

NOTICE OF SPECIAL MEETING

Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the **Tracy City Council** is hereby called for:

Date/Time: Tuesday, November 24, 2020 at 6:00 p.m.
(or as soon thereafter as possible)

Location: Tracy City Hall
333 Civic Center Plaza, Tracy

THIS SPECIAL MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-29-20 WHICH SUSPENDS CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT

RESIDENTS ARE STRONGLY ENCOURAGED TO PARTICIPATE REMOTELY AT THE NOVEMBER 24, 2020 MEETING

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

Remote Access to City of Tracy Council Meeting:

In accordance with the guidelines provided in Executive Order N-29-20 on social distancing measures, the City of Tracy will allow for remote participation at the upcoming Special City Council meeting on Tuesday, November 24, 2020.

As always, the public may view the City Council meetings live on the City of Tracy's website at www.CityofTracy.org or on Channel 26. To view from the City's website, select "Watch Live Council Meetings" from the drop down menu "Select an Online Service" at the top of the City's homepage. You will be directed to the "Council Meeting Videos" page where you may select the video for the appropriate date under "Upcoming Events."

If you only wish to watch the meeting and do not wish to address the Council, the City requests that you stream the meeting through the City's website or watch on Channel 26.

Remote Public Comment:

*Public comment, limited to 250 words or less, submitted via email **will be accepted for agenda items before the start of the Council meeting at 6:00 p.m. Please send an email to publiccomment@cityoftracy.org** and identify the item you wish to comment on in your email's subject line.*

During the upcoming Council meeting public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Phone** by dialing (209) 831-6010, or
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number: 126 904 2727** and **Event Password: TracyCC**
 - **If you would like to participate in the public comment anonymously**, you may submit your comment via phone or in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.

- *Protocols for submitting comments by **phone**:*
 - *Comments received by phone for the “Items from the Audience/Public Comment” portion of the agenda must be received by the time the Mayor opens that portion of the agenda for discussion.*
 - *Comments received by phone on each “Agendized Item” will be accepted until the Mayor announces that public comment for that item is closed.*
- *Protocols for commenting via WebEx:*
 - *If you wish to comment under “Items from the Audience/Public Comment” portion of the agenda:*
 - *Listen for the Mayor to open “Items from the Audience/Public Comment”, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the “Items from the Audience/Public Comment” will be accepted until the public comment period is closed.*
- *The total allotted time for public comment under “Items from the Audience/Public Comment” will be 15 minutes:*

1. Call to Order
2. Roll Call
3. Items from the Audience - Items from the audience - *In accordance with Council Meeting Protocols and Rules of Procedure, adopted by Resolution 2019-240, a five-minute maximum time limit per speaker will apply to all individuals speaking during “Items from the Audience/Public Comment”. For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council.*
4. DISCUSS COVID-19 STATE RESTRICTIONS ON BUSINESSES, PLACES OF WORSHIP, AND GATHERINGS, ALTERNATIVES TO COMPLIANCE INCLUDING DECLARING TRACY A SANCTUARY CITY FOR BUSINESSES AND CITY EFFORTS TO SUPPORT LOCAL BUSINESSES; AND PROVIDE DIRECTION TO STAFF
5. Council Items and Comments
6. Adjournment



Mayor

Posting Date: Monday, November 23, 2020

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6105), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Tracy City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 333 Civic Center Plaza, Tracy, during normal business hours.

AGENDA ITEM 4

REQUEST

DISCUSS COVID-19 STATE RESTRICTIONS ON BUSINESSES, PLACES OF WORSHIP, AND GATHERINGS, ALTERNATIVES TO COMPLIANCE INCLUDING DECLARING TRACY A SANCTUARY CITY FOR BUSINESSES AND CITY EFFORTS TO SUPPORT LOCAL BUSINESSES; AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

During the City Council meeting on November 17, 2020, Mayor Robert Rickman suggested that the City explore declaring Tracy as a sanctuary city for businesses in light of the economic impacts of COVID-19 coupled with recent actions from the State due to the rising number of coronavirus cases. The suggestion was seconded by Council Member Veronica Vargas.

This staff report provides information related to COVID-19 state restrictions on businesses, places of worship, and gatherings, alternatives to compliance with said restrictions, including declaring the City of Tracy a sanctuary city for businesses, and City efforts to support local businesses. This item requests that the City Council provide direction to staff.

DISCUSSION

Background

On March 4, 2020, Governor Newsom declared a state of emergency for California associated with the outbreak of COVID-19. In response to the growing health crisis, the City Manager, in her authority as the Director of Emergency Services, proclaimed a local emergency in Tracy on March 12, 2020 due to COVID-19. The City Council ratified that emergency declaration on March 17, 2020. The following day, March 18, 2020, the City Council adopted a directive ordering residents to shelter in place.

Public health experts have explained that COVID-19 is easily transmissible from person to person. To slow the spread of the disease, on March 19, 2020, the Governor of California issued Executive Order N-33-20 (Attachment A) ordering all individuals within the State of California to comply with public health directives and to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction ("State Stay at Home Order"). Executive Order N-33-20 was very similar to the Directive adopted by the City Council on March 18th recommending residents remain at home except to receive or provide essential services. Activities, including business operations that were identified as being "essential," were allowed. However, any business operation or activity not identified as "essential" was ordered to cease immediately.

On March 20, 2020, the San Joaquin County Public Health Officer and the Director of Emergency Services issued a County Stay at Home Order that implemented the State Stay at Home Order "to ensure that the maximum number of people self-isolate in their

homes or places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID 19...”

In April of 2020, the Governor, in coordination with the State Public Health Officer, articulated a four-stage framework referred to as the “California Resilience Road Map” to allow for gradually relaxing the Stay at Home Order requirements, while continuing to preserve public health. On May, 4, 2020, the Governor issued Executive Order N-60-20 ordering all individuals within the State of California to comply with the State Public Health Officer’s framework for resuming activities unless stricter local regulations exist and directing the State Public Health Officer to establish criteria and procedures to determine whether and how particular local jurisdictions may implement public health measures that depart from the statewide Stay at Home Order.

The implementation of the Roadmap resulted in a shift from the State Stay at Home Order paradigm of “essential” service versus “non-essential” service to a framework that identified businesses and activities as low-risk and high-risk activities. It modified the Stay at Home Order based on specific indicators such as hospitalizations rates, healthcare surge capacity and the ability for businesses, schools and child care facilities to support physical distancing. In addition, the State began to release “Industry Guidance” documents on how various sectors could safely re-open.

On May 8, 2020, certain counties in the State moved to Stage 2 of the Roadmap which allowed the re-opening of more industrial sectors such as retail for curbside pick-up. However, dine-in restaurants and shopping malls were not allowed to operate. San Joaquin County was granted a variance on May 21, 2020 and the County Stay at Home Order was subsequently amended to expand the categories of allowable businesses to include restaurants, barbershops, hair salons and limited personal care services.

On July 1, 2020, the State directed counties on the State’s monitoring list – which tracked criteria such as case rate and COVID hospitalizations – for three consecutive days or more close indoor operations for certain sectors. On July 13, 2020, the State directed that businesses in counties on the State’s monitoring list, including San Joaquin, cease indoor operations in various sectors such as gyms and fitness centers, personal care services and indoor malls. The County issued local health orders on July 2, 2020 and on July 13, 2020, implementing these directives from the State.

On August 28, 2020, the State Public Health Officer introduced “California’s Plan for Reducing COVID-19 and Adjusting Permitted Sector Activities to Keep Californians Healthy and Safe.” The plan is referred to as the “Blueprint for a Safer Economy” or “Blueprint” and establishes four tiers based on case rates, testing positivity and a health equity metric in each county (Attachment B). On August 31, 2020, the County issued a local health order adopting and incorporating the Blueprint and associated documents.

On November 16, 2020 Governor Newsom announced that the State was pulling the “emergency brake” in the State’s Blueprint given a sharp increase in the number of COVID-19 cases in California. This announcement led to San Joaquin County, effective November 17th, moving back to the more restrictive Purple, or Widespread, Tier along with 27 other counties. The shift to the Purple Tier resulted in the closure of indoor

operations of restaurants, gyms and fitness centers, and bars (where no food is served), movie theaters, and places of worship.

On November 19, the Governor and State Public Health Officer Issued a "Limited Stay at Home Order," effective in counties in Tier One (Purple/Widespread), including San Joaquin County, prohibiting non-essential businesses and gatherings with members of other households between 10 PM and 5 AM, effective November 21 at 10 PM until 5 AM on December 21.

Alternatives to Compliance with COVID-19 Restrictions

At the November 17, 2020 Council meeting, Council requested a discussion about alternatives to compliance with State COVID-19 business restrictions in response to Governor Newsom's "emergency brake" as it relates to the State's Blueprint for a Safer Economy. The following is a description of some alternatives with an analysis of potential impacts.

- Declare Sanctuary City for Businesses like other Cities

The COVID-19 Stay at Home Orders have had significant personal and financial impacts on local small businesses throughout California. The governing bodies of many cities and counties have expressed frustration with the heavy burden and impact the state and county stay at home orders have had on local businesses. According to an Economic Impact Report released in September by Yelp, the crowd-sourcing business review website, a total of 163,735 businesses closed in the U.S. from March 1 to August 31st of this year. The report noted that while some business have been able to effectively transition to new operating modes some have struggled and the closure of businesses has increased.

In response to the State's Stay at Home Order, some communities such as the City of Atwater (population 29,000) in Merced County, adopted a resolution declaring itself a "Sanctuary City of All Business" (Attachment C). Atwater resolved that it "shall not,...actively join forces with other agencies solely for the purpose of enforcing state and county COVID-19 orders" and that it "shall not,...take any direct action against any businesses or individuals based solely on their actual or perceived business status..." All cities have full legislative discretion to local rules and ordinances as they see fit, however, State regulatory authority takes precedence on matters within state control. Thus, while a city may choose to de-prioritize enforcement of certain state laws, the State through its own law enforcement and regulatory/administrative means may pursue enforcement.

Cities and counties that have taken similar actions as Atwater have been deemed ineligible for the State's financial assistance through the Coronavirus Aid Relief Economic Assistance Act (CARES Act). The State is conditioning receipt of CARES Act funding on compliance with state and county public health orders. The Governor's Office of Emergency Services deemed Atwater ineligible for CARES Act funding (Attachment D).

Based on the state's population, California received a total of \$15.3 billion Coronavirus Relief Funds (CRF) provided in the federal CARES Act (Act). Pursuant to the provisions of the Act, cities with populations of less than 300,000 were allocated \$275 million. Funding is contingent on the counties' adherence to federal guidance, the State's stay at home requirements and other health requirements as directed in Governor's Executive Order N-33-20, any subsequent executive orders or statutes, and all California Department of Public Health orders, directives, and guidance issued in response to the COVID-19 public health emergency.

The City, which has been complying with the State's requirements, submitted a funding application on July 2, 2020 and was allocated \$1.18 million dollars for use on projects that are eligible under the Act. To date, the City has committed to spend the full amount. The deadline to spend the funds is December 31, 2020. As a result, the City has either spent or placed orders to spend the funds within the next few weeks. Without CARES funding, the General Fund would need to provide funding for these commitment. In addition, the City has received several smaller grants through from CARES funds allocated by County; such as CDBG grants, homeless/shelter grants, and others.

As with most Federal funding, the State has control over distribution of funds to local government, including counties, cities, and special districts. By declaring a sanctuary city for businesses, the State has the authority to withdraw the CARES funds from City. There is also a risk that the county and special district, such as Tracy Rural, funds may also be withheld, because of this declaration. In addition, the State oversees the allocations of FEMA funds through CalOES (California Office of Emergency Services), which the City expects to claim another \$500,000 or more in emergency funding reimbursements. After conferring with the City's State and Federal lobbyist, staff has not learned that the State intends to extend its authority to withdrawal CARES funding to overlapping counties and districts, nor impact the City's FEMA claims. However, it is a potential risk that should be noted.

- Existing City Compliance Approach -Continuing Education and Community Outreach

When the State first issued the Stay at Home Order in March 2020, Governor Newsom indicated that the preferred enforcement approach was education and social pressure to achieve compliance. However, the Stay at Home Order was issued pursuant to various California Health and Safety Code sections and enforceable under California law, including the California Emergency Services Act ("CESA") (codified as Chapter 7 of Division 1, Title 2 of the Government Code), which establishes that the violation of any lawful order or regulation promulgated under CESA can be charged as a misdemeanor and punishable with a fine not to exceed \$1,000 and/or imprisonment for up to six months. When the Roadmap was released in the summer, Governor Newsom once again reiterated that the State's preferred approach of enforcement through education, however, the State identified various state regulatory and licensing agencies like Alcohol Beverage Control (ABC) and Division of Occupational Safety and Health (DOSH), known as Cal/OSHA, as resources that the public can contact for enforcement. Based on reports from local businesses, ABC conducted educational site visits in Tracy around this time to inform businesses of regulations.

The City has similarly taken an education first approach to achieving compliance with the State and County Stay at Home Orders. Code Enforcement and Economic Development have conducted on-site visits to various businesses to inform them of the Stay at Home Orders. In addition, Code Enforcement has visited businesses based on complaints received through the City's Government Outreach app. Code Enforcement has been largely successful in achieving compliance through this approach with the exception of a small number of bars that have been issued cease and desist orders that warn that continued violations may result in state regulatory bodies being notified. No criminal citations have been issued for violations of State and County public health orders in Tracy.

City Efforts to Support Local Business

Since the beginning of the COVID-19 pandemic, City staff, in particular Development Services, Economic Development and Finance, have worked on supporting local businesses as they face disruptions in their operations due to COVID-19 Stay-At Home orders and restrictions. The following is a summary of actions taken by the City:

- Small business loans
 - The City developed and implemented a Small Business Forgivable Loan Program utilizing Community Development Block Grant Funding
 - The City received nearly 100 applications since June 11.
 - The City deployed \$250,000 in funding to date out of about \$435,000 available, with 20 applications pending for an additional total of \$180,000.
 - Recipients range across small business in the service, construction, retail, food and beverage, and automotive sectors.
- Street Eatery Permits/Outdoor Dining
 - The City, in collaboration with the Tracy City Center Association (TCCA), facilitated numerous outside dining permits, including a partial closing of 10th Street to accommodate additional seating. The City also facilitated the purchase of safety K-rails to accommodate the partial street closure.
 - The City is currently working with numerous restaurants and retail merchants to erect all weather tents to facilitate outside dining during the winter months.
- Temporary Use Permits (TUP)
 - The City extended the timing allowed for temporary uses on private property during the pandemic.
 - Uses include outside dining on private property, food truck operations, outside gyms etc.
 - Permit fees have been waived as Council has appropriated funds to cover expenses
 - Expedited permitting with 11 TUPs issued since the urgency ordinance was adopted on July 28th.

- Other small business assistance
 - Shared COVID-related resources and updates via 12,783 email communications in four blasts to businesses via HdL since March.
 - Collaborated with the Tracy Chamber of Commerce to host virtual training and locating resource seminars.
 - Promoted the County's loan program and other resources available to small businesses during COVID (e.g. PPE).

In addition to these efforts by the City, local businesses that have been impacted by COVID-19 have availed themselves to support from the County, State and Federal resources which include grant programs and extension of deadlines. In addition, Congress continues to discuss a new stimulus package, which could result in a second round of new small business loans to local businesses. As with CARES funds, the City will receive any allocations via the State.

FISCAL IMPACT

Through the State, the City has been allocated \$1.18 million under the CARES Act. The State has indicated that funds are at risk if the City declares itself a sanctuary city for businesses. There is also a potential risk to other grants administered by the State. The City has already committed expenditures in anticipation of these funds. Without the CARES funds, the City's General Fund will be used to fund these expenses.

STRATEGIC PLAN

This agenda item is a routine operational item that does not relate to the Council's Strategic Plans.

RECOMMENDATION

That City Council discuss COVID-19 State restrictions on businesses, places of worship, and gatherings, alternatives to compliance including declaring Tracy a sanctuary city for businesses and City efforts to support local businesses; and provide direction to staff.

Prepared by: Leticia Ramirez, City Attorney
Andrew Malik, Assistant City Manager
Karin Schnaider, Finance Director

Reviewed by: Sekou Millington, Police Chief
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS:

A- March 18, 2020 Directive to Shelter in Place

- B- State Blueprint for a Safer Economy
- C- Resolution from the City of Atwater
- D- Cal/OES Letter to City of Atwater

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order 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>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

Blueprint for a Safer Economy

Activity and Business Tiers

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Critical Infrastructure	Open with modifications	Open with modifications	Open with modifications	Open with modifications
Gatherings*	Outdoor gatherings only with modifications <ul style="list-style-type: none"> • Max 3 households 	Indoor gatherings strongly discouraged, allowed with modifications <ul style="list-style-type: none"> • Max 3 households 	Indoor gatherings strongly discouraged, allowed with modifications <ul style="list-style-type: none"> • Max 3 households 	Indoor gatherings strongly discouraged, allowed with modifications <ul style="list-style-type: none"> • Max 3 households
Limited Services	Open with modifications	Open with modifications	Open with modifications	Open with modifications
Outdoor Playgrounds & Outdoor Recreational Facilities **	Open with modifications	Open with modifications	Open with modifications	Open with modifications
Hair Salons & Barbershops	Open Indoors with modifications	Open indoors with modifications	Open indoors with modifications	Open indoors with modifications

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
All Retail (including critical infrastructure, except standalone grocers)	Open Indoors with modifications • Max 25% capacity	Open Indoors with modifications • Max 50% capacity	Open Indoors with modifications	Open Indoors with modifications
Shopping Centers (Malls, Destination Centers, Swap Meets)	Open Indoors with modifications • Max 25% capacity • Closed common areas • Closed food courts	Open indoors with modifications • Max 50% capacity • Closed common areas • Reduced capacity food courts (see restaurants)	Open indoors with modifications • Closed common areas • Reduced capacity food courts (see restaurants)	Open Indoors with modifications • Reduced capacity food courts (see restaurants)
Personal Care Services***	Open Indoors with modifications	Open indoors with modifications	Open indoors with modifications	Open indoors with modifications
Museums, Zoos, and Aquariums	Outdoor Only with modifications	Open indoors with modifications • Indoor activities max 25% capacity	Open indoors with modifications • Indoor activities max 50% capacity	Open indoors with modifications

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Places of Worship	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> • Max 25% capacity or 100 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity or 200 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity
Movie Theaters	Outdoor Only with modifications	Open Indoors with modifications <ul style="list-style-type: none"> • Max 25% capacity or 100 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity or 200 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity
Hotels and Lodging	Open with modifications	Open with modifications <ul style="list-style-type: none"> • +Fitness centers (+10%) 	Open with modifications <ul style="list-style-type: none"> • +Fitness centers (+25%) • +Indoor pools 	Open with modifications <ul style="list-style-type: none"> • +Fitness Centers (50%) • +Spa facilities etc.
Gyms and Fitness Centers	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> • Max 10% capacity • +Climbing walls 	Open indoors with modifications <ul style="list-style-type: none"> • Max 25% capacity • +Indoor pools 	Open indoors with modifications <ul style="list-style-type: none"> • +Saunas • +Steam rooms • Max 50% capacity

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Restaurants	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> • Max 25% capacity or 100 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity or 200 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity
Wineries	Outdoor Only with modifications	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> • Max 25% capacity indoors, or 100 people, whichever is fewer 	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity or 200 people indoors, whichever is fewer
Bars, Breweries, and Distilleries (where no meal provided) (follow restaurant guidance where meal is provided)	Closed	Closed	Open Outdoors with modifications	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity
Family Entertainment Centers	Outdoor Only with modifications e.g. <ul style="list-style-type: none"> • Kart Racing • Mini Golf • Batting Cages 	Outdoor Only with modifications e.g. <ul style="list-style-type: none"> • Kart Racing • Mini Golf • Batting Cages 	Open Indoors for naturally distanced activities with modifications <ul style="list-style-type: none"> • Max 25% capacity • Bowling Alleys 	Open indoors for activities with increased risk of proximity and mixing with modifications <ul style="list-style-type: none"> • Max 50% capacity • Arcade Games • Ice and roller skating • Indoor playgrounds

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Cardrooms, Satellite Wagering	Outdoor Only with modifications	Outdoor Only with modifications	Open indoors with modifications <ul style="list-style-type: none"> • Max 25% capacity 	Open indoors with modifications <ul style="list-style-type: none"> • Max 50% capacity
Offices	Remote	Remote	Open indoors with modifications <ul style="list-style-type: none"> • Encourage telework 	Open indoors with modifications <ul style="list-style-type: none"> • Encourage telework
Professional Sports	Open <ul style="list-style-type: none"> • Without live audiences • With modifications 	Open <ul style="list-style-type: none"> • Without live audiences • With modifications 	Open <ul style="list-style-type: none"> • Without live audiences • With modifications 	Open <ul style="list-style-type: none"> • Without live audiences • With modifications
Live Audience Sports***	Closed	Closed	Outdoors Only <ul style="list-style-type: none"> • Max 20% • Regional visitors (120 miles) • Advanced reservations only • Assigned seating only • In-seat concessions only (No concourse sales) 	Outdoors Only <ul style="list-style-type: none"> • Max 25% • Regional visitors (120 miles) • Advanced reservations only • Assigned seating only • In-seat concessions only (No concourse sales)

SECTORS	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Amusement Parks***	Closed	Closed	Smaller Parks Open <ul style="list-style-type: none"> • 25% capacity or 500 people, whichever is fewer • Outdoor attractions only • In-county visitors only • Advanced reservations only 	Larger Parks Open <ul style="list-style-type: none"> • 25% capacity • Advanced reservations only

*Gatherings updated November 13, 2020

**Outdoor playgrounds and outdoor recreational facilities updated September 28, 2020

***Personal care services, live audience professional sports and amusement parks updated October 20, 2020



**CITY COUNCIL
OF THE
CITY OF ATWATER**

RESOLUTION NO. 3148-20

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ATWATER AFFIRMING THE CITY'S
COMMITMENT TO FUNDAMENTAL RIGHTS OF
LIFE, LIBERTY, AND PROPERTY, AND
DECLARING THE CITY OF ATWATER A
SANCTUARY CITY FOR ALL BUSINESSES**

WHEREAS, the City of Atwater recognizes that the Constitution of the United States enshrines certain rights of all Americans, including those fundamental liberty interests set forth in the Fourteenth Amendment that prohibit any state from depriving any person of life, liberty, or property, without due process of law; and

WHEREAS, the City of Atwater recognizes that the Declaration of Independence advanced the "inalienable rights" of life, liberty, and the pursuit of happiness in the face of tyrannical governmental overreach; and

WHEREAS, each of the City of Atwater duly elected or appointed public servants have sworn to defend and uphold the United States Constitution and the Constitution of the State of California; and

WHEREAS, recent state and county orders have been issued which have deemed certain businesses as "essential" and ordered all other businesses to stay shuttered, closed, forcing them perilously on life support as they fight for their very economic survival and livelihood; and

WHEREAS, the City of Atwater welcomes, honors, and respects the contributions of all businesses, regardless of their size, and regardless of whether or not they have been deemed "essential" by state or county bodies; and

WHEREAS, the City of Atwater's diverse businesses positively contribute to the economic, cultural, and social fabric of the City; and

WHEREAS, all businesses in the City have not only been a catalyst for the City's recent economic recovery, but have been the backbone of the City throughout its 98-year history; and

WHEREAS, the City of Atwater's businesses are socially responsible, and are able and willing to maintain effective social distancing and health protocols to ensure the City remains one of the strongest COVID-19 success stories in California; and

WHEREAS, fostering a relationship of trust, respect, and open communication between City officials and businesses is essential to the City's mission of delivering effective public services in partnership with the community, thereby advancing a high quality of life for residents; and

WHEREAS, the City of Atwater seeks to foster trust, not fear, between City officials and businesses, while properly allocating limited local resources and encouraging cooperation and open communication, to ensure public safety and due process for all, irrespective of business status; and

WHEREAS, the City of Atwater desires to demonstrate its commitment to its businesses by providing a safe community and by assuring them that, in accordance with federal and state laws and all state licensing authorities, the City will not of its own accord abridge such freedoms and rights; and

WHEREAS, the City of Atwater recognizes the inalienable rights of individuals, as individuals, to earn a living, to employ others or be employed, to provide income for their families, to give back to the community, to treat neighbors with respect and care, and contribute to the overall health and well-being of the community, without the need for undue governmental overreach and coercion.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Atwater does hereby resolve as follows:

SECTION 1: City of Atwater shall not, in accordance with state and federal law, and in order to properly allocate limited local resources and optimize cooperation and communication to ensure public safety and due process for all, irrespective of business status, actively join forces with other agencies solely for the purpose of enforcing state or county COVID-19 orders; and

SECTION 2: City of Atwater shall not, in accordance with state and federal law, take any direct action against any businesses or individuals based solely on their actual or perceived business status; and

SECTION 3: The City of Atwater recognizes that state and county authorities directly license, permit, and regulate some businesses within the City and nothing in this Resolution is intended to abridge such authorities from overseeing applicable license regulations and restraints on such City businesses; and

SECTION 4: Subject to the foregoing, the City of Atwater hereby declares that it is a Sanctuary City for All Businesses.

The foregoing resolution is hereby adopted this 15th day of May 2020.

AYES: Vierra, Raymond, Cale, Creighton
NOES: None
ABSENT: Ambriz

APPROVED:



PAUL CREIGHTON, MAYOR

ATTEST:



LUCY ARMSTRONG, CITY CLERK

GAVIN NEWSOM
GOVERNOR

MARK S. GHILARDUCCI
DIRECTOR



July 23, 2020

Ms. Lori Waterman
City Manager
City of Atwater
750 Bellevue Road
Atwater, CA 95301
LWaterman@atwater.org

Dear Ms. Waterman:

On March 4, 2020, Governor Newsom proclaimed a State of Emergency to exist statewide due to the threat of COVID-19. Since that time, COVID-19 has spread throughout California, requiring further action to protect the public health and safety. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, which incorporated the State Public Health Officer's Stay-at-Home Order. This Order continues to apply statewide and remains necessary for the preservation of public health and safety. On May 4, 2020, the Governor issued Executive Order N-60-20. The Order allows local jurisdictions to take measured and meaningful steps to modify public health directives where public health data supports such a decision.

All of these actions were, and remain, necessary to preserve public health and safety. Merced County is no exception, as it has been on the county monitoring list for 24 days with elevated disease transmission and a test positivity rate of 16.7%. Additionally, hospitalizations in the county continue to increase. COVID-19 does not stop at administrative boundaries and one community's failure to follow public health orders will negatively impact other communities.

The State of California is providing and distributing financial support to assist local governments in responding to the impacts of the unprecedented COVID-19 pandemic. This funding is conditioned on the jurisdiction's adherence to federal guidance and the state's stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, subsequent executive orders or statutes, and all State Department of Public Health orders, directives, and guidance issued in response to the COVID-19 public health

emergency.¹ Local governments must certify compliance to the Department of Finance when they apply for this funding. In the certification, the jurisdiction must affirm it has not enacted any ordinances or resolutions that are inconsistent with the state's stay-at-home order. This is necessary to ensure that all jurisdictions are adhering to public health directives and ensure for the protection of public health and safety.

As you are aware, on May 15, 2020, the City of Atwater passed Resolution number 3148-20, declaring the City of Atwater "a sanctuary city for all businesses." This Resolution, which is inconsistent with the state's public health directives, threatens the public health and safety of the City of Atwater's residents and renders the City ineligible for up to \$387,428 in state assistance in accordance with the FY 20-21 State Budget Act.

It is our goal to ensure that every eligible jurisdiction in California, including the City of Atwater, receives this funding. In order to be eligible for funding, assuming it meets the other prescribed criteria, the City would need to rescind this resolution. I ask that you please advise once the City has formally rescinded this Resolution and has moved forward to expeditiously implement and enforce state public health guidelines. Thank you for your anticipated cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Ghilarducci", with a long horizontal flourish extending to the right.

MARK S. GHILARDUCCI
Director

Enclosure: City of Atwater Resolution 3148-20

cc: Assemblymember Adam Gray
Senator Anna Caballero
Representative Jim Costa

¹ http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB89