

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA ORDERING THE TEMPORARY CLOSURE OF CERTAIN BUSINESSES AND ACTIVITIES, INCLUDING BARS, OTHER ALCOHOL SERVING ESTABLISHMENTS, AND ON-SITE DINING SERVICES; PROHIBITING CERTAIN PUBLIC OR PRIVATE GATHERINGS OF 50 OR MORE PEOPLE; AND RELATED RESTRICTIONS, ALL AS MORE PARTICULARLY SET FORTH IN THAT CERTAIN MARCH 16, 2020 AMENDED ORDER AND EMERGENCY REGULATIONS OF THE SAN DIEGO COUNTY HEALTH OFFICER

WHEREAS, on January 30, 2020, the World Health Organization (“WHO”) declared a Public Health Emergency of International Concern. On January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

WHEREAS, on February 14, 2020, the San Diego County Health Officer declared a Local Health Emergency as a result of the COVID-19 virus, which was subsequently ratified by the Board of Supervisors on February 19, 2020; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and department and help the State prepare for a broader spread of COVID-19. The declaration was issued as the number of positive California cases continued to rise and following one official COVID-19 death; and

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

WHEREAS, on March 13, 2020, due to the escalating number of COVID-19 virus cases, with many cases in the State of California, the City of Chula Vista Director of Emergency Services issued a Proclamation declaring a Local Emergency, as authorized by Government Code section 8630 and Chula Vista Municipal Code section 2.14.080(a); and

WHEREAS, the Centers for Disease Control and Prevention, the California Department of Public Health, and the San Diego County Department of Public Health have all issued recommendations, including, but not limited to, social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, on March 12, 2020 and subsequently amended on March 16, 2020, pursuant to California Health and Safety Code sections 101040, 120175, and 120175.5 (b) the Health Officer of the County of San Diego (Health Officer) issued an Order of the Health Officer and Emergency Regulations (the “County Order”) that is effective from Tuesday, March 17, 2020 through March 31, 2020 for San Diego County. The County Order prohibits all public or private

"gatherings," an event or convening that brings together 50 or more people in a single room or single space at the same time, the closure of all bars, adult entertainment establishments, and other business establishments that serve alcohol and do not serve food, the closure of on-site dining of all restaurants and other business establishments that serve food, and cessation of classes or other school activities where students gather on the school campus for all public or private schools, colleges, and universities; and

WHEREAS, the San Diego County of Public Health has confirmed 55 cases of COVID-19 in the County and has advised that closure of businesses and prohibitions related to public gatherings are necessary to prevent the further spread of COVID-19; and

WHEREAS, pursuant to Health and Safety Code section 120175.5(b) and the County Order, all governmental entities in San Diego County shall take necessary measures within the governmental entity's control to ensure compliance with the County Order; and

WHEREAS, in accordance with Chula Vista Municipal Code section 2.14.080(F)(1) the City of Chula Vista Director of Emergency Services recommends that the City Council affirm and adopt the County Order as a local measure in order to protect the life and property of the residents of Chula Vista affected by the emergency declared as a result of the COVID-19 virus;

WHEREAS, pursuant to Health and Safety Code section 120295, violation of measures taken by the City Council of the City of Chula Vista in accordance with Health and Safety Code section 120175.5(b) is subject to fine, imprisonment, or both; and

WHEREAS, pursuant to Chula Vista Municipal Code section 2.14.140, violation of lawful rules and regulations issued pursuant to Chapter 2.14 of the Chula Vista Municipal Code is punishable by a fine, imprisonment, or both; and

WHEREAS, pursuant to Chula Vista Municipal Code section 1.20.010, violation of the provisions of ordinances of the City are subject to criminal, civil, and administrative penalties; and

WHEREAS, based on the facts and circumstances stated above, it is necessary to exercise Council's authority pursuant to the Charter of the City of Chula Vista, Chula Vista Municipal Code Chapter 2.14, Government Code section 8364, Health and Safety Code section 120175.5(b), and the County Order, to establish this Ordinance as an Emergency Ordinance within the meaning of City of Chula Vista Charter section 311(d) to preserve the public peace, health, safety, and general welfare as a result of the impacts of the COVID-19 virus.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Order of the City Council

IT IS HEREBY ORDERED THAT:

1. The March 16, 2020 Amended Order of the Health Officer and Emergency Regulations ("County Order") issued by Wilma J. Wooten, M.D., M.P.H., the County of San Diego

Public Health Officer, attached hereto as Exhibit A, is hereby affirmed and adopted as the Order and Emergency Regulations of the City of Chula Vista (“City Order”) effective as of 12:00 a.m. March 18, 2020.

2. The City Order shall remain in effect throughout the duration of the County Order, including any County extensions thereof. The County Order is currently scheduled to expire on March 31, 2020. The City Order may be further extended or sooner terminated by order of the City Council.
3. The City Order may be expanded or amended to apply to additional businesses or circumstances pursuant to the independent judgment of the Chula Vista Director of Emergency Services consistent with his or her authority to make and issue rules and regulations reasonably related to the protection of life and property and subject to confirmation of the City Council at the earliest practicable time as authorized in Chula Vista Municipal Code section 2.14.080.
4. Violations of the City Order shall be enforceable to the maximum extent authorized by law, including without limitation, as set forth in Chula Vista Municipal Code sections 1.20.010(A) and 2.14.140 and Health and Safety Code section 120295.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

Based on the facts and circumstances set forth above, it is necessary to establish this Ordinance as an Emergency Ordinance, within the meaning of City of Chula Vista Charter section 311(d), for preserving the public peace, health, safety, and general welfare as a result of the COVID-19 virus and is hereby effective upon passage by City Council.

This Ordinance shall also take effect and be in force on the thirtieth day after its final passage.

In the event of conflict of effective dates, this Ordinance shall be effective upon the earliest lawful effective date.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Gary Halbert
City Manager

Glen R. Googins
City Attorney