



# City Council Agenda Report

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**FROM:** Nat Rojanasathira, Assistant City Manager

**SUBJECT:** Adopt a Resolution Terminating the Local Emergency and Related COVID-19 Resolutions and Ordinances on February 28, 2023; Provide Direction on the Use of Masks in City Council Chambers; and Extend Existing Temporary Outdoor Business Permits and Outdoor Heaters on the Wharves until December 31, 2023 (Not a Project under CEQA per Article 20, Section 15378 and under General Rule Article 5, Section 15061)

**RECOMMENDATION:**

That the City Council adopt a Resolution terminating the local emergency and related COVID-19 Resolutions and Ordinances on February 28, 2023 and providing direction to staff on the use of masks in the City Council Chambers; and extend existing temporary outdoor business permits and authorize the use of outdoor heaters on the wharves until December 31, 2023.

**VALUE DRIVERS:**

In collaboration with our community partners, work to improve the quality of life of all of our community members by fostering diversity, equity, and inclusion; championing equitable access to affordable housing; and maintaining a safe environment.

**POLICY IMPLICATIONS:**

Pursuant to Government Code section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or other disaster. The purpose of a local emergency is to provide extraordinary policy power, immunity for emergency actions, to authorize the issuance of orders and regulations, and activate pre-established emergency provisions.

Monterey City Code section 11-14(b) requires the City Council to ratify the City Manager's proclamation of a local emergency.

Government Code section 8630(d) requires the City to terminate the local emergency at the earliest possible date that conditions warrant. On October 17, 2022, Governor Gavin Newsom announced that he intends to end the COVID-19 State of Emergency on February 28, 2023.

**FISCAL IMPLICATIONS:**

On March 3, 2020, the City Council appropriated \$35,000 to prepare and respond to COVID-19. Since March 2020, the City has incurred \$3,093,664 in COVID-19 related expenses, \$339,846 of which have been reimbursed by the Federal Emergency Management Agency (FEMA). In addition, the City experienced approximately \$32 million in revenue loss due to the pandemic and is still recovering financially from the effects of the pandemic. Since there are few expenses

related to COVID-19 that remain reimbursable, terminating the local COVID-19 emergency would have no fiscal impact to the City.

### **ENVIRONMENTAL DETERMINATION:**

The City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 (“CEQA Guidelines), Article 20, Section 15378.) In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities 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, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

### **ALTERNATIVES:**

The City Council could choose not to terminate the local emergency at this time and review the need for continuing the local emergency within the next 60 days. This is not recommended.

### **DISCUSSION:**

#### *History of the COVID-19 Emergency Declaration*

On January 30, 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a public health emergency of international concern, and on March 11, 2020, WHO declared COVID-19 as a global pandemic. On January 31, 2020, the U.S. Department of Health and Human Services declared a Public Health Emergency in the United States. During the week of February 23, the CDC reported community spread of the virus that causes COVID-19 in California, Oregon and Washington.

On March 4, 2020, Governor Newsom proclaimed a State of Emergency to exist in California as a result of the threat of COVID-10. And, On March 12, 2020, Governor Newsom enacted Executive Order N-25-20 to mitigate the effects of the COVID-19 pandemic because “despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed.”

On March 6, 2020, the County Administrative Officer proclaimed a local emergency related to COVID-19, and this proclamation was ratified by the Monterey County Board of Supervisors on March 10, 2020.

In early March 2020, the City developed and enacted a COVID-19 Response Plan that includes the closure and cancellation of city programs and events (outlined in the attached media release). In addition, the City has drafted a Continuity of Operations Plan (COOP) that ensures the delivery of critical city services across all departments. Also, on March 13, 2020, the City Manager, in his capacity as the Director of Emergency Services, proclaimed a local emergency.

The Monterey City Council ratified this emergency with the adoption of Resolution 20-033 on March 17, 2020, during a time when there were no confirmed cases of COVID-19 in Monterey County.

### *COVID-19 Activity and Emergency Proclamations*

As of February 16, 2023, Monterey County has experienced 99,117 confirmed cases of COVID-19, resulting in 821 confirmed deaths since March 2020.

The City of Monterey has been a leader in the region in protecting the public during the pandemic.

To prevent the spread of COVID-19 in 2020 and early 2021, the Monterey City Council ratified numerous Orders of the Director of Emergency Services which implemented limited beach and park closures during certain periods. In addition, the City Council ratified orders authorizing outdoor heaters on Wharf 1 and Wharf 2, and allowed temporary outdoor business permits. In April 2021 once vaccines became more widely available, the City reopened all parks and playgrounds.

On January 3, 2021, the City of Monterey's Fire Department became one of the first public agencies in the region to begin providing COVID-19 vaccines, and was the only City directly providing vaccines to the public through its supply directly from the State of California. In total, the City held 114 vaccine clinics and administered 8,105 doses, supporting vulnerable populations, seniors, unhoused individuals, students, public safety personnel, and the public at large.

A list of legislative actions taken by the City Council in connection with the COVID-19 emergency is set forth as Exhibit A to the proposed resolution.

### *Current Conditions and Recommendation to Terminate the Local Emergency*

Monterey County has not seen significant rates of COVID-19 hospitalized patients since the two largest peaks of 217 hospitalized patients on January 15, 2021 and 114 hospitalized patients on January 26, 2022. Over the past 90 days, the peak number of hospitalized patients was 27 on December 9, 2022 and a low of 8 on February 1, 2023. Seventy-two percent (72.7%) of eligible Monterey County residents are vaccinated.

Although COVID-19 is still contagious, according to the Centers for Disease Control and Prevention (CDC), COVID-19 vaccines are safe and reduce COVID-19 mortality. With COVID-19 vaccines widely available in the Monterey area, staff believes it is appropriate to terminate the local emergency. This would allow the City to align its COVID-19 emergency termination with the State of California, which expects to end its emergency on February 28, 2023.

### *Mask Policy in the City Council Chambers*

Since the beginning of the pandemic, the Director of Emergency Services (City Manager) has implemented mask policies in City facilities that vary depending on the availability of vaccines, transmission rates reported by the CDC, the type of facility, and the level of potential overcrowding. In July 2020, the City adopted Resolution 20-105, and then Ordinance 3618 to

adopt the California Department of Public Health (CDPH) guidelines for the use of face coverings to be enforceable by administrative citation within the City, and to address crowded conditions on the wharf. At times and with certain exceptions, masking was mandatory, and at other times it was a recommendation only.

The current CDPH guidance was enacted in September 2022, and masking requirements are optional based on the CDC COVID-19 *community level*. With a low community level, people can wear a mask based on personal preference, and Monterey County is currently in a low level. Even during a high level, the CDPH Guidance is a recommendation (not a requirement) for indoor places. Consequently, with the termination of the local emergency, staff recommends terminating/repealing Ordinance 3618, following CDPH guidance, and: (1) continue to maintain ventilation improvements in the City Council Chambers during meetings, including air filtration systems and open doors and windows if possible; and (2) recommend and encourage persons in the City Council chambers to wear face coverings to protect the health, safety, and welfare of public officials, staff, and the public attending the meetings in person.

### *Outdoor Seating*

Resolutions 20-125 and 20-172 address outdoor seating permits and conditions.

Authorization for parklets terminated on October 31, 2022.

The authorization to conduct business on sidewalks or parking lots will end on March 21, 2023 if the City Council terminates the local emergency. Similarly, the authorization for outdoor heaters on the wharves will end on March 21, 2023. Staff recommends extending these policies for existing permittees until December 31, 2023 to coincide with Coastal Commission and staff review of the program.

### ATTACHMENTS:

1. Draft Resolution

Writings distributed for discussion or consideration on this matter within 72 hours prior to the meeting, pursuant to Government Code § 54957.5, will be made available at the following link: <https://monterey.org/Submitted-Comments>