



CITY COUNCIL AGENDA STATEMENT



December 1, 2020

File ID: 20-0498

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA RATIFYING AND CONFIRMING EMERGENCY ORDER 002-2020 (AMENDED NOVEMBER 19, 2020), PROVIDING THAT A RESPONSIBLE PARTY SHALL BE ALLOWED A MINIMUM OF 24 HOURS TO CORRECT VIOLATION OF A PUBLIC HEALTH ORDER, AND EMERGENCY ORDER 006-2020 (AMENDED NOVEMBER 23, 2020), EXPANDING PROVISIONS AND REGULATIONS RELATED TO OUTDOOR BUSINESS OPERATIONS

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

This proposed resolution would ratify and confirm Emergency Order 002-2020, amended by the Chula Vista Director of Emergency Services on November 19, 2020, and Emergency Order 006-2020, amended by the Chula Vista Director of Emergency Services on November 23, 2020. Emergency Order 002-2020 as amended specifies that persons responsible for violations of public health orders shall be allowed a minimum of 24 hours to correct the violation. Emergency Order 006-2020 as amended expands the types of business that may operate outdoors and provides additional regulations related to such outdoor operations. Staff seek confirmation of the amended Emergency Orders in accordance with Chula Vista Municipal Code section 2.14.080(F)(1).

ENVIRONMENTAL REVIEW

The proposed resolution ratifying and confirming Emergency Orders 002-2020 (Amended November 19, 2020) and 006-2020 (Amended November 23, 2020) have 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 and increasingly impact the State of California, County of San Diego, and City of Chula Vista.

On November 10, 2020, as a result of its increased COVID-19 case rate, the State placed San Diego County into Tier 1, otherwise known as purple tier. The corresponding case rate in the City of Chula Vista similarly continues to rise. As of November 24, 2020, the City of Chula Vista has a 15.7% average case rate over a 7-day period, an increase from our previous 7-day case rate of 12.9%.

Throughout this unprecedented time, the City has remained 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 Emergency Order 002-2020, which was ratified and confirmed by City Council on April 21, 2020. Emergency Order 002-2020 adopted the San Diego Health Officer’s Order, as it may be amended from time to time, as a City order so that violations of the order could be enforced using both state law and local law provisions. On September 15, 2020, the Emergency Director issued amended Emergency Order 002-2020, which added a provision adopting the County’s individual Orders as a City order so that such individual orders may also be enforced using both state law and local law provisions. On September 22, 2020, City Council ratified and confirmed the September 15, 2020 amendments to Emergency Order 002-2020.

Since the beginning of the pandemic, City staff have focused on educating the public and businesses, and obtaining voluntary compliance with State and County-issued public health orders when at all possible. Such educational efforts included multiple warnings and discussions with businesses and individuals found in violation of applicable orders, and a notice structure providing such parties 10 days to correct violations and come into compliance with public health orders. After months of outreach and attempts to gain voluntary compliance, COVID-19 cases unfortunately continue to rise, including in the City of Chula Vista. In an effort to curb the spread of the virus and the threat it poses to our community, both the County and City have stepped up enforcement efforts for COVID-19 related violations. As part of this effort, on November 19, 2020, the Emergency Director issued a second amended Emergency Order 002-2020 accelerating the time provided to correct violations associated with COVID-19 orders. Now, when City issues a Notice of Violation for violation of a public health order, the responsible party shall have a minimum of 24 hours to correct such violation; additional time may be afforded to a responsible party based on the circumstances and at the discretion of the enforcing officer. The minimum 24 hour compliance period is consistent with the County’s requirements and furthers the goal of quickly identifying and halting violations.

At the same time that City staff strive to secure compliance with public health orders in the interest of the public good, staff also continue to facilitate the lawful, continued operation of businesses in a manner consistent with state, county, and local law. To this aim, on July 20, 2020, the Emergency Director issued Emergency Order 006-2020 allowing certain businesses to temporarily operate outdoors on private property subject to specific life and safety standards and restrictions. Most recently, on November 23, 2020,

the Emergency Director issued amended Emergency Order 006-2020. This amended order explicitly expands the types of businesses allowed to operate outdoors to include places of worship, movie theaters, and family entertainment centers. The amended order also adds regulations prohibiting the use of outdoor flame or heat sources inside or within 20 feet of canopies, and prohibits the use of light sources that spill out onto nearby residential properties. So long as all state, county, and local requirements are followed, this amended order waives restrictions on outdoor operation that would otherwise be contained in City-issued permits. Finally, this amended order allows City to impose additional restrictions or operating requirements on outdoor businesses to address conditions that adversely impact surrounding neighborhoods and uses.

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. Therefore, staff seek City Council confirmation of the November 19, 2020 amendment to Emergency Order 002-2020 and the November 23, 2020 amendment to Emergency Order 006-2020.

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 Orders 002-2020 (amended November 19, 2020) and 006-2020 (amended November 23, 2020) are 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 Orders 002-2020 (amended November 19, 2020) and 006-2020 (amended November 23, 2020) are 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. 002-2020 (Amended November 19, 2020)
3. Attachment B: Emergency Order No. 006-2020 (Amended November 23, 2020)

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