

CITY OF MENDOTA

**EMERGENCY SERVICES DIRECTOR ORDER No. 20-07 RELATING TO
ISSUING ADDITIONAL ORDERS IN RESPONSE TO THE COVID-19 PANDEMIC
EMERGENCY**

**DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY
OF MENDOTA REPEALING DAILY BUSINESS CURFEWS, REPEALING
AUTHORIZATION FOR FARMERS' MARKETS, AND AUTHORIZING ADDITIONAL
NON-ESSENTIAL RETAIL OPERATIONS IN RESPONSE TO 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, on May 8, 2020, the City’s Director of Emergency Services issued Emergency Order No. 20-06, ratified by Resolution No. 20-31 of the City Council on May 12, 2020, related to curbside non-essential retail and farmers’ markets in response to the ongoing COVID-19 pandemic emergency; and

WHEREAS, on May 11, 2020, the City of Fresno authorized what it termed “Authorized Businesses” to physically open their doors for business based on an occupancy of one (1) customer per 500 square feet of space. These “Authorized Businesses” include, but are not limited to: auto, truck, boat, motorcycle, RV and mobile home sales; new construction; furniture stores; electronics and camera stores; spa and pool stores; lawn and garden equipment stores; building and remodeling supply stores; and auctions (See City of Fresno Authorized Business Information, found at: <https://www.fresno.gov/coronavirus-old/authorized-businesses-information/>; Authorized Business Categories and Conditions, found at: <https://www.fresno.gov/wp-content/uploads/2020/05/ENGLISH-FresnoCityHall AuthorizedBusiness Boards 24x36.pdf>); and

WHEREAS, on May 12, 2020, Governor Newsom released additional updated State guidance regarding retail businesses, found at: <https://covid19.ca.gov/pdf/guidance-retail.pdf>. Among other things, this guidance directs retailers seeking to reopen to: (1) Establish a written, worksite-specific COVID-19 prevention plan, perform a comprehensive risk assessment of all work areas, and designate a person at each facility to implement the plan; (2) Train employees on how to prevent and limit the spread of COVID-19, including how to screen themselves for symptoms and the importance of not coming to work if they have them or someone they live with has been diagnosed with COVID-19; (3) Implement individual control measures and screenings; (4) implement disinfecting protocols throughout the premises; and (5) Implement physical distancing guidance to ensure physical distancing of at least six (6) feet between workers and customers; and

WHEREAS, following public discussions during the May 12, 2020, regular City Council meeting, the City Council indicated its desire that, in the near future, the Director of Emergency Services do the following: (1) repeal the business and service curfews imposed by Emergency Order No. 20-03; (2) repeal the authorization for farmers’ markets and open air markets to operate within the City allowed by Emergency Order No. 20-06; and (3) authorize specific types of non-essential retail activity throughout the City; and

WHEREAS, as of May 12, 2020, there were 69,382 positive cases of COVID-19 in California with 2,847 deaths, and 984 positive cases with ten (10) deaths in Fresno County with public health officials expecting the number of confirmed cases to increase as testing continues; and

WHEREAS, as of May 12, 2020, the City has thirty-two (32) 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, Wednesday, May 13, 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. Section 1 of Emergency Order No. 20-03, and each of its subparts, are hereby repealed in their entirety. Accordingly, the daily 10:00 p.m. to 4:00 a.m. curfew halting business operations and services within the City's borders shall cease immediately upon the passage of this Order.
2. Section 2 of Emergency Order No. 20-06, and each of its subparts, are hereby repealed in their entirety. Accordingly, Certified Farmers' Markets, Open Air Markets, and the like are not authorized to conduct public-facing business operations within the City's borders immediately upon the passage of this Order.

Farmers' Markets, Open Air Markets, and the like that opt to resume public-facing business operations within the City's borders following the passage of this Order, 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 \$2,500 for the first offense, \$5,000 for the second offense, and \$10,000 for the third and any future offenses.

3. Notwithstanding the provisions contained in Section 1 of Emergency Order No. 20-06, and each of its subparts, "Authorized Non-Essential Retail Businesses," as defined below, may allow customer access to the business premises, subject to the restrictions below.

3.1 Definitions.

As used in this Section, "Authorized Non-Essential Retail Businesses" means those businesses and activities which are not considered essential within the current generally accepted definitions of Essential Critical

Infrastructure Workers, as defined in State and Federal public health directives, but are still important to the economic and social well-being of the community.

“Authorized Non-Essential Retail Businesses” include: (1) Auto, Truck, Boat, Motorcycle, RV, and Mobile Home Sales; (2) New Construction; (3) Furniture Stores; (4) Electronics and Camera Stores; (5) Spa and Pool Stores; (6) Lawn and Garden Equipment Stores; (7) Building and Remodeling Supply Stores; and (8) Auctions.

- 3.2 Authorized Non-Essential Retail Businesses may not allow customer occupancy at the business premises to exceed one (1) customer per 500 square feet.
- 3.3 Authorized 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:
 - 3.3.1 Performing a detailed risk assessment and implementing a site-specific protection plan;
 - 3.3.2 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;
 - 3.3.3 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;
 - 3.3.4 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
 - 3.3.5 Implementing physical distancing guidance, such as ensuring all customers and employees remain at least six (6) feet apart at all times.
- 3.4 Authorized 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.

4. Unless explicitly stated herein, nothing in this Order shall be interpreted as overriding or repealing any of the provisions contained in Emergency Order Nos. 20-01, 20-02, 20-03, 20-04, 20-05, or 20-06 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.
5. 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.
6. 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.
7. 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.
8. 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.

Director of Emergency Services



Cristian Gonzalez, City Manager

May 13, 2020

3:00 p.m.