

CITY OF MENDOTA

**EMERGENCY SERVICES DIRECTOR ORDER No. 20-06 RELATING TO
CURBSIDE NON-ESSENTIAL RETAIL AND FARMERS' MARKETS**

**DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY
OF MENDOTA INITIATING PHASE 2 OPERATIONS IN RESPONSE TO THE
ONGOING COVID-19 PANDEMIC EMERGENCY**

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency due to the outbreak and spread of COVID-19 (Novel Coronavirus); and

WHEREAS, on March 15, 2020, the County of Fresno declared a State of Emergency in response to the continuing spread of COVID-19; and

WHEREAS, at the City of Mendota's ("City") March 16, 2020, Special City Council Meeting, the City Council adopted Resolution No. 20-18, proclaiming a local emergency in response to the continuing spread of COVID-19; and

WHEREAS, pursuant to Governor Newsom's Executive Order N-33-20, signed March 19, 2020, all residents of the City of Mendota have been directed to "immediately heed the current State public health directives ... [which] are consistent with the March 19, 2020, Memorandum of Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>"; and

WHEREAS, Executive Order N-33-20 also requires "all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>"; and

WHEREAS, pursuant to the authority of Government Code section 8634, and the Mendota Municipal Code ("MMC") section 2.44.060, the City's Director of Emergency Services issued Emergency Services Director Orders Nos. 20-01 through 20-05 to address the ongoing spread and impacts of COVID-19; and

WHEREAS, on April 7, 2020, the City's Director of Emergency Services issued Emergency Order No. 20-03, ratified by Resolution No. 20-25 of the City Council on April 14, 2020, relating to issuing temporary COVID-19 pandemic response orders. Among other things, this Emergency Order directed all businesses to cease public-facing business operations between 10:00 p.m. and 4:00 a.m. daily, cease allowing customer use of waiting areas, and implement social distancing and related protocols to limit the spread of COVID-19; and

WHEREAS, on April 15, 2020, the City's Director of Emergency Services issued Emergency Order No. 20-04, ratified by Resolution No. 20-27 of the City Council on April 28, 2020, relating to employee COVID-19 screening; and

WHEREAS, on April 15, 2020, the City's Director of Emergency Services issued Emergency Order No. 20-05, ratified by Resolution No. 20-27 of the City Council on April 28, 2020, relating to mandatory facial coverings; and

WHEREAS, on April 28, 2020, the City Council adopted Emergency Ordinance Nos. 20-10 and 20-11, modifying existing COVID-19 response ordinances to provide continued and necessary support to the community; and

WHEREAS, on May 4, 2020, Governor Newsom announced that the State was prepared to begin moving toward "Phase 2," set to begin on May 8, 2020, which will allow "gradual reopening of lower-risk workplaces with adaptations including bookstores, clothing stores, florists and sporting goods stores, with modifications" (See California's Progress Toward Stage 2 Reopening, found at: <https://www.gov.ca.gov/2020/05/04/governor-newsom-provides-update-on-californias-progress-toward-stage-2-reopening/>); and

WHEREAS, on May 4, 2020, Governor Newsom announced the State's "Phase 2" framework allows "counties to move more quickly through Stage 2 if they attest that they meet the state's readiness criteria," which include: (1) stability of hospitalizations; (2) personal protective equipment inventory; (3) health care surge capacity; (4) testing capacity; (5) contact tracing capability; and (6) public health guidance in place (See State Report Card, found at: <https://www.gov.ca.gov/wp-content/uploads/2020/05/5.4-Report-Card-on-California-Resilience-Roadmap.pdf>"); and

WHEREAS, on May 5, 2020, the County of Fresno Department of Public Health issued Interim Guidance for Reopening Fresno County Businesses While Maintaining Customer Safety and Public Health, which addresses non-essential businesses seeking to reopen as part of "Phase 2." Among other things, these businesses have been directed to consider: (1) employee safety; (2) customer/visitor safety; (3) 6-Foot distancing protocol; and (4) sanitation (See Fresno County Public Health Notice COVID-19 Interim Guidance for Reopening, found at: <https://www.co.fresno.ca.us/Home/ShowDocument?id=44523>.); and

WHEREAS, on May 7, 2020, Governor Newsom released the State's Updated Industry Guidance, found at: <https://www.gov.ca.gov/2020/05/07/governor-newsom-releases-updated-industry-guidance/>. Among other things, this guidance directs businesses seeking to reopen to: (1) Perform a detailed risk assessment and implement a site-specific protection plan; (2) Train employees on how to limit the spread of COVID-19, including how to screen themselves for symptoms and stay home if they have them; (3) Implement individual control measures and screenings; (4) implement disinfecting protocols; and (5) Implement physical distancing guidance; and

WHEREAS, as of May 7, 2020, there were 60,614 positive cases of COVID-19 in California with 2,504 deaths, 777 positive cases with nine (9) deaths in Fresno County, and 2,215 deaths statewide with public health officials expecting the number of confirmed cases to increase as testing continues; and

WHEREAS, as of May 7, 2020, the City has twenty-nine (29) confirmed COVID-19 cases within its boundaries, with more cases expected to be confirmed as testing continues; and

WHEREAS, based on guidance released by the Fresno County Department of Public Health, California Department of Public Health, the Centers for Disease Control and Prevention, and other public health officials throughout the United States, the City intends to protect the health, safety, and economic welfare of the community while providing for safe, phased resumption of economic activity within the City's borders; and

WHEREAS, moving forward, economic necessity requires the City to begin allowing certain businesses which have not been designated Essential Critical Infrastructure Workers to begin recommencing operations within the City's borders, subject to best practices for curtailing the transmission of COVID-19; and

WHEREAS, the aforesaid conditions warrant and require immediate action to mitigate potential public calamity as the COVID-19 pandemic emergency continues.

NOW, THEREFORE, as the Director of Emergency Services pursuant to MMC Section 2.44.050, and by the powers vested in me by MMC Section 2.44.060 and the City Council of the City of Mendota in Resolution No. 20-18, I hereby issue the following orders, **effective immediately, Friday, May 8, 2020**, and for so long as Executive Order N-33-20 and the Local Emergency declared in Resolution No. 20-18 in response to the COVID-19 pandemic emergency remain in effect:

1. Non-essential retail businesses, including, without limitation, those excluded from the definition of critical infrastructure businesses or services, as defined by the Cybersecurity and Infrastructure Agency ("CISA") at <https://cisa.gov/identifying-critical-infrastructure-during-covid-19>, may begin public-facing business operations, subject to the following requirements:
 - 1.1 Non-essential retail businesses' public-facing business operations shall be limited to telephone-based, online-based, or other curbside ordering and curbside pickup.
 - 1.2 No customers may enter the non-essential retail businesses' premises for any reason.
 - 1.3 Non-essential retail businesses opting to resume public-facing business operations within the City pursuant to this Order shall ensure compliance with all Fresno County Department of Public Health, California Department of Public Health, and other State guidelines to limit the spread of COVID-19. These guidelines include, but are not limited to:
 - 1.3.1 Performing a detailed risk assessment and implementing a site-specific protection plan;

- 1.3.2 Training employees on how to limit the spread of COVID-19, including how to screen themselves for symptoms and stay home if they have them;
 - 1.3.3 Implementing individual control measures and screenings, such as ensuring all employees wear reusable cloth-based facial coverings or single-use facial coverings that effectively cover the wearer's nose and mouth at all times;
 - 1.3.4 Implementing disinfecting protocols, such as ensuring all employees regularly wash or sanitize their hands, at least two (2) times per hour, and ensuring customer touch points are disinfected as often as is reasonably practicable; and
 - 1.3.5 Implementing physical distancing guidance, such as ensuring all customers and employees remain at least six (6) feet apart at all times.
 - 1.4 Non-essential retail businesses opting to resume public-facing business operations within the City pursuant to this Order that fail to ensure compliance with Fresno County and State requirements discussed herein, or that otherwise violate this Order, shall be punishable by administrative citation. Non-compliance shall subject the business to an administrative fine of \$1,000 for the first offense, \$2,500 for the second offense, and \$5,000 for the third and any future offenses. Alternatively, non-essential retail businesses that fail to ensure compliance with Fresno County and State requirements may be ordered to cease public-facing business operations within the City by the Director of Emergency Services.
2. Certified Farmers' Markets operated in accordance with Chapter 10.5 of Division 17 of the California Food and Agricultural Code and any regulations adopted pursuant to that Chapter may begin limited public-facing business operations, subject to the following requirements:
 - 2.1 Farmers' markets opting to resume public-facing business operations pursuant to this Order must limit the goods offered for sale to the public to "essential goods," including, but not limited to, food and food-based products until receipt of further notice authorizing the sale of additional items by the City's Director of Emergency Services.
 - 2.2 Farmers' Markets opting to resume public-facing business operations within the City pursuant to this Order shall ensure compliance with all Fresno County Department of Public Health, California Department of Public Health, and other State guidelines to limit the spread of COVID-19. These guidelines include, but are not limited to:
 - 2.2.1 Performing a detailed risk assessment and implementing a site-specific protection plan;

- 2.2.2 Training employees on how to limit the spread of COVID-19, including how to screen themselves for symptoms and stay home if they have them;
 - 2.2.3 Implementing individual control measures and screenings, such as ensuring all employees wear reusable cloth-based facial coverings or single-use facial coverings that effectively cover the wearer's nose and mouth at all times;
 - 2.2.4 Implementing disinfecting protocols, such as ensuring all employees regularly wash or sanitize their hands, at least two (2) times per hour, and ensuring customer touch points are disinfected as often as is reasonably practicable; and
 - 2.2.5 Implementing physical distancing guidance, such as ensuring all customers and employees remain at least six (6) feet apart at all times.
- 2.3 Farmers' Markets opting to resume public-facing business operations within the City pursuant to this Order that fail to ensure compliance with Fresno County and State requirements discussed herein, or that otherwise violate this Order, shall be punishable by administrative citation. Non-compliance shall subject the vendor and/or market organizer to an administrative fine of \$1,000 for the first offense, \$2,500 for the second offense, and \$5,000 for the third and any future offenses. Alternatively, Farmers' Markets that fail to ensure compliance with Fresno County and State requirements may be ordered to cease public-facing business operations within the City by the Director of Emergency Services.
- 3. Nothing in this Order shall be interpreted as overriding the provisions contained in Emergency Order Nos. 20-01, 20-02, 20-03, 20-04, or 20-05, which will continue in effect for so long as Executive Order N-33-20 and the Local Emergency declared in Resolution No. 20-18 in response to the COVID-19 pandemic emergency remain in effect.
 - 4. This Order shall be subject to amendment or repeal at any time, and shall not be deemed to confer any contractual obligations, property rights, or assume any liability on the City of Mendota's behalf.
 - 5. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
 - 6. This Order does not, in any way, restrict: (a) first responder access to the site(s) named in this Order during an emergency or (b) local, state, or federal officers,

investigators, or medical or law enforcement personnel from carrying out their lawful duties at the site(s) named in this Order.

7. This Order shall be immediately translated into Spanish, and accommodations be made for all disabled persons to read its contents. This Order shall also be distributed to all local media and made prominently available on the City's website.

IT IS SO ORDERED.

DATE AND TIME: May 8, 2020 at 9:40 a.m.



Cristian Gonzalez, Director of Emergency Services

ATTEST:



Celeste Cabrera-Garcia, City Clerk

