Date: March 19, 2020

TO: Mayor and Council

FROM: Derek Johnson, City Manager/Emergency Services Director DJ

SUBJECT: Special Meeting Item #1 - DISCUSS AND PROVIDE DIRECTION ON ALL NECESSARY ACTIONS NEEDED TO PROTECT THE HEALTH, WELFARE AND SAFETY OF THE CITIZENS OF SAN LUIS OBISPO

Attached is the draft Resolution for City Council consideration and adoption at the March 20, 2020 Special Meeting. Staff will provide a presentation at the meeting.

Attachment A – Draft Resolution
RESOLUTION NO. ____ (2020 SERIES)


WHEREAS, section 2.24.060 of the Municipal Code empowers the Emergency Services Director to request that the City Council proclaim a local emergency when the City of San Luis Obispo is affected or likely to be affected by a public calamity and the City Council proclaimed a local emergency at its regular meeting on March 17, 2020 regarding the COVID-19 pandemic; 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 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 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;

WHEREAS, on March 18, 2020: the City of San Luis Obispo Emergency Services Director issued Proclamation No. 2 related to the closure of alcohol establishments and limitations on dine-in service for restaurants and other food and beverage establishments; and the San Luis Obispo County Emergency Services Director issued Local Emergency Order and Regulation Nos. 3 and 4 providing for suspension of commencement of evictions related to COVID-19 and mandatory shelter at home regulations, respectively; and

WHEREAS, the City of San Luis Obispo 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

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 pandemic COVID-19 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 San Luis Obispo that:

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

SECTION 2. A local emergency continues to exist throughout the City, 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 the COVID-19 Virus and are taken in furtherance of the Council’s Proclamation of Local Emergency on March 17, 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 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 Emergency Services Director and the Emergency Organization of this City shall be those prescribed by state law, ordinances, and resolutions of this City and by the City of San Luis Obispo Emergency Operations Plan, notwithstanding otherwise applicable procedures, timelines or methods of action and the Emergency Services Director is expressly authorized to take any and all actions in furtherance of emergency powers to address the local emergency.

SECTION 4. The City Council hereby affirms the City of San Luis Obispo Emergency Services Director’s Proclamation No. 2, issued March 18, 2020 (Attached hereto as Ex. A), related to the closure of alcohol establishments and limitations on dine-in service for restaurants and other food and beverage establishments, but declares that Proclamation No. 2 shall be superseded to the
extent it is subsumed by or is in conflict with the County of San Luis Obispo Local Emergency Order and Regulation No. 4 COVID 19 establishing mandatory shelter and home regulations, as currently enacted or as subsequently amended by the County Emergency Services Director or Board of Supervisors; provided, however, that in the event of termination of any County Order, City ESD Proclamation No. 2 shall remain in full force and effect within the City of San Luis Obispo until expressly terminated by the City of San Luis Obispo Emergency Services Director or the City Council.

SECTION 5. 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 acknowledged and declared to be enforceable within the City of San Luis Obispo as if directly enacted by the City Council pursuant to San Luis Obispo Municipal Code Chapter 2.24 and shall be enforceable under Municipal Code 2.24.100.

SECTION 6. The proclamation of local emergency shall be deemed to continue to exist until it is terminated by the City Council of the City of San Luis Obispo pursuant to a resolution adopted by the City Council of the City San Luis Obispo.

SECTION 7. A copy of this Resolution shall be posted on all outside public access doors of City Hall of the City of San Luis Obispo and in one public place within any area of the City within which this Resolution applies and personnel of the City of San Luis Obispo shall endeavor to make copies of this order and regulation available to the news media.

Upon motion of _______________________, seconded by _______________________, and on the following roll call vote:

AYES: 
NOES: 
ABSENT: 

The foregoing Resolution was approved this _____ day of _____________________ 2020.

____________________________________
Heidi Harmon, Mayor

ATTEST:

____________________________________
Teresa Purrington
City Clerk

R _____
APPROVED AS TO FORM:

____________________________________
J. Christine Dietrick
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, this _____ day of ______________, 2020.

____________________________________
Teresa Purrington
City Clerk
EMERGENCY SERVICES DIRECTOR PROCLAMATION NO. 2 (2020 SERIES)


WHEREAS, section 2.24.060 of the San Luis Obispo Municipal Code empowers the Emergency Services Director, in the event of the proclamation of a “local emergency” as provided in this subsection, the proclamation of a “state of emergency” by the Governor or the Director of the California Emergency Management Agency, a “federal declaration of emergency” or the existence of a “state of war emergency,” to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council; and

WHEREAS, section 2.24.020 of the Municipal Code includes an epidemic as one of the proper grounds for proclaiming a local emergency; 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 directing 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 the spread of cases of COVID-19 within the State of California; the City Council declared a local emergency at its regularly scheduled meeting of March 17, 2020; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen within the City, caused by confirmed cases and the risk of spread of the pandemic of the virus known as COVID-19 and the demands on public services to mitigate and respond to those risks, as described in the President’s Declaration of a National Emergency, the Governor’s Proclamation of a State of Emergency, the County Emergency Services Director’s Proclamation of Local Emergency and the County Public Health Director’s Declaration of a Public Health Emergency, and all recitals set forth therein, which are included as though fully set forth herein; and

WHEREAS, the conditions of extreme peril concerning the spread of COVID-19 warrant and necessitate measures to ensure social distancing and deter large congregations of persons, and high-risk activities that increase the risk of community spread of the COVID-19 virus; and

WHEREAS, Governor Newsom has directed that all jurisdictions should limit gatherings to 10 people or less, and that bars, pubs, and wineries in the state should close; and
WHEREAS, gatherings at bars, pubs, nightclubs, and other alcohol serving establishments throughout the City and County, encourages large concentrations of persons, and results in alcohol consumption and associated adverse impacts on judgement and social behaviors detrimental to mitigating the spread of COVID-19; and

WHEREAS, on site dining presents a high risk for exposures of both restaurant staff and patrons to COVID-19; and

WHEREAS, in many other locations that are currently suffering an epidemic, testing has showed that the virus has the ability to spread fast and result in serious illness or death to vulnerable populations, including the elderly and those with underlying health conditions and the City of San Luis Obispo 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

WHEREAS, heightened levels of public health and safety planning and preparedness have been necessitated in preparation for the emergence of confirmed cases of COVID-19 and now that cases have been confirmed in the County, immediate action must be taken to prevent the spread of the virus and to limit high risk activities and gatherings in public serving spaces, requiring rapid response not lending itself to otherwise applicable notice and approval timelines to mitigate against the further 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 the health and safety of persons within the City will be endangered; and

WHEREAS, the City of San Luis Obispo Emergency Services Director has considered the risk and deems closure of bars and limitations of on-site food service necessary to prevent the spread of COVID-19.

NOW, THEREFORE, BE IT PROCLAIMED by the Emergency Services Director of the City of San Luis Obispo that:

SECTION 1. Emergency measures are necessary to limit large scale social gatherings in public serving spaces that present high risk of transmission and in order to advance social distancing and personal hygiene protocols necessary to prevent or minimize the spread of COVID-19 and protect the public health and safety of the citizens of San Luis Obispo.

SECTION 2. Effective immediately upon notice of this proclamation:

A. All bars, breweries and wine tasting venues in the City of San Luis Obispo shall close to the public, excluding production facilities that do not include customer or other public contact.

B. All restaurants in the City of San Luis Obispo shall be closed for indoor or outdoor seated dining and may be open only for pick-up or delivery.
C. Bars, breweries, pubs or other alcohol establishments that include full meals provided by a full kitchen shall follow restaurant guidance and may provide only for pick-up or delivery options.

D. Coffee shops fall under restaurants and may continue to offer pick-up service, but shall not provide indoor or outdoor seating for customers.

E. All pick up areas shall limit customer waiting areas in a manner that provides adequate space for a six (6) feet of separation between waiting customers and provides for hand sanitation.

F. All other public serving businesses shall implement social distancing protocols to ensure that customers of businesses open to the public maintain a six (6) foot distance between customers and otherwise adhere to direction and guidelines from the County Public Health Director found at https://www.slocounty.ca.gov/Departments/Health-Agency/Public-Health/Novel-Coronavirus-(COVID-19).aspx to assist in limiting the spread of COVID-19 in order to reduce the length and severity of public health and economic impacts.

SECTION 4. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 13, 2020 Proclamation by the Director of Emergency Services Declaring the Existence of a Local Emergency in the County, the March 13, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Director; and the City of San Luis Obispo’s March 17, 2020 Resolution Declaring a Local Emergency.

SECTION 5. This Proclamation shall be presented to the City Council of the City of San Luis Obispo for confirmation at its March 20, 2020 meeting, pursuant to San Luis Obispo Municipal Code Section 2.24.060.

SECTION 6. This proclamation shall be enforceable and violations shall be subject to penalties under Municipal Code Section 2.24.100.

SECTION 7. A copy of this order and regulation shall be posted on all outside public access doors of City Hall of the City of San Luis Obispo and in one public place within any area of the City within which this order and regulation applies and personnel of the City of San Luis Obispo shall endeavor to make copies of this order and regulation available to the news media.

SECTION 8. No criminal citation for violation of this order shall be issued, unless at least one in-person warning or notification of this proclamation has been made at an affected business.

The foregoing Proclamation was approved this 19th day of March, 2020.

Derek Johnson, Emergency Services Director
ATTEST:

Teresa Purrington
City Clerk

APPROVED AS TO FORM:

J. Christine Dietrick
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, this 18th day of March, 2020.

Teresa Purrington
City Clerk