

RESOLUTION NO. 49-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA RATIFYING ORDER NO. 2020-04 OF THE DIRECTOR OF EMERGENCY SERVICES REVISIONS TO CERTAIN MINIMUM OPERATIONAL STANDARDS FOR OUTDOOR COMMERCIAL ACTIVITY IN THE PUBLIC RIGHT OF WAY AND ON PRIVATE PROPERTY DURING THE PERIOD OF LOCAL EMERGENCY DUE TO COVID-19

WHEREAS, Government Code section 8630 and section 4-2.01 *et seq.* of the Pacifica Municipal Code (“PMC”) empower the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City Council is not in session, subject to confirmation by the City Council at the earliest possible time; and

WHEREAS, on March 16, 2020, as a result of the widespread community transmission of COVID-19, the Health Officer of the County of San Mateo (“Health Officer”) issued an Order for all County residents to shelter in place except for certain essential activities. This mandate to shelter-in-place was extended and superseded by Order No. c19-5b dated March 31, 2020, Order No. c19-5c dated April 29, 2020, Order No. c19-5d on May 15, 2020 and Order No. c19-5e on May 28, 2020 and Order No. c19-5f on June 4, 2020 and all referenced appendices (collectively, the “County Health Requirements”); and

WHEREAS, on March 16, 2020, the City Manager in his capacity as Director of Emergency Services, issued a Proclamation of Local Emergency due to the global pandemic resulting from the novel coronavirus (“COVID-19”); and

WHEREAS, on March 18, 2020, the Proclamation of Local Emergency was ratified by the City Council through Resolution No. 18-2020; and

WHEREAS, On March 19, 2020, the California Governor issued Executive Order N-33-20, which imposed a statewide shelter-in-place order requiring individuals to remain in their places of residence except as needed to maintain continuity of operations of critical infrastructure, access necessities such as food, prescriptions, and healthcare, or engage in other authorized activities. Due to these directives, many businesses were required to cease operations and many essential businesses have been required to make changes to the way that they operate, including decreasing the volume of individuals that may frequent a given business in order to observe social distancing requirements; and

WHEREAS, on May 4, 2020, by Executive Order N-60-20, the Governor of the State of California directed the public to continue to follow the directives of the State Public Health Officer and county health officers when more restrictive and noting the continued threat of the global

COVID-19 pandemic, but allowing reopening of lower risk businesses to reopen pursuant to a framework developed by the State Public Health Officer; and

WHEREAS, on May 8, 2020, Governor Newsom announced a plan to allow the limited reopening of some businesses beyond those in the category of essential critical infrastructure, which is part of the "Resilience Roadmap" for California, the multiphase plan to modify the State Shelter Order; and

WHEREAS, on June 5, 2020, the City Manager in his capacity as Director of Emergency Services issued Emergency Order No. 2020-02 allowing businesses within the City to conduct outdoor commercial activity for a temporary period during the Local Emergency due to COVID-19 through an Outdoor Activity and Encroachment Agreement. Attached to Order No. 2020-02 was an Exhibit A that provided some minimum operational standards for those businesses that sought to conduct outdoor commercial activity; and

WHEREAS, Order No. 2020-02 was ratified by Council on June 8, 2020 through Resolution No. 35-2020; and

WHEREAS, on June 16, 2020, the State approved San Mateo County's request for a variance allowing the County to align with the Resilience Roadmap for California; and

WHEREAS, on June 17, 2020, the San Mateo County Health Officer issued Order No. c19-11 superseding previous Shelter-in-Place Orders and aligning the County with the State Shelter Order/Resilience Roadmap as to allowed activities; and

WHEREAS, on July 13, 2020, the State Public Health Officer issued an Order indicating that counties that appear on California Department of Public Health county monitoring list must close certain indoor operations of businesses, events or activities including gyms, malls, and salons but certain businesses can continue to operate outdoors in compliance with orders relating to face covering and social distancing requirements and other guidelines; and

WHEREAS, San Mateo County was added to the State's monitoring list in late July and early August and remains on the list; and

WHEREAS, pursuant to PMC section 9-4.2308, the City of Pacifica requires that all commercial and industrial uses conducted in any Commercial("C") or Manufacturing ("M") District be conducted entirely within an enclosed structure unless a use permit is obtained, except for certain specified temporary outdoor commercial activity; and

WHEREAS, pursuant to Chapter 2, of Title 7 of the PMC any activity in the public right-of-way, requires an encroachment permit from the City; and

WHEREAS, the City must consider making alterations to normal permitting requirements for certain outdoor commercial activity to allow businesses to extend their operations outdoors in a timely and safe manner, so as to provide a safe environment for customers; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, in order to protect the health and safety of the City, while fostering economic well-being of the City's citizens and businesses, the City wishes to assist businesses in remaining open, or re-opening when lawfully permitted to do so; and

WHEREAS, when non-essential businesses are permitted to re-open pursuant to State and County orders, laws, and/or guidance, the City will suspend certain permit and license requirements in order to facilitate business operations in a manner that is consistent with County Health Requirements including all social distancing requirements, and protects the health and safety of the citizens of Pacifica; and

WHEREAS, under authority contained in Sections 8610 and 8634 of the Government Code and PMC section 4-2.06(a) the City Manager is empowered, as the Director of Emergency Services, to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the emergency; however, such rules and regulations must be confirmed by the City Council at the earliest practicable time; and

WHEREAS, the City Manager is also empowered, as the Director of Emergency Services to execute all ordinary powers as City Manager, all the special powers conferred upon him by any statute or agreement approved by the City Council or by any other lawful authority, and, in conformity with the provisions of Section 38791 of the Government Code of the State, to exercise complete authority over the City and all police powers vested in the City by Constitution and general laws of the State; and

WHEREAS, due to the State allowing certain businesses to operate in accordance with the State's Resilience Roadmap, the minimum operational standards identified in Exhibit A of Order No. 2020-02 need to be revised to allow certain commercial outdoor activity; and

WHEREAS, the City Manager, in his capacity as Director of Emergency Services issued Emergency Order No. 2020-04, Amending Emergency Order No. 2020-02 to revise certain

minimum operational standards for outdoor commercial activity in the public right of way and on private property to allow certain businesses that have been authorized to operate in accordance with the State’s Resilience Roadmap during this period of local emergency due to COVID-19; and

WHEREAS, the City Council considered ratification of Order No. 2020-04 at the earliest practicable time after execution of Order No. 2020-04.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pacifica hereby finds that the City must take immediate action to permit certain outdoor commercial activity to allow businesses to extend their operations outdoors to prevent exposure to COVID-19 and to provide a safe environment for customers in compliance with State Executive Orders and Guidelines and County Health Orders.

BE IT FURTHER RESOLVED, that the City Council hereby ratifies and confirms Order No. 2020-04 “Order of the Director of Emergency Services to Amend Emergency Order No. 2020-02 to Revise Certain Minimum Operational Standards for Outdoor Commercial Activity in the Public Right of Way and on Private Property During Period of Local Emergency Due to COVID-19”, attached hereto, and the minimum operational standards set forth in Exhibit A to Order No. 2020-04, shall supersede those standards set forth in Exhibit A to Order No. 2020-02.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 24th day of August, 2020, by the following vote:

AYES, Councilmembers: Martin, Beckmeyer, Vaterlaus, O’Neill, Bier.

NOES, Councilmembers: N/A

ABSENT, Councilmembers: N/A

ABSTAIN, Councilmembers: N/A


Deirdre Martin (Sep 11, 2020 18:56 PDT)

Deirdre Martin, Mayor

ATTEST:



Sarah Coffey, City Clerk

APPROVED AS TO FORM:



Michelle Marchetta Kenyon, City Attorney

ATTACHMENT –ORDER NO. 2020-04

**ORDER OF THE DIRECTOR OF EMERGENCY SERVICES TO AMEND
EMERGENCY ORDER NO. 2020-02 TO REVISE CERTAIN MINIMUM OPERATIONAL
STANDARDS FOR OUTDOOR COMMERCIAL ACTIVITY IN THE PUBLIC RIGHT OF
WAY AND ON PRIVATE PROPERTY DURING PERIOD OF LOCAL EMERGENCY
DUE TO COVID-19 (ORDER NO. 2020-04)**

WHEREAS, Government Code section 8630 and section 4-2.01 *et seq.* of the Pacifica Municipal Code (“PMC”) empower the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City Council is not in session, subject to confirmation by the City Council at the earliest possible time; and

WHEREAS, on March 16, 2020, the City Manager in his capacity as Director of Emergency Services, issued a Proclamation of Local Emergency due to the global pandemic resulting from the novel coronavirus (“COVID-19”); and

WHEREAS, on March 18, 2020, the Proclamation of Local Emergency was ratified by the City Council through Resolution No. 18-2020; and

WHEREAS, on March 16, 2020, as a result of the widespread community transmission of COVID-19, the Health Officer of the County of San Mateo (“Health Officer”) issued an Order for all County residents to shelter in place except for certain essential activities. This mandate to shelter in place was extended and superseded by Order No. c19-5b dated March 31, 2020, Order No. c19-5c dated April 29, 2020, Order No. c19-5d on May 15, 2020 and Order No. c19-5e on May 28, 2020 and Order No. c19-5f on June 4, 2020 and all referenced appendices (collectively, the “County Health Requirements”); and

WHEREAS, on May 4, 2020, by Executive Order N-60-20, the Governor of the State of California directed the public to continue to follow the directives of the State Public Health Officer and county health officers when more restrictive and noting the continued threat of the global COVID-19 pandemic, but allowing reopening of lower risk businesses to reopen pursuant to a framework developed by the State Public Health Officer; and

WHEREAS, on May 8, 2020, Governor Newsom announced a plan to allow the limited reopening of some businesses beyond those in the category of essential critical infrastructure, which is part of the “Resilience Roadmap” for California, the multiphase plan to modify the State Shelter Order; and

WHEREAS, on June 16, 2020, the State approved San Mateo County’s request for a variance allowing the County to align with the Resilience Roadmap for California; and

WHEREAS, on June 17, 2020, the San Mateo County Health Officer issued Order No. c19-11) superseding previous Shelter-in-Place Orders and aligning the County with the State Shelter Order/Resilience Roadmap as to allowed activities; and

WHEREAS, the State, pursuant to its Resilience Roadmap, continues to identify certain industries and businesses that can commence operations in accordance with

other applicable orders and guidelines relating to gatherings, social distancing and face covering requirements to ensure the safe re-opening of California and to prevent further spread of the virus; and

WHEREAS, pursuant to PMC section 9-4.2308, the City of Pacifica requires that all commercial and industrial uses conducted in any Commercial("C") or Manufacturing ("M") District be conducted entirely within an enclosed structure unless a use permit is obtained, except for certain specified temporary outdoor commercial activity; and

WHEREAS, pursuant to Chapter 2, of Title 7 of the PMC any activity in the public right-of-way, requires an encroachment permit from the City; and

WHEREAS, the City must consider making alterations to normal permitting requirements for certain outdoor commercial activity to allow businesses to extend their operations outdoors in a timely and safe manner, so as to provide a safe environment for customers; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, in order to protect the health and safety of the City, while fostering economic well-being of the City's citizens and businesses, the City wishes to assist businesses in remaining open, or re-opening when lawfully permitted to do so; and

WHEREAS, when non-essential businesses are permitted to re-open pursuant to State and County orders, laws, and/or guidance, the City will suspend certain permit and license requirements in order to facilitate business operations in a manner that is consistent with County Health Requirements including all social distancing requirements, and protects the health and safety of the citizens of Pacifica; and

WHEREAS, under authority contained in Sections 8610 and 8634 of the Government Code and PMC section 4-2.06(a) the City Manager is empowered, as the Director of Emergency Services, to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the emergency; however, such rules and regulations must be confirmed by the City Council at the earliest practicable time; and

WHEREAS, the City Manager is also empowered, as the Director of Emergency Services to execute all ordinary powers as City Manager, all the special powers conferred upon him by any statute or agreement approved by the City Council or by any other lawful authority, and, in conformity with the provisions of Section 38791 of the Government Code of the State, to exercise complete authority over the City and all police powers vested in the City by Constitution and general laws of the State; and

WHEREAS, on June 5, 2020, the City Manager in his capacity as Director of Emergency Services issued Emergency Order No. 2020-02 allowing businesses within the City to conduct outdoor commercial activity for a temporary period during the Local Emergency due to COVID-19; and

WHEREAS, on June 8, 2020 Council ratified Emergency Order No. 2020-02 through Resolution No. 35-2020; and

WHEREAS, due to the State allowing certain businesses to operate the minimum operational standards identified in Exhibit A of Order No. 2020-02 need to be revised to allow certain commercial outdoor activity; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to issue and implement this Order to protect life, property and civil order.

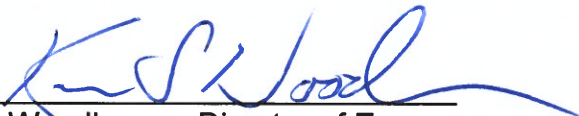
NOW, THEREFORE, BE IT RESOLVED, that I, Kevin Woodhouse, as the Director of Emergency Services of the City of Pacifica do hereby declare that the following rules and regulations are necessary and order the following:

SECTION 1. Amendment. Exhibit A to Order No. 2020-02 executed on June 5, 2020, shall be superseded by the revised Exhibit A, which is attached hereto and hereinafter incorporated by reference.

The revised Exhibit A, attached hereto, shall provide the minimum operational standards for those businesses that are allowed to operate pursuant to an Outdoor Activities and Encroachment Agreement.

Unless otherwise explicitly amended by this Section 1, all other rules and regulations set forth in Order No. 2020-02, shall remain unchanged and in full force and effect.

SECTION 2. Effective Date of Order. This Order shall become effective on the date signed by the Director of Emergency Operations for the City of Pacifica and shall expire unless confirmed by the City Council at the earliest practicable time

Date and time: 8/12/2020, 8:30 a.m. By: 
Kevin Woodhouse, Director of Emergency

Services

ATTEST:


Sarah Coffey, City Clerk

Exhibit A

Eligibility

1. Outdoor Activities (as defined in Order 2020-02) operations on private property shall be available only for those current tenants of the shopping center or commercial building and shall not be available to mobile businesses, or on vacant property, or on property without commercial tenants.
2. All Outdoor Activities conducted on private property must be done with consent of property owner.

Safety, Location, Accessibility

3. All Outdoor Activities shall be consistent with State Guidelines, Executive Orders and County Health Requirements issued by the State and County in response to COVID-19 ("State and County Orders"). Outdoor Activities must, at all times, be operated in accordance with State, and County Orders, including but not limited to, health guidelines regarding number of patrons, disinfectants, table spacing, use of shared materials, staff hygiene, and social distancing.
4. No permanent item or structures shall be installed on City of Pacifica property. No permanent or temporary signage shall be affixed to any publicly owned structure, including but not limited to streetlights, benches, bus shelters, or similar appurtenances.
5. The Outdoor Activity use area shall be contiguous to commercial structures or walkways immediately adjacent to structures. Businesses on private property shall utilize outdoor space contiguous to their tenant space unless authorized by the landlord to use other space contiguous to commercial structures or walkways immediately adjacent to structures. Notwithstanding the foregoing, a landlord may designate an alternative location for consolidated outdoor dining of take-away meals provided all other provisions of this Order and County Health Orders are followed.
6. Temporary barriers not exceeding three (3) feet in height shall be placed in a safe manner around the Outdoor Activity area.
7. The Outdoor Activity area must remain clear of drive aisles and fire lanes necessary to provide adequate vehicular circulation and access by public safety vehicles in the event of a fire, medical, or other emergency.
8. A temporary accessible ramp from curb to Outdoor Activity area is required if a permanent ramp is not already available.
9. Accessible parking stalls, accessible van loading areas, and associated paths of travel shall not be impeded by Outdoor Activity areas.
10. Restaurants shall not be permitted to expand beyond pre-Covid-19 seating capacity.
11. No permanent item or structures shall be installed on the outdoor use area.

12. All walkways and sidewalks shall maintain a four-foot clear path of travel.

Operations

13. Temporary canopies or tents must comply with fire requirements. Permits from the North County Fire Department are required for canopies or tents over 400 Sq Ft.

14. Hours of operation for Outdoor Activity uses shall not exceed the normal hours of operation for the corresponding business with which the outdoor use is associated.

15. Outdoor Activity use areas shall be maintained free of trash and debris.

16. Any outdoor alcohol consumption shall be in compliance with the rules and regulations of the Department of Alcoholic Beverage Control and County Health Orders.

17. No outdoor music or entertainment is permitted where the sound from the music or entertainment is amplified.

18. Outdoor, low volume, acoustic performances, entertainment and cultural events, may be permitted as part of the Outdoor Activity and shall be reviewed on a case by case basis in accordance with the then applicable City, State and County Health Orders and Guidelines. Any outdoor, low volume, acoustic performances, entertainment or cultural events, which are permitted as part of the Outdoor Activity shall terminate by 8:00 p.m.

19. Outdoor cooking or grilling is not permitted.









For Signature: ResolutionNo49-2020_RatifyingEmergencyOrder2020-04_ReOutdoorActivitiesAmendment-Approved

Final Audit Report

2020-09-12

Created:	2020-09-12
By:	Sarah Coffey (coffeys@ci.pacifica.ca.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAXNGQe8_7FUyA1LT-ugYvow_Rh2xkfwUf

"For Signature: ResolutionNo49-2020_RatifyingEmergencyOrder2020-04_ReOutdoorActivitiesAmendment-Approved" History

-  Document created by Sarah Coffey (coffeys@ci.pacifica.ca.us)
2020-09-12 - 0:15:35 AM GMT- IP address: 68.65.68.29
-  Document emailed to Deirdre Martin (martind@ci.pacifica.ca.us) for signature
2020-09-12 - 0:16:21 AM GMT
-  Email viewed by Deirdre Martin (martind@ci.pacifica.ca.us)
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-  Document e-signed by Deirdre Martin (martind@ci.pacifica.ca.us)
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