction of the City of Arroyo Grande, including, but not limited to:

- Executive Order N-25-20 which orders all residents to heed any orders and guidance of State and local public health officials, including but not limited to the imposition of social distancing measures, to control the spread of COVID-19
- The "Guidance for the Use of Face Coverings" issued by the California Department of Public Health on June 18, 2020 are hereby expressly:
 - a. acknowledged and declared to be requirements of the Arroyo Grande Municipal Code (AGMC), and
 - b. adopted by reference into the AGMC, and
 - c. enforceable within the City of Arroyo Grande pursuant to both the provisions of Chapter 1.18 (Administrative Citations) and the provisions of Chapter 1.16 (Penalty Provisions) of the AGMC and violations are subject to applicable fines and penalties.

SECTION 3. County Orders. All directives included in present and subsequent Orders and regulations concerning the COVID-19 pandemic issued by the San Luis Obispo County Emergency Services Director, the San Luis Obispo County Health Officer, or the San Luis Obispo County Board of Supervisors, which are applicable as a function of law within the jurisdiction of the City of Arroyo Grande, are hereby expressly:

- a. acknowledged and declared to be requirements of the AGMC, and
- b. adopted by reference into the AGMC, and
- c. enforceable within the City of Arroyo Grande pursuant to both the provisions of Chapter 1.18 (Administrative Citations) and the provisions of Chapter

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1.16 (Penalty Provisions) of the AGMC and violations are subject to applicable fines and penalties.

SECTION 4. Conflict. Should the directives referenced in above Sections 2 and 3 conflict in any manner, the stricter directive shall apply, unless expressly acknowledged otherwise by both the Governor and the County, or unless as an operation of law.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 6. Urgency. Based on the foregoing recitals, including the recitals in support of federal, State and County actions referenced herein, and all facts of record stated before the City Council, the City Council finds and determines that the immediate preservation of the public peace, health, and safety requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b), and take effect immediately upon adoption.

SECTION 7. Effective Date. This Ordinance is hereby declared to be an urgency measure and shall become effective immediately upon adoption by at least a four-fifths (4/5) vote of the City Council pursuant to Government Code section 36937(b).

SECTION 8. Termination. This Ordinance shall remain in effect until repealed by action of the City Council, or until the state of local emergency in the City concludes, whichever occurs earlier.

SECTION 9. Publication. The City Clerk shall certify as to the passage and adoption of this urgency ordinance, and shall cause the same to be posted at the designated locations in the City of Arroyo Grande and/or be published and promulgated in as widespread a manner as is reasonably feasible under the conditions prevailing during this local emergency.

SECTION 10. CEQA. Under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15061 (b) (3), this urgency ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, such as the adoption of the regulations contained herein, the activity is not subject to CEQA.

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On motion by Council Member Storton, seconded by Council Member Paulding, and by the following roll call vote to wit:

AYES: Council Members Storton, Paulding, George, Barneich, and Mayor Ray Russom

NAYS: None

ABSENT: None

the foregoing Ordinance was adopted this 14th day of July, 2020.



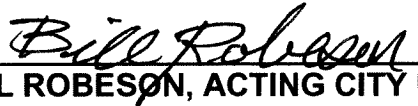
CAREN RAY RUSSOM, MAYOR

ATTEST:



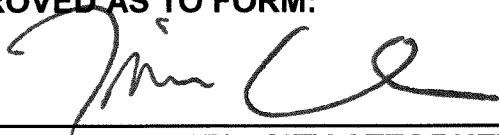
KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:



BILL ROBESON, ACTING CITY MANAGER

APPROVED AS TO FORM:

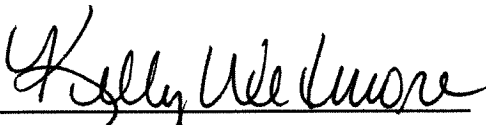


TIMOTHY J. CARMEL, CITY ATTORNEY

OFFICIAL CERTIFICATION

I, **KELLY WETMORE**, City Clerk of the City of Arroyo Grande, County of San Luis Obispo, State of California, do hereby certify under penalty of perjury, that the attached Urgency Ordinance No. 707 was passed and adopted at a regular meeting of the City Council on the 14th day of July 2020; and was duly published in accordance with State law (G.C. 40806).

WITNESS my hand and the Seal of the City of Arroyo Grande affixed this 15th day of July 2020.



KELLY WETMORE, CITY CLERK