



Agenda Item: A.9
CONSENT CALENDAR
Meeting Date: December 1, 2020

TO: Mayor and Councilmember

FROM: Michael Jenkins, City Attorney

CONTACT: Winnie Cai, Assistant City Attorney

SUBJECT: Resolution to Rescind Resolution No. 20-61 to Prohibit Indoor Operations for Restaurants, Gyms, Fitness Centers and Movie Theaters and to Suspend Resolution No. 20-30 on Face Covers

RECOMMENDATION:

Adopt Resolution No. 20- __, entitled, "A Resolution of the City Council of Goleta, California, to Rescind Resolution No. 20-61 to Prohibit Indoor Operations for Restaurants, Gyms, Fitness Centers, and Movie Theaters and to Suspend Resolution No. 20-30 on Face Covers."

BACKGROUND:

On November 16, 2020, the state of California classified the County of Santa Barbara as Tier One ("purple tier" or "widespread risk") in its Blueprint for a Safer Economy in response to the COVID-19 pandemic. This tier is more restrictive for some businesses and activities than was previously allowed in Tier Two, ("red tier" or "substantial risk"), which the County was in from September 29th through November 15th.

In addition, on November 16, 2020, the California Department of Public Health ("CDPH") issued guidance for the use of face coverings that requires people in California to wear face coverings when they are outside of the home, unless an exemption applies.

DISCUSSION:

The County's classification from the red tier to the purple tier means certain indoor operations of restaurants, gyms, fitness centers, and movie theaters are no longer allowed. The City's Resolution No. 20-61 which allowed for the indoor operations of these businesses under the red tier is now inconsistent with state law and the County Health Officer's most recent order (Health Officer Order No. 2020-14). In light of the County's movement back into the purple tier, on November 18, 2020, the City Manager acting in her role as the Director of Emergency Services issued Emergency Order No. 20-11 (Attachment 1) rescinding Resolution No. 20-61 to prohibit indoor operations for restaurants, gyms, fitness

centers, and movie theaters and imposing new orders for these businesses consistent with state Law and Health Officer Order No. 2020-14.

In addition, the City's face covering mandate only requires workers and patrons of essential businesses to wear face coverings while working or visiting essential businesses (Resolution No. 20-30). This is inconsistent with the stricter new State mandate to wear face coverings when one is outside of his or her home, unless an exception applies. Emergency Order No. 20-11 suspends Resolution No. 20-30 until the expiration of the Guidance for the Use of Face Coverings by CDPH issued on November 16, 2020.

Staff is requesting that City Council ratify Emergency Order No. 20-11.

ALTERNATIVES:

The City Council could choose to not ratify the order, at which point the City Manager's order would become null. However, the City's regulations regarding certain businesses and face covers will be inconsistent with state and County regulations.

FISCAL IMPACTS:

There is no direct fiscal impact from adopting this resolution.

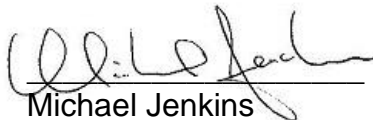
Reviewed By:

Legal Review By:

Approved By:



Kristine Schmidt
Assistant City Manager



Michael Jenkins
City Attorney



Michelle Greene
City Manager

ATTACHMENTS:

1. Emergency Order No. 20-11, entitled "An Emergency Order of the Director of Emergency Services of the City of Goleta, California, to Rescind Resolution 20-61 to Prohibit Indoor Operations for Restaurants, Gyms, Fitness Centers and Movie Theaters and to Suspend Resolution No. 20-30 on Face Covers."
2. Resolution No. 20-__ entitled, "A Resolution of the City Council of Goleta, California, to Rescind Resolution 20-61 to Prohibit Indoor Operations for Restaurants, Gyms, Fitness Centers and Movie Theaters and to Suspend Resolution No. 20-30 on Face Covers."

Attachment 1

Emergency Order No. 20-11, entitled “An Emergency Order of the Director of Emergency Services of the City of Goleta, California, to Rescind Resolution 20-61 to Prohibit Indoor Operations for Restaurants, Gyms, Fitness Centers and Movie Theaters and to Suspend Resolution No. 20-30 on Face Covers.”

EMERGENCY ORDER NO. 20-11

AN EMERGENCY ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF GOLETA, CALIFORNIA, TO RESCIND RESOLUTION 20-61 TO PROHIBIT INDOOR OPERATIONS FOR RESTAURANTS, GYMS, FITNESS CENTERS, AND MOVIE THEATERS AND TO SUSPEND RESOLUTION NO. 20-30 ON FACE COVERS

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

SECTION 1. Recitals.

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes which has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19").
- B. On March 4, 2020, the Governor of the State of California 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.
- C. 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 Santa Barbara County.
- D. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.
- E. On March 14, 2020, the City Manager, as the Director of Emergency Services, declared an existence of local emergency.
- F. On March 17, 2020, the City Council adopted Resolution 20-18 which ratified the City Manager's emergency declaration and imposed attendant orders to close restaurants, gyms, movie theaters and the like; to prohibit the use of City play structures and exercise equipment in its parks; and to prohibit residential and commercial evictions based on nonpayment of rent

due to loss of income from the COVID-19 pandemic.

- G. On March 19, 2020, the Governor of the State of California, also 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.
- H. The Centers for Disease Control and Prevention, the California Department of Health, and the Santa Barbara County Department of Public Health have all issued recommendations including but not limited to strict adherence to social distancing guidelines, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Other counties throughout the state have similar directives.
- I. 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 prohibited all public and private group gatherings and events and required people to stay in their homes with limited exceptions; and required closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters and all similar gathering places. The purpose of the order was to further restrict, and limit gathering of persons and require closures of non-essential retail businesses in an effort to stem or slow the spread of the virus.
- J. On August 28, 2020, the Governor ordered an update to the State COVID-19 reopening framework and implemented a four-tier color-coding system. From August 28, 2020 through September 28, 2020, Santa Barbara County was classified as Tier One, or the purple tier for highest risk and widespread transmission of SARS-CoV-2.
- K. On September 29, 2020, the State classified Santa Barbara County as Tier Two, or the red tier for substantial risk of SARS-CoV-2 transmission, which allowed for indoor dining at restaurants, indoor gyms and fitness centers to reopen so long as certain capacity limitations and safety guidelines are complied with.
- L. On September 29, 2020, the Santa Barbara County Public Health Officer issued Health Officer Order No. 2020-12.09, and, then on October 2, 2020, issued Health Officer No. 2020-10, which specified types of businesses that can open at certain capacities as allowed under the States reopening framework for Tier Two.
- M. On October 6, 2020, the Director of Emergency Services of the City of Goleta issued Emergency Order No. 20-09 to suspend part of Resolution 20-18 to

allow for the opening of restaurants, gyms, fitness centers, and movie theaters under State and County Health Officer Orders in Tier Two.

- N. On November 16, 2020, the State classified the County of Santa Barbara as Tier One ("purple tier"). This is more restrictive for some businesses and activities than was previously allowed in Tier Two.
- O. On November 16, 2020, the California Department of Public Health ("CDPH") issued guidance for the use of face coverings that required people in California to wear face coverings when they are outside of the home, unless an exemption applies. The City's face covering mandate (Resolution No. 20-30) is less restrictive, and, therefore, inconsistent with this Guidance.
- P. This Order is an exercise of the Director of Emergency Services' emergency powers as provided for under State law and Chapter 2.10 of the Goleta Municipal Code, is temporary in nature and intended to protect the peace, health, and safety of the public, and to protect life and property as affected by the emergency, in that this Order reduces capacity allowances for restaurants, gyms, fitness centers, and movie theaters in compliance with Tier One as specified in Attachment "A" of County of Santa Barbara Health Officer Order No. 2020-12.14 and Guidance for the Use of Face Coverings by CDPH on November 16, 2020.
- Q. The City Council of the City of Goleta is not in session (and cannot immediately be called into session).

SECTION 2. Subject to the requirements of Section 3 herein, and pursuant to Section 5 of Resolution No. 20-18, the Director of Emergency Services hereby suspends the following sections of Resolution 20-18.

- A. Section 5(A)(1) to the extent it prohibited outdoor patronage for restaurants and bars that serve food.
- B. Section 5(1)(2) to the extent it prohibited outdoor operations of gyms, fitness centers and movie theaters.

SECTION 3. This Emergency Order and the activities permitted hereby are subject to compliance with California Public Health Orders and Guidelines and Santa Barbara County Public Health Orders relating to COVID-19, including but not limited to the following orders relating to restaurants, commercial gyms, fitness centers, and movie theaters:

- A. Restaurants – Outdoor only. Take-out and delivery allowed.
- B. Brewpubs, breweries, bars, and pubs must close until those establishments are allowed to resume operation per state guidance and local permission, unless they are providing sit-down, dine-in meals. Alcohol may only be sold

in the same transaction as a meal.

- Brewpubs, breweries, bars, and pubs that provide sit-down meals must follow the CDPH dine-in restaurant guidance, shall offer only outdoor dining, and should continue to encourage takeout and delivery service whenever possible. No more than ten (10) people shall be together at one table or tables pushed together as one table.
- Brewpubs, breweries, bars, and pubs that do not provide sit-down meals, but wish to operate under this Order must obtain an Emergency Food Permit as described above.
- Venues that are currently authorized to provide off sale beer, wine, and spirits to be consumed off premises and do not offer sit-down, dine-in meals shall follow CDPH guidance for retail operations.
- Producers of beer, wine, and spirits must follow CDPH guidance for manufacturing operations.
- Brewpub, breweries, bars and pubs must offer foodservice during all hours of operation.
- This section also applies to bars located at permitted food facilities.
- Nothing in this section supersedes state or local laws that may be applicable to brewpubs, breweries, bars, pubs, and distilleries. (Health Officer Order 2020-12.14)

C. Gyms and fitness centers- Outdoors only.

D. Movie Theaters- Outdoors only.

SECTION 4. Resolution No. 20-30, which required the wearing of face coverings by workers and patrons of businesses that are allowed to open under County Health Orders, is suspended until the expiration of the Guidance for the Use of Face Coverings by CDPH issued on November 16, 2020 (<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>).

SECTION 5. 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 6. 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.

11/18/20 at 4:50 p.m.
Date and Time

Michelle Greene
Michelle Greene
City Manager & Director of Emergency
Services

APPROVED AS TO FORM:

Michael Jenkins

Michael Jenkins, City Attorney

Attachment 2

Resolution No. 20-__ entitled, "A Resolution of the City Council of Goleta, California, to Rescind Resolution 20-61 to Prohibit Indoor Operations for Restaurants, Gyms, Fitness Centers and Movie Theaters and to Suspend Resolution No. 20-30 on Face Covers."

RESOLUTION NO. 20-__

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF GOLETA, CALIFORNIA, TO RESCIND
RESOLUTION NO. 20-61 TO PROHIBIT INDOOR
OPERATIONS FOR RESTAURANTS, GYMS,
FITNESS CENTERS, AND MOVIE THEATERS
AND TO SUSPEND RESOLUTION NO. 20-30 ON
FACE COVERS**

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 20-11 dated November 18, 2020 issued by the Director of Emergency Services to rescind Resolution No. 20-61 to prohibit indoor operations for restaurants, gyms, fitness centers and movie theaters and to suspend Resolution No. 20-30 on face coverings is ratified.

SECTION 2. 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 December 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)
CITY OF GOLETA) ss.

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
December 2020, by the following roll call vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK