

RESOLUTION NO. 20-04-15-01

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE EMERALD BAY SERVICE DISTRICT CONFIRMING
EMERGENCY REGULATIONS FOR PUBLIC MEETINGS
TO MITIGATE TRANSMISSION OF COVID-19**

WHEREAS, coronavirus disease 2019 (“COVID-19”) is a respiratory disease caused by a novel (new) coronavirus now named SARS-CoV-2; and

WHEREAS, according to a “Situation Summary” that was updated by the Centers for Disease Control (“CDC”) on March 14, 2020,

[t]he complete clinical picture with regard to COVID-19 is not fully known. Reported illnesses have ranged from very mild (including some with no reported symptoms) to severe, including illness resulting in death. While information so far suggests that most COVID-19 illness is mild, a report out of China suggests serious illness occurs in 16% of cases. Older people and people of all ages with severe chronic medical conditions — like heart disease, lung disease and diabetes, for example — seem to be at higher risk of developing serious COVID-19 illness.

(<https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html>); and

WHEREAS, also according to the CDC: (a) SARS-CoV-2, the virus that causes COVID-19, is infecting people and spreading easily from person-to-person; and (b) cases of COVID-19 have been detected in most countries worldwide and community spread is being detected in a growing number of countries; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization (“WHO”) declared the COVID-19 outbreak a public health emergency of international concern; and

WHEREAS, on January 31, 2020, the United States Health and Human Services Secretary declared a public health emergency related to the COVID-19 outbreak; and

WHEREAS, on March 4, 2020, the Governor of California declared a state of emergency related to the COVID-19 outbreak; and

WHEREAS, on March 11, 2020, the WHO characterized COVID-19 as a pandemic; and

WHEREAS, on March 12, 2020, the Governor of California issued Executive Order N-25-20 (“Executive Order N-25-20”), which, in part, suspended certain requirements of the Ralph M. Brown Act, Cal. Gov’t Code §§ 54950-54963 (the “Brown Act”), to facilitate social distancing and other similar measures to mitigate transmission of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency; and

WHEREAS, on March 14, 2020, the CDC recommended that gatherings of 50 people or more should be canceled or postponed throughout the country.

WHEREAS, on March 16, 2020, the CDC further recommended that gatherings of 10 people or more should be canceled, postponed, or held virtually throughout the country for at least the next 15 days.

WHEREAS, on March 17, 2020, the Governor of California issued Executive Order N-29-20 ("Executive Order N-29-20"), which supersedes Executive Order N-25-20 and further suspends certain requirements of the Brown Act; and

WHEREAS, on March 19, 2020, the Governor of California issued Executive Order N-33-20 ("Executive Order N-33-20"), which, in part, requires 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, to further mitigate and disrupt the spread of COVID-19.

WHEREAS, on April __, 2020, Board of Directors of the Emerald Bay Service District issued "emergency regulations for public meetings to mitigate transmission of COVID-19" (the "Emergency Regulations") based upon (a) the existing state of emergency declared by the Governor of California on March 4, 2020; (b) Executive Orders N-29-20 and N-33-20; and (c) the CDC's recommendation to cancel, postpone, or hold virtually all gatherings of 10 or more; and

WHEREAS, the Board of Directors desires to confirm the Emergency Regulations, subject to the provisions of this Resolution.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EMERALD BAY SERVICE DISTRICT, DO HEREBY RESOLVE, DETERMINE AND ORDER, AS FOLLOWS:

Section 1. The foregoing Recitals are incorporated in and constitute a substantive part of this Resolution.

Section 2. The Emergency Regulations attached to this Resolution as Exhibit "A" are hereby confirmed, subject to the provisions of this Resolution.

Section 3. The Board of Directors reserves the right to suspend, terminate or modify the Emergency Regulations.

Section 4. The Board Secretary shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED and ADOPTED this ___ th day of April, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Susan Thomas

Chairman

**[INSERT EMERGENCY REGULATIONS FOR PUBLIC MEETINGS
TO MITIGATE TRANSMISSION OF COVID-19]**

EMERALD BAY SERVICE DISTRICT

**EMERGENCY REGULATIONS FOR PUBLIC MEETINGS
TO MITIGATE TRANSMISSION OF COVID-19**

On March 4, 2020, the Governor of California declared a State of Emergency related to coronavirus disease 2019 (“COVID-19”), which is caused by a novel coronavirus.

On March 16, 2020, the CDC recommended that gatherings of 10 people or more should be canceled, postponed, or held virtually throughout the country, for at least the next 15 days, to facilitate social distancing and other similar measures to mitigate transmission of COVID-19.

On March 17, 2020, the Governor issued Executive Order N-29-20 (“Executive Order N-29-20”) which, in part, suspends certain requirements of the Ralph M. Brown Act, Cal. Gov’t Code §§ 54950-54963 (the “Brown Act”), to facilitate social distancing and other similar measures to mitigate transmission of COVID-19.

On March 19, 2020, the Governor issued Executive Order N-33-20 (“Executive Order N-33-20”) which requires individuals of 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.

The emergency regulations (“Emergency Regulations”) issued by this order by the Emerald Bay Service District (the “District”) are based upon (a) the existing State of Emergency declared by the Governor of California on March 4, 2020; (b) Executive Orders N-29-20 and N-33-20; and (c) recommendations by the United States Centers for Disease Control regarding social distancing.

**THE FOLLOWING EMERGENCY REGULATIONS ARE HEREBY ISSUED BY THE
EMERALD BAY SERVICE DISTRICT TO MITIGATE TRANSMISSION OF COVID-
19:**

- 1. Incorporation of Prefatory Paragraphs.** The paragraphs above, including the words and phrases defined therein, are incorporated herein and constitute a substantive part of these Emergency Regulations.
- 2. Scope and Applicability.** Subject to Section 3, below, these Emergency Regulations shall apply to every meeting conducted by the District.
- 3. Term; Amendment by the District.** These Emergency Regulations shall take effect immediately upon issuance and shall terminate and be of no further force or effect whatsoever upon the earliest of the following: (a) the Governor of California terminates the State of Emergency to which these Emergency Regulations relate; (b) the Governor of California rescinds, revokes or otherwise terminates Executive Orders N-29-20 and N-33-20 or they expire, terminate or for any reason become ineffective; (c) the Board of Directors terminates these Emergency Regulations; (d) the Board of Directors does not confirm these Emergency Regulations pursuant to applicable law; or (e) applicable law prohibits all or any part of these

Emergency Regulations. Notwithstanding the foregoing, and subject to applicable law, the District may amend or terminate these Emergency Regulations at any time prior to the Board of Directors' confirmation.

4. Emergency Mitigation Measures. Notwithstanding the District's existing public meeting procedures, whether established by custom, policy, rule, resolution, ordinance, or otherwise, the District shall implement emergency measures as set forth in this Section 4 to mitigate transmission of COVID-19.

4.1. Electronic Attendance and Participation.

4.1.1. Members. A member of the Board, committee, or other body conducting a meeting may attend and participate in such meeting telephonically or otherwise electronically, to the maximum extent allowed by (and subject to the requirements and/or limitations of) of Executive Order N-29-20.

4.1.2. Public The public may electronically attend a meeting by telephonic dial-in, which information shall be included on each agenda. The public may electronically participate in a meeting by sending comments to the General Manager by email; provided, however, that any such electronic submission shall be subject to the following requirements: (a) it must indicate the date of the meeting and agenda item number to which it relates (or indicate that it does not relate to a specific agenda item); (b) in the case of an email, it must be sent to the email address the District designates to receive electronic submissions pursuant to this section; and (c) it must be actually received by the District at least two (2) hours prior to the meeting. District staff will endeavor to read aloud each electronic submission at the appropriate time during the meeting, subject to applicable time and/or other limitation(s).

District staff will not read aloud any electronic submission that (d) does not comply with the requirements of this section, (e) contains profane, vulgar or offensive language, (f) contains insults, attacks or threats directed at any person(s) or (g) relates to an issue that is beyond the subject matter jurisdiction of the board, committee, or other body conducting the meeting. There is no express or implied representation, warranty or guarantee that an electronic submission pursuant to this section will be read aloud by District staff during the meeting. Electronic submission of comments is supplemental and in addition to the public's right to physically attend and personally offer comments at a meeting.

4.1.3. Notice of Meeting; Publicly Accessible Location. If a member of the Board, committee, or other body conducting a meeting attends and/or participates in such meeting telephonically or otherwise electronically, then, as and to the extent required Executive Order N-29-20, the following requirements apply: (a) advance notice of the meeting must be given within the timeframe required by the Brown Act; and (b) the notice must identify at least one publicly accessible location from which the public shall have the right to observe and offer comment at the meeting.

4.1.4. Suspension of Certain Meeting Requirements. The District is not required to comply with Brown Act provisions as and to the extent suspended by the Governor of California in Executive Order N-29-20.

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4.2. Suspension of Other Meeting Requirements. If and to the extent other provisions of the Brown Act are suspended, whether by executive order of the Governor of California or otherwise, the District may further modify the District's public meeting procedures to implement such suspension.

4.3. Additional Measures. The District may implement additional emergency measures to mitigate transmission of COVID-19, as and to the maximum extent allowed by law, by issuing an order that supplements these Emergency Regulations.

5. Relationship to Other Laws. In the event of a conflict between these Emergency Regulations and the provisions of any other applicable District policy, resolution or ordinance, the more restrictive provision shall control. In the event of a conflict between these Emergency Regulations and the provisions of any other applicable state or federal law, the state or federal law shall control.

6. Exceptions. These Emergency Regulations shall not apply if and to the extent application would abridge the exercise of a person's rights protected under the United States Constitution, including but not limited to, the rights of free speech and peaceable assembly.

7. Notice of Emergency Regulations. The District shall provide notice of these Emergency Regulations by, at a minimum, the following: (a) mailing a copy of these Emergency Regulations to any person who has submitted a request pursuant to Section 54951.1 of the California Government Code; (b) making copies of these Emergency Regulations available at the District's office to any person during normal business hours; and (c) posting a copy of these Emergency Regulations adjacent to any meeting agenda posted pursuant to the Brown Act.

8. Severability. If any section, subsection, paragraph, sentence, clause or phrase of these Emergency Regulations is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of these Emergency Regulations. The District declares that it would have adopted these Emergency Regulations, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

Date Issued: April , 2020
