

SECOND READING AND ADOPTION

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA REQUIRING
ALL BUSINESSES OPERATING WITHIN THE CITY TO
PREPARE AND POST CITY-APPROVED SOCIAL
DISTANCING AND SANITATION PROTOCOLS

WHEREAS, in January 2020, as a result of the COVID-19 virus, the World Health Organization (“WHO”) declared a Public Health Emergency of International Concern and 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, as the number of confirmed cases and deaths related to COVID-19 continued to rise, California Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19; 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 nationwide and within 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), which was subsequently ratified and adopted by the Chula Vista City Council on March 17, 2020; 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 and orders, 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, 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”) has issued multiple Orders of the Health Officer and Emergency Regulations (the “County Orders”) mandating and prohibiting certain activities, including the following, with certain limited exceptions: the requirement that all persons stay at home; the prohibition of all public and private “gatherings” of more than one person; the closure of all non-essential businesses; the cessation of classes and other school activities; cloth face covering requirements; and social distancing protocols; and

WHEREAS, the County Orders also require businesses to complete and post either the County’s “Social Distancing and Sanitation Protocol,” or a substantially similar form required by another governmental agency, for each facility in the County that is open to the public; and

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

WHEREAS, during this Local Emergency, in the interest of protecting the public health and preventing transmission of COVID-19, and consistent with the County's Orders, the City Council of the City of Chula Vista finds that it is essential to develop City-specific Social Distancing and Sanitation Protocols for all Chula Vista businesses ("City Protocols"); and

WHEREAS, the City Protocols will be required for all "essential" businesses currently operating in the City, and for those deemed "non-essential," as those businesses reopen; and

WHEREAS, it is the City's intent that the City Protocols be implemented in place of the County's Protocols, in accordance with the County Orders allowing other governmental entities to implement these requirements; and

WHEREAS, based on the facts and circumstances stated above, the Chula Vista City Council hereby finds that 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 impacts of the COVID-19 virus.

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

Section I. All businesses operating in the City of Chula Vista shall prepare, obtain City approval and post at all entrances to the business a Social Distancing and Sanitation Protocol.

1. Findings. The City Council of the City of Chula Vista hereby fully incorporates the above Recitals into this Ordinance and finds that they are true and correct.
2. Social Distancing and Sanitation Protocol. A temporary Social Distancing and Sanitation Protocol requirement is hereby enacted as follows:
 - A. It shall be unlawful and prohibited for a business to operate within the City of Chula Vista without a Social Distancing and Sanitation Protocol prepared by the business, approved by the City Manager or his/her designee, and posted at all entrances to the business.
 - B. A business for the purposes of this Ordinance shall be defined pursuant to Chula Vista Municipal Code 5.02.010.B.
 - C. A Social Distancing and Sanitation Protocol for the purposes of this Ordinance is represented in Attachment 1 to this Ordinance. In preparing a Social Distancing and Sanitation Protocol, all Chula Vista businesses shall provide documentation to the City as prescribed in Attachment 2 to this Ordinance. Both Attachments are incorporated into the Ordinance by this reference and may be amended from time-to-time by the

City Manager at his/her sole discretion, in consultation with the City Attorney. This Ordinance, Attachments 1 and 2, and any amendments to the Attachments shall be publicly available through the Office of the City Clerk, and

3. Penalties-Remedies. Violation of this Ordinance shall be punishable as a misdemeanor pursuant to Chula Vista Municipal Code Chapter 1.20. This Ordinance may also be enforced as otherwise provided for in the Chula Vista Municipal Code.
4. Rules and Regulations. The City Manager (pursuant to Chula Vista Charter Section 401) may also make and issue rules and regulations to implement this Ordinance.
5. Duration. This Ordinance shall remain in effect for as long as necessary to protect the public health, safety, and welfare during the COVID-19 crisis, and until repealed by the City Council, accordingly.

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, but not to 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.

The Clerk shall also ensure that this Ordinance be published and presented to the City Council for second reading and adoption, in accordance with Charter sections 311 and 312.

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

Section V. Publication

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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