



CITY COUNCIL AGENDA STATEMENT



March 2, 2021

File ID: 21-0047

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA RATIFYING AND CONFIRMING EMERGENCY ORDER 007-2020 (EFFECTIVE FEBRUARY 24, 2021) OF THE CHULA VISTA DIRECTOR OF EMERGENCY SERVICES CAPPING DELIVERY SERVICE AND RELATED FEES CHARGED TO RETAIL FOOD ESTABLISHMENTS UNTIL INDOOR DINING RESUMES AT 100% CAPACITY

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

This proposed resolution ratifies and confirms Emergency Order 007-2020 issued by the Chula Vista Director of Emergency Services, in accordance with Chula Vista Municipal Code section 2.14.080(F)(1).

ENVIRONMENTAL REVIEW

The proposed resolution ratifying and confirming Emergency Order 007-2020 has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity is not a "Project" as defined under Section 15378 of the state CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Notwithstanding the foregoing, it has also been determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On March 17, 2020, the Chula Vista City Council, pursuant to Resolution No. 2020-065, adopted and ratified a Proclamation declaring a Local Emergency issued by the Chula Vista Director of Emergency Services ("Emergency Director"). The Proclamation was issued as a result of the worldwide COVID-19 pandemic, which continues to directly impact the State of California, County of San Diego, and City of Chula Vista. Since March, the number of cases in the County of San Diego and particularly, the South Bay region that includes the City of Chula Vista, continues to rise. As of February 23, 2021, the total number of County cases involving residents of Chula Vista stands at 27,306 persons, 11.4% of the County's total cases.

During this unprecedented time, the City remains committed to protecting the public health of the residents of and visitors to Chula Vista and to utilizing City resources to respond to the COVID-19 pandemic and its associated ongoing threat to public safety and well-being. Accordingly, the Emergency Director previously issued and City Council ratified multiple emergency orders addressing virtual meetings, partial closures of city parks, face covering requirements, the extension of land use and building permit-related deadlines, and the outdoor operation of certain businesses.

Most recently, upon referral from City Council, the Emergency Director issued Emergency Order 007-2020 (effective February 24, 2021) capping delivery service and related fees charged to retail food establishments. As state and county public health orders restrict on-site dining in the City of Chula Vista to reduce the spread of COVID-19, food service establishments and consumers are increasingly reliant on food delivery and pick-up services that often charge substantial fees. Imposing a cap on delivery service and related fees is necessary to support food service establishments that have been financially impacted by on-site dining restrictions so they can continue to remain sources of employment and neighborhood vitality in the City and continue to provide essential access to food delivery and pick up options, including for those who are unable to obtain food in other ways.

Accordingly, Emergency Order 007-2020 prohibits food delivery services from charging retail food establishments a delivery fee that totals more than 15% of the purchase price of an online order. Additionally, the order prohibits such services from charging any other fees to retail food establishments that exceed 3% of the purchase price of an order. As a result, food delivery services are prohibited from charging any combination of fees that combined together total more than 18% of an order. This cap is in line with the cap established by the City of San Diego in January of 2021.

Emergency Order 007-2020 includes a grace period in effect from February 24, 2021 to March 3, 2021, wherein delivery services will not be found in violation of the order if they refund any fee exceeding 18% prior to March 10, 2021. Food delivery services that violate the order's provisions may be subject to third party civil actions or to criminal, civil, and administrative penalties as established in the Chula Vista Municipal Code. The cap on fees will remain in effect until 60 days after retail food establishments are allowed to resume indoor dining at 100% capacity.

Pursuant to Chula Vista Municipal Code section 2.14.080(F)(1), rules and regulations issued by the Emergency Director must be confirmed by the City Council at the earliest practicable time.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

The COVID-19 pandemic creates a wide range of potential fiscal impacts to the City; however, the subject resolution to ratify and confirm Emergency Order 007-2020 is unlikely to contribute in any significant way to such current-year fiscal impacts. Staff is evaluating the broader fiscal impact of the current public health crisis, and a comprehensive report will be presented to council in the future.

ONGOING FISCAL IMPACT

The COVID-19 pandemic creates a wide range of potential fiscal impacts to the City; however, the subject resolution to ratify and confirm Emergency Order 007-2020 is unlikely to contribute in any significant way to such ongoing fiscal impacts. Staff is evaluating the broader fiscal impact of the current public health crisis, and a comprehensive report will be presented to council in the future.

ATTACHMENTS

1. Resolution
2. Attachment A: Emergency Order No. 007-2020

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