



Agenda Item C.1
DISCUSSION/ACTION ITEM
Meeting Date: September 1, 2020

TO: Mayor and Councilmembers

FROM: Peter Imhof, Planning and Environmental Review Director

CONTACT: Lisa Prasse, Planning Manager

SUBJECT: Resolution Amending the Emergency Expanded Restaurant Dining and Other Uses Program to Allow Family Entertainment Centers to Operate Outdoors and Allow the Use of Shade Structures for Outdoor Operations

RECOMMENDATION:

Adopt Resolution 20-__entitled, "A Resolution of the City Council of the City of Goleta, California, Amending the Emergency Expanded Restaurant Dining and Other Uses Program to Allow Family Entertainment Centers to Operate Outdoors and Use of Shade Structures in Outdoor Operations."

BACKGROUND:

On March 4, 2020 Governor Newsom declared a state of emergency for conditions caused by the novel Coronavirus (COVID-19), and on March 11, 2020 the World Health Organization declared COVID-19 a global pandemic, and on March 17, 2020, the Goleta City Council adopted Resolution No. 20-18, approving and ratifying the City Manager's declaration of an emergency and attendant orders.

On May 21, 2020, the Santa Barbara County Public Health Officer issued Health Officer Order 2020.8.2, allowing, among other things, for dine-in service in restaurants, so long as these restaurants comply with the California Department of Health COVID-19 Industry Guidance for Dine In Restaurants and attest and self-certify that they have performed a detailed risk assessment and have an implementation plan on how to prevent COVID-19 spread.

On June 2, 2020, the Goleta City Council adopted Resolution No. 20-35 Suspending Zoning and Development Permit Requirements for Open-Air Spaces and Parking Lots on Private Property and adopting an Emergency Expanded Restaurant Dining and Other Uses Program allowing restaurants and other businesses, as they are allowed to re-open by the State and County Public Health Officer, to temporarily operate within open-air spaces and parking lots on private property. The Program allows restaurants and other uses to expand their operations, provided they obtain

Temporary Use Area Expansion Permit, and meet all program requirements and all local and state mandates for operations and physical distancing.

On July 13, 2020, the State Public Health Officer issued a state-wide order to require the immediate closure of: (1) indoor and outdoor operations of bars, pubs, brewpubs and breweries; and (2) indoor operation of restaurant dining, family entertainment centers and movie theaters, zoos, museums, cardrooms, wineries and tasting rooms. On July 14, 2020, the County Health Officer issued Health Officer Order No. 2020-12.5 coinciding with Governor Newsom's July 13, 2020 Order.

On August 5, 2020, the City Manager issued Emergency Order No. 20-06 amending the Emergency Expanded Restaurant Dining and Other Uses Program to allow barbershops, hair salons, and personal care services to operate outdoors in open air spaces and parking lots. The City Council adopted Resolution No. 20-51 ratifying the Emergency Order on August 18, 2020.

DISCUSSION:

On August 19, 2020, the City Manager issued Emergency Order No. 20-07 (Attachment 2) amending the Emergency Expanded Restaurant Dining and Other Uses Program (Program) to allow family entertainment centers to operate outdoors during the COVID-19 crisis, while following all Program guidelines. This order is consistent with State and County Public Health Orders allowing family entertainment centers, among other businesses, to re-open and operate outdoors.

Under the recent State and County health orders, as mentioned above, family entertainment centers must keep indoor services and attractions closed, except outdoor operations, while complying with state and local requirements to protect against COVID-19. Family entertainment centers, as well as many other businesses, have been impacted by state and local closure orders and are struggling to financially recover. This order is intended to allow these businesses to safely re-open by moving their operations outdoors, under the scope of the Program, and allows for those businesses to contribute to the City's economic growth and recovery as well as their own.

In addition, the proposed Resolution also addresses the topic of shade structures (open on all sides) that is not currently addressed in Council Resolution 20-35. As part of the existing program, businesses are allowed to install temporary fences, barricades, and umbrellas necessary for outdoor operations. However, program provisions are silent regarding the ability to use shade structures larger than conventional umbrellas and allowable size of shade structures. Staff has been approached by a business that wants to install a large shade structure in its parking lot. Staff believes that other businesses and entities, such as athletic facilities, recreational uses, and faith-based organizations, might also want to use shade structures. In order to facilitate the use of shade structures, staff recommends that the Council consider adding the following provisions to the Program:

The use of shade structures is allowed, provided they meet the following standards:

- Shade structures must conform to the maximum height and setbacks of the applicable base zoning district;

- Business must keep ADA parking spaces open and accessible for use;
- Shade structures over 700 square feet must secure all necessary building permits and Santa Barbara County Fire Department clearance prior to installation and use of the shade structure; and
- Where located in a parking area, shade structures must have appropriate barricades around the shade structure to protect against vehicular intrusions into the outdoor use area.

Staff is requesting that the City Council adopt the proposed resolution to ratify Emergency Order No. 20-07 amending the Emergency Expanded Restaurant Dining and Other Uses Program to allow family entertainment centers to operate outdoors and to allow businesses to use shade structures in outdoor operations.

FISCAL IMPACTS:

There is no direct fiscal impact from adopting this resolution.

ALTERNATIVES:

The City Council could choose to not ratify the order, at which point the City Manager's order would become null.

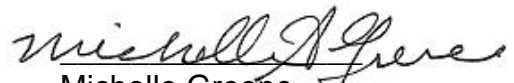
Reviewed By:


Kristine Schmidt
Assistant City Manager

Legal Review By:


Michael Jenkins
City Attorney

Approved By:


Michelle Greene
City Manager

ATTACHMENTS:

1. Resolution 20-__ entitled, "A Resolution of the City Council of the City of Goleta, California, Amending the Emergency Expanded Restaurant Dining and Other Uses Program to Allow Family Entertainment Centers to Operate Outdoors and Use of Shade Structures in Outdoor Operations."
2. Emergency Order No. 20-07, entitled "An Emergency Order of the Director of Emergency Services of the City of Goleta Amending the Emergency Expanded Restaurant Dining and Other Uses Program to Allow Family Entertainment Centers to Operate Outdoors During the COVID-19 Crisis"

ATTACHMENT 1:

Resolution 20-__ entitled, "A Resolution of the City Council of the City of Goleta, California, Amending the Emergency Expanded Restaurant Dining and Other Uses Program to Allow Family Entertainment Centers to Operate Outdoors and Use of Shade Structures in Outdoor Operations."

RESOLUTION NO. 20-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
GOLETA, CALIFORNIA, AMENDING THE EMERGENCY
EXPANDED RESTAURANT DINING AND OTHER USES
PROGRAM TO ALLOW FAMILY ENTERTAINMENT
CENTERS TO OPERATE OUTDOORS AND THE USE OF
SHADE STRUCTURES IN OUTDOOR OPERATIONS

The City Council of the City of Goleta does hereby find, order and resolve
as follows:

SECTION 1. For the reasons set forth in the order, Emergency Order 20-07 dated August 19, 2020 issued by the Director of Emergency Services amending the Emergency Expanded Restaurant Dining and Other Uses Program ("Program") to allow family entertainment centers to operate outdoors is ratified.

SECTION 2. The Program is amended to allow for the use of shade structures by businesses and entities operating outdoors in compliance with the Program as more particularly set forth in **Exhibit A**, attached hereto and incorporated.

SECTION 3. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 1st day of September 2020.

PAULA PEROTTE
MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO
HEREBY CERTIFY that the foregoing Resolution No. 20-__ was duly adopted by
the City Council of the City of Goleta at a regular meeting held on the 1st day of
September 2020, by the following roll call vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

Exhibit A

Emergency Expanded Restaurant Dining and Other Uses Program

This Emergency Expanded Restaurant Dining and Other Uses Program (the “Program”) allows for the expansion of dining and use areas temporarily to open-air spaces and parking lots on private property where certain requirements are met. Expanded outdoor dining and use areas are intended to allow Goleta restaurants and specified uses to re-open safely, ensuring safe and adequate pedestrian and vehicle circulation while simultaneously meeting physical distancing and public health standards to prevent the spread of COVID-19.

The Program is intended to address in particular the following three elements of the worksite-specific COVID-19 prevention plan required to be established under the California Department of Health COVID-19 Industry Guidance for Dine-In Restaurants (“State Dine-In Guide”):

1. Prioritize outdoor dining and curbside pickup;
2. Physically distance six feet between workers and customers; and
3. Physical distancing of check stands, terminals, deli counters and lines restrooms, host stands and waiting areas.

This Program temporarily suspends City zoning and/or land use permit provisions applicable to business premises or restaurant dining areas that are in conflict with the expanded dining or use areas allowed by this Program.

Dining and Use Area Expansions - Applicability

Food service establishments and other uses specified herein located within the City of Goleta may add to or expand their premises for outdoor dining or other allowed uses onto adjacent open-air spaces and/or privately-owned parking lots as provided herein. “Open-air spaces” refer to any paved, unenclosed surface area that is not in the public ROW or used for motor vehicle circulation or parking.

Expansions of dining and use areas under this Program may occur only in open-air spaces and/or privately-owned parking lots. No dining area or use may be expanded into the public right of way, including public sidewalks, under this Program without first obtaining an encroachment permit in addition to any other permit required under this Program.

This Program applies only to existing restaurants and other uses specified below located within the City of Goleta that are currently validly permitted and meet all other license requirements.

The City of Goleta reserves the right to suspend, revoke or amend expanded dining and use areas allowed under this Program provision at any time, if problems, complaints or conflicts arise as a result of the expanded dining or use areas.

Allowed Uses

In addition to dining at food service establishments, this Program allows the following other uses to expand to outdoor areas, where and when specified requirements are met:

1. Retail sales
2. Fitness classes and yoga
3. Faith-based gatherings
4. Barbershops/hair salons and personal care services
5. Family entertainment centers

Program Requirements

The Program requires applicants to apply for a Temporary Use Area Expansion Permit in accordance with the requirements of this Program. The Program takes a two-tiered approach to allowing expansions of dining and use areas. The Program automatically allows expansion of food service establishment dining area and use expansions within open-air spaces that meet the criteria and requirements specified below and that do not encroach into parking areas or affect vehicle circulation (Group 1). Expansions that propose to use parking areas, reduce the number of available parking spaces and/or could affect vehicle circulation (Group 2) must meet all the criteria and requirements of Group 1 and in addition must meet other additional requirements specified below.

Group 1 Expansion Requirements

Group 1 dining and use area expansions may expand into open-air spaces in front of or immediately adjacent to the existing restaurant or business premises. They may not expand into parking areas or decrease the number of existing parking spaces provided. Group 1 expansions must meet all of the following requirements listed below.

Group 1 expansions are allowed provided that the expansion:

1. Has in place a COVID-19 prevention plan consistent with the State Dine-In Guide or other applicable State guidelines and approved by County Public Health;
2. Has permission from the underlying property owner;
3. Is an allowed use in the zone district where the expansion is located;
4. For all food service establishments, follows the requirements under Santa Barbara County Health Order No. 2020-8.2, including completion of self-certifications;
5. Meets all other County rules (e.g., environmental health regulations and Health Officer Orders) and State laws (e.g., State Dine-In Guide and alcohol beverage consumption laws), as verified by County Public Health or other responsible agency;
6. Follows an outdoor dining or occupancy plan at the proposed location that meets all Fire Dept. standards, including number of occupants, points of egress, access to fire extinguishers, and tent and awning ratings, if applicable;
7. Maintains access required under the Americans with Disabilities Act at all times;

8. Ensures fire hydrants shall remain unobstructed at all times;
9. Includes suitable demarcation of the boundary of the outdoor dining or use area, such as bright tape or temporary fencing not exceeding 4 ft. in height, placed in safe manner around outdoor dining area;
10. Does not encroach into any public right of way, restrict vehicle circulation or reduce the number of available parking spaces;
11. Clearly and physically separates the outdoor expansion area from pedestrian traffic and preserves adequate and safe circulation for pedestrians;
12. For all food service establishments, does not exceed any existing overall dining capacity limit currently permitted for the restaurant;
13. Does not include installation of any permanent item or structure;
14. Provides for restricted hours of operation for outdoor dining or other uses on private property that coincide with the hours of operation for the corresponding business or use in question;
15. Prohibits all forms of outdoor music and speaker amplification associated with the outdoor dining provided under this order;
16. Assures compliance by businesses with the City's noise regulations in the Goleta Municipal Code;
17. Includes temporary signage to designate the use of the outdoor area for dining or other allowed use;
18. Ensures that outdoor areas are maintained and free of trash and other debris. Food service establishments must provide conveniently located outdoor waste and recycling receptacles for customers, and the receptacles must be regularly serviced and maintained;
19. For food service establishments, provides that all tables and associated seating must be spaced at least six feet apart from other tables and seating or, for other uses, maintains a six-foot physical separation between persons;
20. Does not permit groups of 10 or more at one table;
21. Provides that all lines for patrons for food orders or pick-up, as well as onsite restroom facilities, clearly demarcate a minimum distance of 6 feet between patrons in line - for example, by placing labels or tape markings on the ground;
22. Consistent with Resolution No. 20-30, adopted May 5, 2020, requires all employees and patrons to wear face coverings, with the exception of patrons who are seated at tables provided and who are eating or drinking;
23. Does not permit smoking in the expanded outdoor dining or other use areas;
24. Provides maintenance standards for the outdoor dining or other use area;
25. Provides and posts onsite the name and contact phone number for a designated contact person authorized to address any complaints regarding expanded dining or use areas.
26. The use of shade structures is allowed, provided they meet the following standards:
 - a. Shade structures must conform to the maximum height and setbacks of the applicable base zoning district;
 - b. Business must keep ADA parking spaces open and accessible for use;
 - c. Shade structures over 700 square feet must secure all necessary building permits and Santa Barbara County Fire Department clearance prior to installation and use of the shade structure; and

- d. Where located in a parking area, shade structures must have appropriate barricades around the shade structure to protect against vehicular intrusions into the outdoor use area.

Group 2 Expansion Requirements

In addition to the Group 1 requirements listed above, Group 2 expansions that propose to encroach into parking areas, reduce the number of available parking spaces or could affect vehicle circulation must submit a plan and obtain a Temporary Use Area Expansion Permit from the City to ensure the expanded dining or use area:

- e. Preserves adequate and safe circulation for vehicles and pedestrians;
- f. Ensures vehicular traffic onsite would not create a traffic problem (e.g., queueing) on public roads or obstruction of public sidewalks; and
- g. Is protected by a surrounding barrier approved by the Public Works Department.

Fees

There are no fees applicable to processing of Temporary Use Area Expansion Permits pursuant to this Program.

Denials, Suspensions and Revocations / Appeals

If a business violates the Program standards, criteria and conditions, the Director of Planning and Environmental Review may immediately suspend or revoke the Temporary Use Area Expansion Permit.

Any denial, suspension or revocation of a Temporary Use Area Expansion Permit may be appealed to the City Council pursuant to the procedures for appeals of business licenses as set forth in Chapter 5.01 of the Goleta Municipal Code. Appeal fees would be as shown for Land Use Permits on the adopted Planning and Environmental Review Department fee schedule.

ATTACHMENT 2:

Emergency Order No. 20-07, entitled “An Emergency Order of the Director of Emergency Services of the City of Goleta Amending the Emergency Expanded Restaurant Dining and Other Uses Program to Allow Family Entertainment Centers to Operate Outdoors During the COVID-19 Crisis

EMERGENCY ORDER NO. 20-07

AN EMERGENCY ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF GOLETA AMENDING THE EMERGENCY EXPANDED RESTAURANT DINING AND OTHER USES PROGRAM TO ALLOW FAMILY ENTERTAINMENT CENTERS TO OPERATE OUTDOORS DURING THE COVID-19 CRISIS

The Director of Emergency Services of the City of Goleta does hereby find as follows:

SECTION 1. RECITALS

A. On March 12, 2020, the Santa Barbara County Public Health Officer declared a local and public health emergency in response to increased COVID-19 spread across the country and in Santa Barbara County.

B. On March 14, 2020, the City Manager, as the Director of Emergency Services, declared an existence of local emergency and activated its Emergency Operations Center to ensure an effective City response to "COVID-19". On March 17, 2020, the City Council adopted Resolution No. 20-18, approving and ratifying the City Manager's declaration of emergency and attendant orders.

C. On March 19, 2020, the Governor of the State of California, issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors.

D. On April 5, 2020, the Santa Barbara County Public Health Officer issued a second countywide order, the Stay Well at Home Order. This public health order prohibits all public and private group gatherings and events and requires people to stay in their homes with limited exceptions; and requires closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters and all similar gathering places.

E. Evidence in late April and early May demonstrated that state and local orders slowed the increase of community transfer of the disease by limiting interactions amongst people. As a result, on May 7, 2020, Governor Newsom, announced a four-staged framework, titled "Resilience Roadmap" that is intended to guide the state's gradual modification of its Safer at Home Order to reopen California. The state also issued industry specific guidance to help specified businesses reopen under new restrictions, which require businesses to, among other things, implement social distancing measures.

F. On May 21, 2020, the Santa Barbara County Public Health Officer issued Health Officer Order 2020.8.2, allowing, among other things, for dine-in service in restaurants, so long as these restaurants comply with the California Department of Health COVID-19 Industry Guidance for Dine In Restaurants ("State Dine In Guide") and attest and self-certify that they have performed a detailed risk assessment and have an implementation plan on how to prevent COVID-19 spread.

G. On June 2, 2020, the Goleta City Council adopted Resolution No. 20-35 Suspending Zoning and Development Permit Requirements for Open Spaces and Parking Lots on Private Property and Adopting an Emergency Expanded Restaurant Dining and Other Uses Program (Program) to allow for restaurants and other businesses as they are allowed to re-open by the State and County Public Health Officer, such as retail sales, fitness classes and yoga, and faith-based gatherings, to operate using the open air spaces and parking lot.

H. On July 13, 2020, the State Public Health Officer issued a state-wide order to require the immediate closure of: (1) indoor and outdoor operations of bars, pubs, brewpubs and breweries; and (2) indoor operation of restaurant dining, movie theaters, zoos, museums, cardrooms, wineries and tasting rooms. The order also imposes more stringent requirements on specified counties, including Santa Barbara County that have appeared on the State's monitoring list for three consecutive days to order the immediate closure of indoor operations of the following sectors: gyms and fitness centers, places of worship, protests, offices for non-critical infrastructure sectors, personal care establishments, hair salons, barbershops, and malls.

I. The following day, on July 14, 2020, the County Health Officer issued a revised order to coincide with Governor's July 13th Order and require the closure of indoor operations of the following establishments: family entertainment centers (for example: bowling alleys, miniature golf, batting cages and arcades), malls, hair salons, barbershops, fitness facilities, personal care establishments, places of worship, protests, and offices for non-essential critical infrastructure.

J. On August 5, 2020, The City Manager, as Director of Emergency Services issued Emergency Order No. 20-06 Amending the Emergency Expanded Restaurant Dining and Other Uses Program to Allow Hair Salons, Barbershops and Personal Care Services to Operate Outdoors During the COVID-19 Crisis.

K. Under the recent State and County health orders, businesses such as, family entertainment centers, retail sales, hair salons, barbershops, personal care services, fitness classes, and faith-based gatherings, among other things, are ordered to close, except outdoor operations. Those businesses that are unable to shift their operations outdoors have been forced to shut down for the second time during the COVID-19

pandemic. Many of these businesses were struggling to financially recover following the first mandatory closure in March, and some may not be able to survive a second closure. This Order is intended to assist the economic recovery of these establishments and to permit them to continue to operate under State and County health orders.

L. This Order amending the City of Goleta's Emergency Expanded Restaurant Dining and Other Uses Program is adopted pursuant to the City's police powers and powers afforded to the City in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law, and the Section 2.10.040 of the Goleta Municipal Code to protect the peace, health, and safety of the public, and to protect life and property as affected by the emergency and to allow family entertainment centers to re-open to operate outdoors using the open-air spaces and parking lots.

SECTION 2. The Emergency Expanded Restaurant Dining and Other Uses Program is hereby amended to allow family entertainment centers to re-open to operate using the open-air spaces and parking lots. The Program listing the allowed uses are set forth in Exhibit A attached hereto.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or word of this Order is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Order.

SECTION 4. Effective Date and Termination. This Order shall become effective immediately and shall continue until the earlier to occur of: (1) the conclusion of the local emergency; (2) its termination is ordered by the City Manager/Director of Emergency Services; or (3) it is duly terminated by the City Council. The Order may also be superseded by a duly enacted ordinance or order of the City Council expressly superseding this Order.

<i>August 19, 2020 at 4:01 pm</i>	<i>Mike Greene</i>
Date and Time	City Manager & Director of Emergency Services

APPROVED AS TO FORM:

Michael Jenkins

Michael Jenkins
City Attorney