



Council Agenda Report

From: Kimberly Hood, Interim City Attorney
Ryan Cornell, Administrative Services Director

Subject: Waiver of Penalties and Interest for Monthly Water/Sewer Service; Deferral of Business License Tax Renewals and Waiver of Penalties and Interest

Date: May 5, 2020

Facts

1. The City declared an emergency on March 17, 2020 regarding the COVID-19 global pandemic. During these difficult times, the City has declared a state of emergency and the County has declared a shelter in place for non-essential activities.
2. The impact of the global pandemic and resulting actions has decreased the economic activity in the City. City staff are currently in the midst of understanding the economic impact to the City and the City's finances, and staff has prepared an early projection that the General Fund could experience significant lost in TOT, sales tax, permit, and other taxes and fees, as detailed in another report on this same agenda.
3. At the same time, the City has committed its fixed operating costs to maintaining essential public services and supporting its personnel to provide those essential services.
4. Businesses within the City are now experiencing drastic declines in revenues while still having to pay their own fixed operating costs. This is causing a cash flow crisis for many residents and business owners, which may hinder their ability to make utility (i.e. water and sewer services) bill payments.
5. The City's own financial impacts caused by the COVID-19 emergency, among other legal constraints, have limited the type and scale of assistance the City can offer. However, the City has endeavored to provide relief to customer and local businesses where feasible, such as adopting Urgency Ordinance No. 1094 on [March 27, 2020](#), waiving penalties and interest for late Transient Occupancy Tax (TOT) revenues until August 31, 2020.
6. Paso Robles Municipal Code Section 14.04.170 imposes a 10% penalty for nonpayment of utility service if a bill is not paid on or before the fifth day after it is due (which is currently the 20th of each month).
7. On April 2, 2020, Governor Newsom adopted Executive Order No. 42-20 prohibiting discontinuation of water service during the COVID-19 emergency but did not relieve customers of paying for water service.
8. Business license annual tax renewals are due on June 30, 2020 and late renewals are subject to a penalty of 20% if paid in July with additional 10% penalties for each month the payment is late thereafter up to the amount of the business license tax due. (See Paso Robles Municipal Code Section 3.28.200 and 3.28.210.)
9. Paso Robles Municipal Code Section 3.28.150 authorizes the City Tax Collector (Director of Administrator Services), "for good cause shown," to extend the time to file statements and to waive any penalties or interest, which would otherwise have accrued for unpaid or late business license taxes, but this provision has typically been applied on a case by case basis.
10. The City may waive late penalties for City utility services and defer the annual deadline to renew business license taxes to provide some relief for utility customers and businesses. The City Council directed staff at the [April 21, 2020](#) meeting to return with urgency ordinances to implement such waivers.

Options

1. Take no action;
2. Authorize the Director of Administrative Services to waive penalties and interest for late water and sewer service payments during the duration of the COVID-19 emergency and further authorize the Director of Administrative Services, as the tax collector, to extend the deadline to pay the annual business license tax renewal from June 30, 2020 to August 31, 2020 and to waive any penalties or interest during this same time period;
3. Do not waive any penalties and interest;
4. Waive penalties and interest for a different time frame; or
5. Provide alternative direction to staff.

Analysis and Conclusions

At the [April 21, 2020](#) Council meeting, the City Council received a presentation on various relief measures, including eviction moratorium (which this City has already adopted) along with other information regarding available federal, state, and local relief measures. Recognizing that it is in the City's interest to continue to maintain essential services and work with its residents and local businesses that have contributed to the City's financial well-being and will continue to support the City's essential services and are experiencing severe financial impacts as a result of the COVID-19 emergency, the City Council directed staff to return with an ordinance to waive penalties and interest for City utility services and business license tax renewals. Waiving penalties and interest for late monthly water and sewer bills for a short time period (during the duration of the COVID-19 emergency) and extending the deadline for businesses to pay their annual business license tax renewal without penalty are temporary measures that would help the community get through this difficult time, while still being able to recognize these payments during the same fiscal year.

Staff proposes to extend the business license renewal deadline to August 31, 2020, the same extended deadline for businesses to submit TOT payments to the City pursuant to Urgency Ordinance No. 1094. In addition, staff is recommending waiver of late penalties and interest for business license renewals if paid by August 31, 2020. Staff is further recommending waiver penalties and interest for late water and sewer service payments. The late penalty and interest waiver for water and sewer service would extend through the end of the COVID-19 emergency.

Importantly, staff is not proposing a waiver of water and sewer bills, nor proposing to waive business license tax renewals. Rather, staff proposes a short-term measure to waive late payment penalties and interest only. Businesses paying their annual license renewal by May 31, 2020 will still be eligible for the 10% early payment discount authorized in Paso Robles Municipal Code Section 3.28.200.

Although PRMC Section 3.28.150 authorizes the City Tax Collector (Director of Administrator Services), "for good cause shown," to waive any penalties or interest that would otherwise have accrued, that authority has typically been exercised on a case-by-case basis. An Urgency Ordinance (Attachment 1) is necessary to implement this recommendation as to all operators under PRMC, Chapter 3.28 and establish the good cause for such a temporary waiver, in addition to authorizing a temporary waiver for water and sewer service bills.

Because this a proposed urgency ordinance, a 4/5 vote of the City Council is required to adopt the ordinance.

Fiscal Impact

The City is waiving interest and penalties only, not the water and sewer fees themselves. Nor is the City waiving business license tax renewal payments. If all businesses were to take advantage of the extended business license renewal, it would delay license tax collections of approximately \$600,000 by two months. Any payments not received by August 31, 2020 will accrue interest from that date and be charged the

standard penalties established under the Paso Robles Municipal Code, exactly parallel with the Council's adopted approach for transient occupancy tax payments (TOT).

Recommendation

1. Adopt Urgency Ordinance No. XXXX (A) of the City Council of the City of El Paso de Robles, California Suspending Sections 14.04.170 and 14.16.060 of the Paso Robles Municipal Code Regarding Penalties for Nonpayment of Water and Sewer Charges, and Declaring the Urgency Thereof; and
2. Adopt Urgency Ordinance No. XXXX (B) of the City Council of the City of El Paso de Robles, California Extending the Time for Payment of Applicable Business License Taxes and Waiving Penalties and Interest During Such Time of Extension, and Declaring the Urgency Thereof.

Attachments

1. Urgency Ordinance No. XXXX (A)
2. Urgency Ordinance No. XXXX (B)

Attachment 1

URGENCY ORDINANCE NO. XXXX N.S.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA SUSPENDING SECTIONS 14.04.170 AND 14.16.060 OF THE PASO ROBLES MUNICIPAL CODE REGARDING PENALTIES FOR NONPAYMENT OF WATER AND SEWER CHARGES, AND DECLARING THE URGENCY THEREOF

WHEREAS, the federal Centers for Disease Control and Prevention (“CDC”) has 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 President of the United States has declared a State of National Emergency and, on March 4, 2020, 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; and

WHEREAS, the increase of reported cases and deaths associated with COVID-19 also prompted the County of San Luis Obispo to proclaim a local public health emergency on March 13, 2020, and the San Luis Obispo County Emergency Services Director issued a Countywide Shelter at Home Order for the County of San Luis Obispo on March 18, 2020 that was further amended and ratified by the County Health Officer on March 21, 2020; and

WHEREAS, the City Council likewise ratified the emergency proclamation of the Director of Emergency Services (City Manager) at an emergency meeting on March 17, 2020 regarding the COVID-19 pandemic, affirming a local state of emergency in the City; 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;

WHEREAS, the cumulative effects of the various orders and actions needed to slow the spread of COVID-19 and protect the health and safety has resulted in significant economic impacts in the City and financial hardship on residents and local businesses, including substantial losses of income, loss of work hours or wages, and layoffs, which may significantly impact the ability to timely pay for water and sewer service; and

WHEREAS, on April 2, 2020, the Governor issued Executive Order N-42-20 to prohibit water systems from discontinuing residential water service due to nonpayment, and further prohibiting discontinuance of water service to any business in the critical infrastructure sectors qualifying as a small business under 13 C.F.R. Section 121.201 of the Small Business Administration regulations; and

WHEREAS, the City Council finds that enforcing Sections 14.04.170 and 14.16.060 of the Paso Robles Municipal Code regarding imposition of penalties in the event of non-payment of water and sewer service charges, is not in the public interest as it unnecessarily penalizes individuals and businesses suffering financial hardship during the current pandemic and conflicts with State law emergency orders aimed at protecting access to water services regardless of current ability to pay; and

WHEREAS, the City Council further finds that imposing penalties due to nonpayment, despite the fact that service will not be discontinued, is also likely to result in further or longer inability of residents and businesses to pay for water and sewer service in the future, and thus may also impact the ability for businesses to reopen and residents to pay for other goods and services; and

Attachment 1

WHEREAS, the City Council thus finds that suspending Sections 14.04.170 and 14.16.060 of the Paso Robles Municipal Code for the duration of the current local state of emergency is in the public interest, and will further the local public health, safety and welfare by ensuring that residents and businesses alike can provide essential services for their families and the community; and

WHEREAS, this Ordinance is temporary in nature and is intended only to provide temporary financial relief during, and immediately following, the City's response to the COVID-19 pandemic outbreak, and this Ordinance does not otherwise waive the obligations to pay for water and sewer service; and

WHEREAS, heightened levels of public health and safety planning and preparedness have necessitated the City Council's rapid response which does not lend itself to otherwise applicable notice and approval timelines, and thus urgent action is necessary to be effective and mitigate the public health and welfare impacts resulting from the COVID-19 pandemic.

NOW, THEREFORE, the City Council of the City of Paso Robles does ordain as follows:

SECTION 1. The City Council finds that the above recitals are true and correct and hereby adopts them as findings of urgency necessitating the immediate adoption of this Ordinance upon a minimum four-fifths vote.

SECTION 2. Section 14.04.170 of the Paso Robles Municipal Code, imposing penalties for nonpayment of water service, is hereby suspended until the termination of the current state of local emergency, as declared by resolution of the City Council. Penalties which have accrued as a result of nonpayment since March 19, 2020 shall be waived. The intent of this section is to waive any penalties which may be imposed and accrue as a result of nonpayment of water service charges during the time of the current emergency.

SECTION 3. Section 14.16.060 of the Paso Robles Municipal Code, imposing penalties for nonpayment of sewer service, is hereby suspended until the termination of the current state of local emergency, as declared by resolution of the City Council. Penalties which have accrued as a result of nonpayment since March 19, 2020 shall be waived. The intent of this section is to waive any penalties which may be imposed and accrue as a result of nonpayment of sewer service charges during the time of the current emergency.

SECTION 4. This ordinance shall become effective immediately upon passage and adoption by a minimum four-fifths vote of the City Council, as it is an urgency ordinance intended to immediately protect the public welfare, health, and safety based upon the urgency findings set forth in the recitals above concerning the COVID-19 public health emergency and impact of the pandemic and stay at home orders on residents and local businesses, which are incorporated herein by reference as though fully set forth herein.

SECTION 4. Under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15061 (b) (3), this 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.

SECTION 5. This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid as applied to a particular appeal, the validity of this ordinance and its sections, subsections, and clauses in regard to other contracts shall not be affected.

Attachment 1

SECTION 6. The City Clerk shall certify to the passage and adoption of this Ordinance, shall enter the same in the book of original ordinances of the City and shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted. Before the expiration of fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause the same to be published or posted pursuant to law.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing urgency ordinance was adopted by the City Council of the City of Paso Robles this 5th day of May 2020, by the following vote of at least four-fifths of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Melissa Martin, Deputy City Clerk

Attachment 2

URGENCY ORDINANCE NO. XXXX N.S.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA EXTENDING THE TIME FOR PAYMENT OF APPLICABLE BUSINESS LICENSE TAXES AND WAIVING PENALTIES AND INTEREST DURING SUCH TIME OF EXTENSION, AND DECLARING THE URGENCY THEREOF

WHEREAS, the federal Centers for Disease Control and Prevention (“CDC”) has 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 President of the United States has declared a State of National Emergency and, on March 4, 2020, 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; and

WHEREAS, the increase of reported cases and deaths associated with COVID-19 also prompted the County of San Luis Obispo to proclaim a local public health emergency on March 13, 2020, and the San Luis Obispo County Emergency Services Director issued a Countywide Shelter at Home Order for the County of San Luis Obispo on March 18, 2020 that was further amended and ratified by the County Health Officer on March 21, 2020; and

WHEREAS, the City Council likewise ratified the emergency proclamation of the Director of Emergency Services (City Manager) at an emergency meeting on March 17, 2020 regarding the COVID-19 pandemic, affirming a local state of emergency in the City; 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;

WHEREAS, the cumulative effects of the various orders and actions needed to slow the spread of COVID-19 and protect the health and safety has resulted in significant economic impacts in the City and financial hardship on residents and local businesses; and

WHEREAS, some businesses in the City have already been forced to close as a result of the ongoing COVID-19 emergency, additional businesses may similarly be forced to close under current conditions, and there is likely to be a significant delay in such businesses reopening due to the loss of revenue during this time; and

WHEREAS, both the temporary and possibly permanent reduction in the number of local businesses in the City will result in reductions in City revenue and the elimination of an essential amenity for future visitors to the City, and thus the City Council finds that it is vital to assist local businesses in the City to remain open and viable businesses in the short-term and long-term; and

WHEREAS, pursuant to Chapter 3.28 of the Paso Robles Municipal Code, local businesses, unless exempt, are required to obtain and renew a business license every fiscal year in order to conduct business in the City, and to pay all applicable business license taxes due at such time, and failure to do so shall result in penalties, interest and other enforcement action; and

Attachment 2

WHEREAS, the City Council finds that enforcing all of the provisions of the Paso Robles Municipal Code regarding collection of business license taxes and the time period for renewal of business licenses, and specifically the provisions regarding imposition of interest and penalties in the event of non-payment, is not in the public interest as it may result in further or longer inability for businesses to operate or reopen; and

WHEREAS, Section 3.28.150 of the Paso Robles Municipal Code authorizes the tax collector, for good cause, to extend the time for filing any required sworn statement and to waive any penalties which would otherwise have accrued, and thus it is the intent of this ordinance to utilize that authority and extend the applicable time periods for renewing a business license, and to waive applicable penalties and interest during such extension period; and

WHEREAS, the City has \$19 million in its General Fund Reserve that is available to help support City operations during the state of emergency, and the City Council therefore finds this Ordinance appropriate and in the public interest; and

WHEREAS, this Ordinance is temporary in nature and is intended only to provide temporary financial relief to businesses within the City during, and immediately following, the City's response to the COVID-19 pandemic outbreak, and this Ordinance does not otherwise waive the obligations to impose, collect, and remit business license taxes; and

WHEREAS, heightened levels of public health and safety planning and preparedness have necessitated the City Council's rapid response which does not lend itself to otherwise applicable notice and approval timelines, and thus urgent action is necessary to be effective and mitigate the public health and welfare impacts resulting from the COVID-19 pandemic.

NOW, THEREFORE, the City Council of the City of Paso Robles does ordain as follows:

SECTION 1. The City Council finds that the above recitals are true and correct and hereby adopts them as findings of urgency necessitating the immediate adoption of this Ordinance upon a four-fifths vote.

SECTION 2. Consistent with Paso Robles Municipal Code Section 3.28.150, the Director of Administrative Services, as the tax collector, is authorized to extend the time for filing a required sworn statement under Chapter 3.28 and to waive any penalties which would otherwise have accrued, as follows:

A. All businesses operating in the City of Paso Robles, for which a business license is required, shall not be required to file a renewal business license application for fiscal year 2020-2021 until August 31, 2020. Accordingly, the time for payment of business license taxes pursuant to Section 3.28.200 shall likewise be deferred from June 30, 2020 to August 31, 2020. The intent of this section is to defer the applicable timelines for businesses operating in the City to renew their licenses and pay their business license taxes. This section does not alter or waive the existing provision in Section 3.28.200 that licensees who submit a renewal application and payment to the city on or before May 31 may deduct an amount equal to ten percent of the business license tax due (early renewal discount). This section shall not relieve a business from the obligation to pay business license taxes imposed and due under Chapter 3.28. This section shall not apply to new businesses applying for a first business license tax certificate under Section 3.28.100.

B. The Director of Administrative Services, as the tax collector, shall waive any penalties which would otherwise have accrued during the time period from June 30, 2020 to August 31, 2020 for businesses filing a renewal business license application and/or payment of business license pursuant to subsection A, above.

Attachment 2

SECTION 3. This ordinance shall become effective immediately upon passage and adoption by a minimum four-fifths vote of the City Council, as it is an urgency ordinance intended to immediately protect the public welfare, health, and safety based upon the urgency findings set forth in the recitals above concerning the COVID-19 public health emergency and impact of the pandemic and stay at home orders on local businesses, which are incorporated herein by reference as though fully set forth herein.

SECTION 4. Under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15061 (b) (3), this 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.

SECTION 5. This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid as applied to a particular appeal, the validity of this ordinance and its sections, subsections, and clauses in regard to other contracts shall not be affected.

SECTION 6. The City Clerk shall certify to the passage and adoption of this Ordinance, shall enter the same in the book of original ordinances of the City and shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted. Before the expiration of fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause the same to be published or posted pursuant to law.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing urgency ordinance was adopted by the City Council of the City of Paso Robles this 5th day of May 2020, by the following vote of at least four-fifths of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Melissa Martin, Deputy City Clerk