

**EMERGENCY ORDER
OF THE CHULA VISTA DIRECTOR OF EMERGENCY SERVICES
[Order No. 006-2020] Amended November 23, 2020**

Standards for Outdoor Businesses

Effective Date: November 24, 2020

Pursuant to CVMC section 2.14.080 [Director – Powers and Duties], Chula Vista City Council Resolution No. 2020-065, and the Proclamation of State Emergency issued on March 4, 2020 by the Governor of the State of California, the Chula Vista Director of Emergency Services (“Emergency Director”) hereby

ORDERS AS FOLLOWS:

Effective 12:01 a.m. on Tuesday, November 24, 2020:

1. In General. Subject to the terms and conditions contained in this Order, and subject to the terms of conditions of any other applicable federal, state or county law, order or regulation, certain businesses located within the City of Chula Vista shall be allowed, temporarily, to conduct their business operations outdoors.
2. Qualified Businesses. The businesses allowed to operate under the terms of this Order are as follows: (a) personal care services: including salons, barber shops, spas, nail salons, massage, and tattoo parlors; places of worship; movie theaters; gyms and fitness centers, including yoga studios; family entertainment centers; (b) restaurants, bars, wineries, and breweries that serve alcoholic drinks only as part of a meal in compliance with the County of San Diego Order of the Health Officer and Emergency Regulations, as amended and updated; and (c) cardrooms as defined in Chula Vista Municipal Code section 5.20.010 (each a “Qualified Outdoor Business”, and collectively, “Qualified Outdoor Businesses”). To be a “Qualified Outdoor Business” under this Order, a business must first have or obtain a City business license, along with any other federal, state or local license required for their particular business.
3. Qualified Outdoor Areas. Outdoor areas allowed to be used for outdoor business operations by Qualified Outdoor Businesses under this Order must be located either on the premises owned, leased or licensed by the Qualified Outdoor Business, or immediately adjacent thereto, without any intervening public road, alley or other right-of- way (hereinafter, “Qualified Outdoor Area(s)”). Where the Qualified Outdoor Area(s) proposed for business use is owned by a third party, a Qualified Outdoor Business must first obtain any required permissions from the owner of such property and/or the owner’s property management company, for such proposed use. Qualified Outdoor Areas may include, but are not limited to, landscaped areas or parking lots. The following restrictions and requirements apply to all Qualified Outdoor Areas:
 - a. All designated disabled person parking spaces must always remain open and available for use by persons with disabilities.

- b. The area must comply with accessibility requirements of the Americans with Disabilities Act (“ADA”) and California Disabled Access regulations.
 - c. The area must accommodate appropriate vehicle and pedestrian circulation, including ADA path of travel requirements. Entrances and exits to parking lots shall not be blocked. No driveway fronting a City street shall be closed unless explicitly approved by the City Engineer or his/her designee.
 - d. The area must not use or encroach upon any City-owned property or public rights-of-way, including but not limited to sidewalks, streets, and on-street parking spaces, unless separately approved, in advance, by City as part of special program, or pursuant to the terms of an approved encroachment permit.
4. Outdoor Business Operating Standards and Requirements: All Qualified Outdoor Businesses must abide by the following operating standards and requirements:
- a. Chula Vista Municipal Code Title 15, Buildings and Construction
 - b. Canopies, tents, or other similar overhead structures (collectively, “Canopies”) must comply with all applicable fire and building codes, and all State and County public health orders. Canopies having an area in excess of 400 square feet shall not be erected, operated, or maintained for any purpose without first obtaining a permit and approval from the Chula Vista Fire Department in accordance with Chapter 31 of the 2019 California Fire Code, except in the following circumstances; tents used exclusively for recreational camping purposes, and Canopies open on all sides that comply with all of the following:
 - i. Individual Canopies having a maximum size of 700 square feet.
 - ii. The aggregate area of multiple Canopies placed side by side without a fire break clearance of 12 feet, not exceeding 700 square feet total.
 - iii. A minimum clearance of 12 feet to all structures and other Canopies.
 - c. Any placement or installation of temporary improvements, including but not limited to tables and chairs, lights, heat lamps, fans, Canopies, generators, signage, and other items that support the Qualified Outdoor Business are subject to all applicable provisions of the California building and fire codes.
 - d. Open flame or other devices emitting flame, fire, or heat, or any flammable or combustible liquids, gas, charcoal, or other cooking device, such as grills, griddles, fire pits, propane heaters, chimineas, etc., or any other devices not

approved by the Chula Vista Fire Department are prohibited inside or within 20 feet of Canopies.

- e. No discharge of any types of solids or liquids, including water, can be made or caused to be made into any storm drain.
 - f. Qualified Outdoor Businesses are responsible for ensuring that all light sources used at the Qualified Outdoor Area are arranged or shielded in such a manner so that the lighting will not spill out, over or onto adjoining or neighboring residential properties, or otherwise constitute a public nuisance.
 - g. Total occupancy of any Qualified Outdoor Area shall not exceed that business's maximum allowed indoor occupancy limit.
 - h. Qualified Outdoor Areas, including any adjacent landscaped areas, sidewalks, and parking areas, shall be kept free of trash and debris at all times. Each Qualified Outdoor Business shall ensure the cleanup and removal of any trash and debris at the conclusion of its operation on each and every day of operation.
 - i. Qualified Outdoor Businesses are responsible for maintaining compliance with any and all other applicable federal, state or local laws or regulations in general and for their industry, and obtaining any approvals required from other agencies, including but not limited to the San Diego County Department of Environmental Health, the San Diego Health and Human Services Agency, the California Board of Barbering and Cosmetology, the California Department of Alcoholic Beverage Control, and the California Department of Consumer Affairs.
 - j. Additional restrictions and operating requirements may be imposed by City on Qualified Outdoor Businesses in Qualified Outdoor Areas for the purpose of protecting life, safety, and welfare of the public, and to address conditions adversely impacting the surrounding neighborhood and uses, as determined in City's sole discretion.
5. Term and Nature of Temporary Order. Unless extended, the term of this Order shall terminate on July 28, 2021 at 11:59 p.m. During the time period this Order remains in effect, so long as the requirements of this Order are complied with, the following requirements that might otherwise be required for Qualified Outdoor Business operations will be waived: the City's requirements related to off-street parking contained in Chula Vista Municipal Code section 19.62; the City's requirements related to off-street parking and outdoor operation contained in any other City-issued permits; and the City's requirements related to temporary event permits.
6. Assumption of Risk and Release. Qualified Outdoor Businesses that operate in a Qualified Outdoor Area under the terms of this order, or otherwise, assume all responsibility and risk for costs incurred in the set-up or operations of such business, and/or any liability, damages, losses and/or adverse consequence resulting from conduct of their business operations. To the maximum amount allowed by law, the City shall not

incur or assume any direct or indirect liability to any Qualified Outdoor Business or third party as a result of any business operations conducted pursuant to this order. Any business operator conducting outdoor business operations under the authority of this Order, by the act of engaging in such business thereby releases and holds City, and its officers, officials, employees, representatives, and agents harmless from any and all claims, losses, damages, injuries, liabilities or losses that arise out of, or that are in any way related to, the operations of such business.

7. Revocation or Termination/Expiration of Outdoor Business Uses. Notwithstanding the foregoing, City reserves the right to impose additional conditions on Qualified Outdoor Businesses, both generally and specifically, and reserves the right to revoke a Qualified Outdoor Business's ability to temporarily locate its business activity to a Qualified Outdoor Area for the purpose of protecting life, safety, and welfare of the public as determined in City's sole discretion. Upon expiration or termination of this Order, or upon revocation of a Qualified Outdoor Business's ability to temporarily operate its business activity to a Qualified Outdoor Area, all waived and suspended requirements related to its business operations shall revert to the regulations as written and/or codified in the Chula Vista Municipal Code. All improvements used for Qualified Outdoor Business use shall be removed immediately at the expense of the Qualified Outdoor Business operator, and all outdoor space utilized pursuant to this order shall be returned to the condition they were in prior to their outdoor business use.
8. Amendment, Interpretation, and Revocation. This order may be expanded, interpreted, amended, or revoked pursuant to the independent judgment of the Chula Vista Director of Emergency Services and in accordance with Chula Vista Municipal Code section 2.14.080(F)(1), or by Resolution of the City Council.

GENERAL PROVISIONS

9. This order is issued as a result of a worldwide COVID-19 pandemic declared by the World Health Organization on January 30, 2020 and a Public Health Emergency due to the COVID-19 virus declared by the United States Secretary of Health and Human Services on January 31, 2020.
10. As of the date of this order, the COVID-19 virus continues to represent a danger to the Chula Vista community (to persons and property including both physical and economic harm), and has significantly impacted the City's personnel and financial resources. The actions required by this Order are necessary to reduce the number of individuals who will be exposed to COVID-19, and will thereby slow the spread of COVID-19 in the City of Chula Vista. By reducing the spread of COVID-19, this Order will save lives and increase public safety to persons and property, and reduces both physical and economic harm.
11. This Order is issued in accordance with, and incorporates by reference: the Proclamation of Local Emergency issued by the Chula Vista Director of Emergency Services on March 13, 2020; Chula Vista City Council Resolution No. 2020-065; Chula Vista City Council Emergency Ordinance No. 3484-A; the Declaration of Local Health Emergency issued

by the County of San Diego Health Officer on February 14, 2020; the County of San Diego Order of the Health Officer and Emergency Regulations (Effective November 14, 2020); the Proclamation of a State of Emergency issued by the Governor of the State of California on March 4, 2020; Executive Order N-33-20 issued by the Governor of the State of California on March 19, 2020; Executive Order N-60-20 issued by the Governor of the State of California on May 4, 2020; the Order of the State Public Health Officer issued May 7, 2020; COVID-19 guidance issued by the State of California including but not limited to county-specific guidance, industry guidance, and the Face Coverings Guidance; the State of California's "Blueprint for a Safer Economy"; and Proclamation 9984 regarding COVID-19 issued by the President of the United States on March 11, 2020.

12. This Order comes after the release of substantial guidance from the County of San Diego Public Health Officer, the California Department of Public Health, the Centers for Disease Control and Prevention, and other public health officials throughout the United States and around the world.

13. With this Order, the Emergency Director is hereby exercising their independent judgment to make and issue rules and regulations reasonably related to the protection of life and property, pursuant to Chula Vista Municipal Code section 2.14.080(F)(1), subject to confirmation of the City Council at the earliest practical time.

SO ORDERED,

BY:

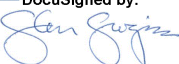
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Maria V. Kachadoorian,
City Manager/Director of Emergency Services
City of Chula Vista

Approved as to Form:

BY:

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Glen R. Googins,
City Attorney
City of Chula Vista