

(UNCODIFIED) URGENCY ORDINANCE NO. 631

**AN UNCODIFIED URGENCY ORDINANCE
OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA,
CONFIRMING AND ADOPTING CITY OF MORRO BAY REGULATION NO. 1
(COVID-19), AS PROMULGATED ON MARCH 30, 2020 BY THE DIRECTOR OF
EMERGENCY SERVICES OF THE CITY OF MORRO BAY, IN THE COUNTY OF
SAN LUIS OBISPO, STATE OF CALIFORNIA, PURSUANT TO THE EXISTENCE OF
A LOCAL STATE OF EMERGENCY WITHIN THE CITY OF MORRO BAY (COVID-
19), PROVIDING STATE AND COUNTY ORDERS, APPLICABLE WITHIN THE
JURISDICTION OF THE CITY OF MORRO BAY, AND ISSUED IN RESPONSE TO
COVID-19, AS BEING EXPRESSLY ENFORCEABLE BY CITY AUTHORITIES
THROUGH ALL ENFORCEMENT PROVISIONS WITHIN THE MORRO BAY
MUNICIPAL CODE, AND SUBJECT TO ONE THOUSAND DOLLAR FINES**

**THE CITY COUNCIL
City of Morro Bay, California**

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 March 29, 2020 there are over 120,000 confirmed cases of COVID-19 in the United States and over 2,100 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, on March 14, 2020, the Morro Bay Director of Emergency Services (“Director”) (i.e., the City Manager, pursuant to Morro Bay Municipal Code (“MBMC”) § 8.08.050(A)) proclaimed a declaration of the existence of a local emergency within the City of Morro Bay (“City”) due to the threat posed to the City from COVID-19, pursuant to Government Code § 8630 and Chapter 8.08 of the MBMC; and

WHEREAS, on March 14, 2020, the Governor issued Executive Order N-25-20, (attached hereto and incorporated by reference as Exhibit No. 1), which ordered that “[a]ll residents are 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”; 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 (“County”) that took effect on Thursday, March 19, 2020 at 5:00 pm. (attached hereto and incorporated by reference as Exhibit No. 2), and that was further amended and ratified by the County Health Officer on March 21, 2020 (attached hereto and incorporated by reference as Exhibit No. 3); and

WHEREAS, on March 19, 2020, the Morro Bay City Council through Resolution No. 23-20 proclaimed and affirmed the existence of a local emergency, and confirmed and ratified the proclamation by the Director of the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 19, 2020, the Governor issued Executive Order N-33-20, (attached hereto and incorporated by reference as Exhibit No. 4), 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

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 Morro Bay (“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

WHEREAS, in a short period of time, COVID-19 has rapidly spread throughout California, the County of San Luis Obispo, and the City of Morro Bay, 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 Morro Bay, 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 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; and

WHEREAS, the health, safety and welfare of City of Morro Bay (“City”) residents, businesses, visitors and staff are of utmost importance to the City; 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 through application of Chapter 1.03 (Administrative Citation Program) with administrative fines to be levied in the amount of \$1,000 per violation, and Chapter 1.16 (General Penalty) of the MBMC which provides for enforcement of violations as infractions and/or misdemeanors; and

WHEREAS, Government Code § 8634 provides in part: “During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice.”; and

WHEREAS, MBMC § 8.08.060(A)6(a) provides in part: “In the event of the proclamation of a ‘local emergency’ as provided in this section... the director is empowered... [t]o 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, On March 30, 2020, after consideration of all facts reasonably available presently for review and all items, the Director of Emergency Services promulgated Regulation No. 1 (COVID-19) to expressly provide State and County Orders 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 authorities under the MBMC; and

WHEREAS, the City Council desires to confirm Regulation No. 1 (COVID-19), as promulgated by the Director of Emergency Services on March 30, 2020, through passage of Regulation No. 1 (COVID-19) as an uncodified ordinance, so as to expressly provide State and County Orders 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 authorities under the MBMC, and administrative fines may be levied daily against violators in the amount of \$1,000 per violation.

THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA DOES HEREBY FIND AND ORDAIN AS FOLLOWS:

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.
2. **Governor's Executive Orders.** 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, which are applicable as a function of law within the jurisdiction of the City of Morro Bay, including, but not limited to:
 - Executive Order N-33-20 which orders 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, and
 - Executive Order N-25-20 which orders all resident 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

are hereby expressly:

- a. acknowledged and declared to be requirements of the MBMC, and
 - b. adopted by reference into the MBMC, and
 - c. enforceable within the City of Morro Bay pursuant to both the provisions of Chapter 1.03 (Administrative Citation Program) and the provisions of Chapter 1.16 (General Penalty) of the MBMC.
3. **County Orders.** All directives included in present and subsequent Orders 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 Morro Bay, including, but not limited to:
 - Countywide Shelter at Home Order and Regulation No. 4 for the County of San Luis Obispo, issued by the San Luis Obispo County Emergency Services Director, and as further amended and ratified by the San Luis Obispo County Health Officer,

are hereby expressly:

- a. acknowledged and declared to be requirements of the MBMC, and
 - b. adopted by reference into the MBMC, and
 - c. enforceable within the City of Morro Bay pursuant to both the provisions of Chapter 1.03 (Administrative Citation Program) and the provisions of Chapter 1.16 (General Penalty) of the MBMC.
4. **One Thousand Dollar Fines.** The amount of the fine for any and all violations (starting with the first violation) of above Sections 2 and 3, pursuant to MBMC § 1.03.050 (Administrative fines), shall be one thousand dollars (\$1,000), notwithstanding provisions for any fine amounts to the contrary. Each and every day a violation exists may constitute a separate and distinct offense. A late payment charge of 10% of the applicable fine shall be imposed for payment after the due date of thirty calendar days from the date of the administrative citation pursuant to MBMC § 1.03.060.
 5. **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.
 6. **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.
 7. **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.
 8. **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).
 9. **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.

10. **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 Morro Bay and/or be published and promulgated in as widespread a manner as is reasonably feasible under the conditions prevailing during this local emergency.

PASSED AND ADOPTED on the 1st day of April 2020.



JOHN HEADING, Mayor

ATTEST:



DANA SWANSON, City Clerk

APPROVED AS TO FORM:



CHRIS F. NEUMEYER, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO)
CITY OF MORRO BAY)

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance Number 631 was duly adopted by the City Council of the City of Morro Bay at a special meeting of said Council on the 1st day of April 2020, and that it was so adopted by the following vote:

AYES: Headding, Addis, Davis, Heller, McPherson
NOES: None
ABSENT: None



City Clerk, Dana Swanson

