

ORDINANCE 1289

AN URGENCY ORDINANCE AMENDING ORDINANCE NO. 1285 OF THE CITY OF TRACY EXTENDING CERTAIN DEADLINES AND AUTHORIZING THE CITY MANAGER TO TAKE CERTAIN ACTIONS REGARDING PUBLIC IMPROVEMENT AGREEMENTS, GRANT APPLICATIONS AND PROFESSIONAL AND GENERAL SERVICES AGREEMENTS AND ACCEPTING IMPROVEMENTS DURING THIS LOCAL EMERGENCY

WHEREAS, International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19 ("COVID-19"); and

WHEREAS, COVID-19 is easily transmissible from person to person, and new cases of COVID-19 continue to occur throughout California; and

WHEREAS, In response to the growing public health crisis, the City Manager, in her authority as the Director of Emergency Services, proclaimed a local emergency in Tracy on March 12, 2020, due to COVID-19 and the City Council ratified that emergency declaration on March 17, 2020 pursuant to Tracy Municipal Code Chapter 3.24; and

WHEREAS, The City Council adopted a directive on March 18, 2020 recommending residents remain at home except to receive or provide essential services; and

WHEREAS, On March 19, 2020, the Governor of California issued Executive Order N-33-20 ordering all individuals within the State of California to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction; and

WHEREAS, the State Public Health Officer has articulated a four-stage framework to allow for gradually resuming various activities while continuing to preserve public health; and

WHEREAS, On May 4, 2020, the Governor of California issued Executive Order N-60-20 ordering all individuals within the State of California to comply with the State Public Health Officer's framework unless stricter local regulations exists; and

WHEREAS, The Tracy Municipal Code establishes various deadlines, including deadlines related to the processing of land use, subdivision and zoning applications; and

WHEREAS, Although previously halted activities are gradually restarting, normal operation of City Hall and most businesses has not fully resumed; and

WHEREAS, Applicants have had to adjust their operations and implement social distancing protocols in response to the public health emergency, which has impacted their ability to process their development applications; and

WHEREAS, The City Council previously extended by sixty (60) days any deadline scheduled to occur before May 31, 2020 and established by the Tracy Municipal Code, a Resolution of the City Council, or any City policy regarding development and land use approvals so that project processing and public consideration can occur after the threat of COVID-19 has reduced and social distancing is no longer required; and

WHEREAS, The disruptions caused by COVID-19 to businesses are significant and ongoing; and

WHEREAS, The City Council desires to extend deadlines established by the Tracy Municipal Code and scheduled to occur before July 31, 2020 by sixty (60) days; and

WHEREAS, The City Council previously authorized the City Manager to take certain actions reserved for the City Council by the Tracy Municipal Code in order to minimize the need to public meetings regarding non-critical items during this emergency period, while still allowing important economic development projects to proceed; and

WHEREAS, The City Council desires to also authorize the City Manager to execute change orders on public works projects; and

WHEREAS, The City Council does not intend to delegate authority to the City Manager to take any action required by State law to be taken by the City Council or Planning Commission; and

WHEREAS, California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the public health, safety, and general welfare, of their citizens; and

WHEREAS, California Government Code Section 36937 authorizes the City Council to introduce and adopt an ordinance it declares to be necessary as an emergency measure to preserve the public peace, health, and safety at one and the same meeting if passed by at least four-fifths affirmative votes; and

WHEREAS, This Ordinance is a urgency ordinance intended to promote stability and fairness by extending deadlines for projects and applicants that would otherwise expire in the interim due to compliance with the Governor's executive orders to stay at home; and

WHEREAS, This Ordinance is also necessary to promote social distancing in order to limit the spread of COVID-19 to the maximum extent feasible because failure to adopt this Ordinance would encourage in-person meetings between staff and applicants, as well as public meetings as the City and applicants adjust to working remotely, which would negatively impact public health by forcing persons out of their residences; and

WHEREAS, This Ordinance is intended to minimize the need for public meetings by delegating authority to the City Manager to take certain actions normally taken by the City Council while continuing to allow economic development activities to occur as well as public works projects that serve the public welfare, health and safety; and

WHEREAS, The City continues to spend money on public works projects during this period of emergency and required social distancing to minimize the negative economic impacts of COVID-19 to the maximum extent possible, because such negative impacts can lead to negative health and welfare impacts in the City; and

WHEREAS, This Ordinance is necessary to maintain stability for the economy of the City of Tracy, which otherwise might experience significant negative impacts if projects are terminated or temporarily shut down because they are unable to meet deadlines or receive necessary approvals during this time of emergency; and

WHEREAS, The negative economic impact of development projects terminating or temporarily stopping would lead to depressed economic activity across a range of industries; and

WHEREAS, These negative economic impacts are likely to include layoffs, decreased tax revenue for the City, and housing instability, all of which threaten the public peace, health, and safety of residents who could face a severe strain on household finances; and

WHEREAS, The construction of public works projects, housing and similar projects are considered to be part of the Essential Critical Infrastructure Workforce during this COVID-19 public health emergency by the California State Public Health Officer; and

WHEREAS, The negative economic impacts from COVID-19 are unknown, but likely to be substantial and the City desires to minimize those impacts to the maximum extent possible; and

WHEREAS, The City Council finds and determines that extending deadlines established by the City and delegating authority to the City Manager to take certain actions is essential to preventing the spread of COVID-19 in the City and to support the local economy, and thereby serve the public peace, health, and safety; and

WHEREAS, The City Council finds and declares that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property to ensure; and

WHEREAS, An urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the avoidable negative economic impacts or exposure to COVID-19 of the City's residents and community members.

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

SECTION 1. Findings. The City Council of the City of Tracy finds that all of the above Recitals are true and correct and incorporated herein by reference. The provisions of the Governor's Executive Order N-28-20 and Ordinance No. 1285 including their recitals, are incorporated herein as if fully set forth.

SECTION 2. Urgency Findings. The City Council of the City of Tracy hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency ordinance, which finding is based upon the facts stated in the recitals above, and in the staff report dated May 19, 2020, as well any oral and written testimony at the May 19, 2020 City Council meeting. This Ordinance and any actions taken thereunder is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are all of those certain facts set forth and referenced in this Ordinance and the entirety of the record before the City Council.

SECTION 3. Urgency Ordinance. The City Council hereby makes the findings contained herein and hereby amends Uncodified Ordinance No. 1285, adopted by the Tracy City Council on March 30, 2020, to read as follows:

"COVID-19 Emergency Extension of Certain Deadlines and Delegation of Authority to
City Manager Ordinance

Section 1. Extension of Deadlines During the COVID-19 Emergency

A. All provisions of ordinances, regulations, resolutions, rules, and policies adopted by the City of Tracy, including, but not limited to, provisions contained in the Tracy Municipal Code the and Growth Management Ordinance Guidelines, establishing deemed complete deadlines, review deadlines, approval deadlines, application deadlines and any other type of deadline, including but not limited to permit expiration deadlines, are extended by sixty (60) days, subject to the requirements of this Ordinance.

B. The sixty (60) day deadline extension established by Section 1(A) shall apply to any deadline scheduled to occur on or before July 31, 2020.

C. Nothing in this Section 1 shall be interpreted as extending or otherwise delaying a deadline established by state or federal law.

Section 2. Delegation of Authority to City Manager

A. The City Manager is hereby authorized to grant approval to the following items and subject to the conditions listed below:

- i. Off-site Improvement Agreements and Inspection Improvements Agreements, upon consent of the City Engineer and submittal of the required security and insurance documentation.
- ii. Submission of any grant applications to federal or state agencies including the BUILD Grant.
- iii. Acceptance of public improvements upon consent of the City Engineer and recordation of the Notice of Completion.
- iv. Approval of any professional or general services agreement with a not-to-exceed amount of \$100,000.
- v. Award of public works contracts with a not-to-exceed amount of \$1,000,000, as long as such projects have a secured funding source and will not negatively impact the General Fund. Such contracts shall only be awarded with the consent of the City Engineer and Finance Director.
- vi. Approve change orders on public works contracts that exceed the contingency amount approved by Council by a not-to-exceed amount of \$300,000, as long as such projects have a secured funding source and will not negatively impact the General Fund. Such change orders shall only be executed with the consent of the City Engineer and Finance Director.

B. The authority delegated to the City Manager in Section 2(A) shall not apply to any action that is required by state or federal law to be taken by the City Council, or for any action which state law or the Tracy Municipal Code requires a public hearing.

C. The authority delegated to the City Manager in Section 2(A) shall expire upon the termination of the proclamation of a local emergency in the City of Tracy.”

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end,

provisions of this Ordinance are severable. The City Council of the City of Tracy hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. This Ordinance shall take effect immediately upon its adoption by a four-fifths vote of the City Council.

SECTION 6. This Ordinance shall be published in accordance with Government Code section 36933.

The foregoing Ordinance 1289 was adopted at a regular meeting of the Tracy City Council on the 19th of May, 2020, by the following vote, pursuant to Government Code section 36937:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE

SIGNED: Robert Rickman, Mayor
ATTESTED: Adrienne Richardson, City Clerk