

Folsom City Council Staff Report

MEETING DATE:	5/12/2020
AGENDA SECTION:	Old Business
SUBJECT:	Resolution No. 10433 – A Resolution of the City Council Confirming Emergency Order DES-04-20 Issued by the Director of Emergency Services
FROM:	City Attorney's Office

RECOMMENDATION / CITY COUNCIL ACTION

Staff respectfully recommends that the City Council pass and adopt the following Resolution:

Resolution No. 10433 – A Resolution of the City Council Confirming Emergency Order DES-04-20 Issued by the Director of Emergency Services

BACKGROUND / ISSUE

The rapid spread of the novel coronavirus 2019 (COVID-19) throughout the country has caused many states, including the State of California, to declare a state of emergency. Part of the reasons for the emergency declarations is due to the lack of a vaccine and effective medical treatment to help patients recover from COVID-19, which has resulted in severe illnesses, health complications and deaths worldwide.

The Governor of the State of California declared a state of emergency on March 4, 2020. The Sacramento County Board of Supervisors ratified the declaration of a state of emergency by the County Health Officer on March 10, 2020. The Folsom City Council declared the existence of a local emergency on March 16, 2020.

POLICY / RULE

Rules and regulations issued by the City's Director of Emergency Services must be confirmed by the City Council at the earliest practicable time. Folsom Municipal Code Section 2.28.040(E)(1).

ANALYSIS

On the basis of the City Council declaration of a local emergency, the City’s Director of Emergency Services (City Manager) is empowered to make and issue rules and regulations on matters reasonably related to the protection of life, environment and property as affected by such emergency, and that such emergency rules and regulations must be confirmed by the City Council at the earliest practicable opportunity.

Following the City Council’s proclamation of a local emergency, the City’s Director of Emergency Services issued Emergency Order DES-01-20 on March 20, 2020 (confirmed by the City Council on March 27, 2020), Emergency Order DES-02-20 on April 1, 2020 (confirmed by the City Council on April 14, 2020), and Emergency Order DES-03-20 on April 10, 2020 (confirmed by the City Council on April 28, 2020).

In the interest of protecting life and property of those affected by the COVID-19 emergency, the City’s Director of Emergency Services issued a further Emergency Order, DES-04-20, on May 1, 2020 (Attachment No. 2). Said Emergency Order is being presented to the City Council for confirmation consistent with Section 2.28.040(E)(1) of the Folsom Municipal Code.

FINANCIAL IMPACT

Costs and expenses associated with emergency response actions are budgeted in the City’s General Fund, which may be reimbursable under the State and Federal emergency proclamations.

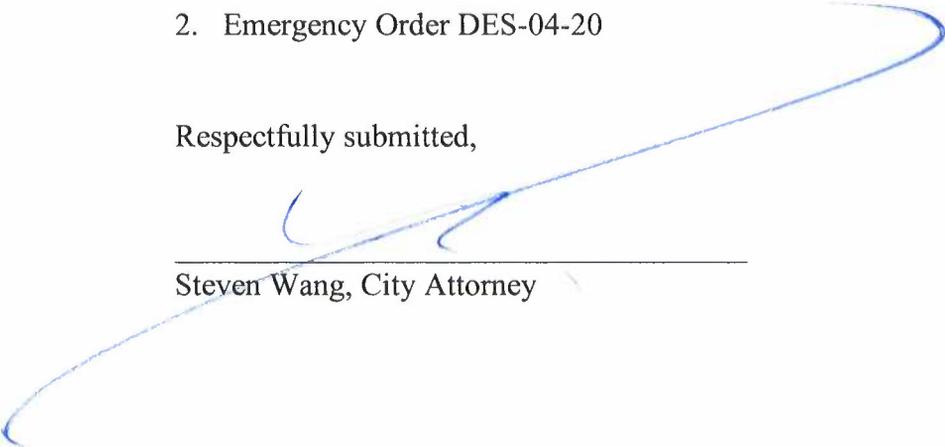
ENVIRONMENTAL REVIEW

This action is not considered a project under Section 15061(b)(3) of the California Environmental Quality Act Guidelines, and as such is exempt from environmental review.

ATTACHMENTS

1. Resolution No. 10433 – A Resolution of the City Council Confirming Emergency Order DES-04-20 Issued by the Director of Emergency Services
2. Emergency Order DES-04-20

Respectfully submitted,



Steven Wang, City Attorney

ATTACHMENT 1

RESOLUTION NO. 10433

**A RESOLUTION OF THE CITY COUNCIL CONFIRMING
EMERGENCY ORDER DES-04-20 ISSUED BY THE
DIRECTOR OF EMERGENCY SERVICES**

WHEREAS, the Governor of the State of California proclaimed on March 4, 2020 a State of Emergency to exist in California as a result of the threat from the rapid spread of a respiratory illness caused by novel coronavirus 2019 (COVID-19); and

WHEREAS, Sacramento County has confirmed community transmission of COVID-19, with multiple cases of diagnosed patients, and cautioned that the rapid transmission of COVID-19 poses an ongoing risk and likelihood of additional patients in Sacramento County; and

WHEREAS, on March 10, 2020 the Sacramento County Board of Supervisors ratified the County Public Health Officer's Proclamation of Local Public Health Emergency in Sacramento County due to the threat to public health and safety from COVID-19; and

WHEREAS, there is currently no vaccine or medical treatment specifically for COVID-19, which constitutes a potential epidemic under Section 8558 of the Government Code that, by reason of its magnitude, is potentially beyond the control of the services, personnel, equipment and facilities of the City of Folsom and requires the combined forces of a mutual aid region or regions to contain, control, combat, treat and mitigate; and

WHEREAS, on March 16, 2020, the City Council adopted Resolution No. 10408 and proclaimed the existence of a local emergency in the City of Folsom; and

WHEREAS, following the City Council proclamation of a local emergency, and based on the authority in Section 2.28.040 of the Folsom Municipal Code, the City's Director of Emergency Services issued Emergency Order DES-01-20 on March 20, 2020 (confirmed by the City Council on March 27, 2020), Emergency Order DES-02-20 on April 1, 2020 (confirmed by the City Council on April 14, 2020), and Emergency Order DES-03-20 on April 10, 2020 (confirmed by the City Council on April 28, 2020); and

WHEREAS, in the interest of protecting life and property affected by the COVID-19 emergency, the City's Director of Emergency Services issued further rules and regulations in Emergency Order DES-04-20 on May 1, 2020; and

WHEREAS, rules and regulations issued by the City's Director of Emergency Services shall be confirmed by the City Council as early as practicable under the circumstances of the emergency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Folsom that Emergency Order DES-04-20 is hereby confirmed, and all actions taken in furtherance thereto are hereby ratified and approved.

PASSED AND ADOPTED this 12th day of May, 2020, by the following roll-call vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):
ABSTAIN: Council Member(s):

Sarah Aquino, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

ATTACHMENT 2



EMERGENCY ORDER DES-04-20

Pursuant to the Proclamation of a State of Emergency by California Governor Gavin Newsom on March 4, 2020 in response to the rapid spread of the novel coronavirus (COVID-19), the Governor's Executive Orders (including but not limited to N-33-20), the City's Proclamation of a Local Emergency dated March 16, 2020, and the Orders of the Sacramento County Health Officer dated March 19, 2020, April 7, 2020 and May 1, 2020, and Government Code Section 8634, I hereby issue the following Order:

1. In the interest of balancing the public's needs for greater recreational opportunities and the City's efforts to contain and limit the spread of COVID-19 for the protection of life, health and safety of Folsom residents, City facilities listed on Exhibit "A" attached to this Order are re-opened from 11:59 pm on the date of this Order subject to the following requirements:

- A. Six-foot social distancing must be maintained at all times (except for people in the same household). Failure to practice social distancing may result in the suspension or loss of privilege to use the facilities, as well as closure of the facilities.
- B. It is strongly encouraged that privately-owned sports equipment (e.g., balls, rackets, etc.) brought to City facilities be disinfected by the owner before visiting City facility and after each use.
- C. Cloth face coverings or masks are required to enter the Andy Morin Sports Complex. Users must bring their own sports equipment (sanitized before and after use) as none will be provided by the City at this time.
- D. Masks or cloth face coverings are strongly advised if you feel the six-foot distancing between you and others might accidentally be encroached while recreating.
- E. Those recreating at City parks and using park amenities are strongly encouraged to take personal responsibility for sanitizing equipment and structures before and after use.
- F. Users of City facilities and those accessing essential services are strongly encouraged to wear face coverings over their nose and mouth (except for people with medical conditions that preclude wearing facial coverings), and wash hands with soap and water for at least 20 seconds after each visit. This is a strong recommendation and not a mandatory requirement at this time. The face coverings do not have to be (and should not be)

medical-grade surgical masks or N95 respirators, but rather, fabric coverings such as scarves, bandanas or homemade fabric face coverings.

2. Section 5.09.020 of the Folsom Municipal Code limiting the numbers and frequency of garage sales is suspended until termination of the local emergency. Six-foot social distancing must be maintained at all times, except for people in the same household.

3. Provided that the home occupation complies with all operational criteria in Section 17.61.070 of the Folsom Municipal Code, Sections 17.61.030, 17.61.050, and 17.61.060 of the Folsom Municipal Code pertaining to the permitting, business license requirement, and fees for home occupations are suspended until termination of the local emergency.

4. Until termination of the local emergency, City-owned non-ADA public parking spaces may be used temporarily for curbside pick-up of food from restaurants, as well as curbside pick-up of retail goods and merchandise from Essential Businesses (as defined in the latest Sacramento County Health Order), subject to the following requirements:

- A. Businesses desiring to use public parking spaces for curbside pick-up and delivery shall submit a request, with photographs, drawing or depiction of the proposed location and layout, and obtain a temporary permit from the Community Development Department.
- B. Temporary signage may be placed at the curb to designate the use of public parking spaces for pick-up and delivery purposes.
- C. The City reserves the right to determine on a case-by-case basis the suitability and appropriateness of the public parking spaces requested by the businesses.
- D. The use of City-owned public parking spaces shall not interfere with vehicular and pedestrian traffic, or access under the Americans with Disabilities Act.
- E. No permanent item or structure may be installed on City-owned public parking spaces.
- F. No real property right is provided, given, or otherwise conveyed to any person or entity using City-owned public parking spaces as provided herein. Any such use shall cease upon termination of the local emergency, and the permittee shall return City-owned public parking spaces to the condition existing at the time of permit issuance.

5. Once retailers and businesses other than Essential Businesses are permitted by the Sacramento County Health Officer to resume operation (not just to maintain "Minimum Basic Operations" as defined in the latest Sacramento County Health Order), City-owned non-ADA public parking spaces may be used temporarily for curbside pick-up of retail goods and merchandise until termination of the local emergency, subject to the requirements in Section 4 above.

6. Once sit-down dining is permitted by the Sacramento County Health Officer, certain City-owned public properties may be used temporarily for outdoor dining until termination of the local emergency, subject to the following requirements:

- A. Restaurants desiring to use public property for outdoor dining shall submit a request, with photographs, drawing or depiction of the proposed location and layout, and obtain a temporary permit from the Community Development Department.
- B. Temporary signage may be placed at the curb to designate the use of public property for outdoor dining.
- C. The City reserves the right to determine on a case-by-case basis the suitability and appropriateness of the public property requested by the restaurant for outdoor dining.
- D. The use of City property shall not interfere with vehicular and pedestrian traffic, or access under the Americans with Disabilities Act.
- E. No permanent item or structure may be installed on City property.
- F. Temporary fencing not exceeding 3 feet tall shall be placed in a safe manner around the outdoor dining area.
- G. Dining tables shall be placed in a manner that observe six-foot social distance between groups of customers. Customers in the same household dining together are counted as one group and are exempt from this requirement while sitting at the same table(s).
- H. Restaurants shall comply with all applicable State and County laws and regulations pertaining to outdoor dining (including but not limited to sale and consumption of alcoholic beverages) under this provision.
- I. No real property right is provided, given, or otherwise conveyed to any person or entity using public property for outdoor dining purpose. Any such use permitted hereunder shall cease upon termination of the local emergency, and the permittee shall return public property to the condition existing at the time of permit issuance.

7. The amount of the differential for local contract preferences provided for in Section 2.36.100(I) of the Folsom Municipal Code is hereby increased to 25% until termination of the local emergency.

8. To the extent feasible and appropriate based on project type and location, public works activities (including construction and maintenance) occurring in the public rights-of-way shall be

performed outside of normal business hours in order to minimize disruption to commercial and business operations.

9. The provisions in the Folsom Municipal Code limiting temporary signage such as, for example, A-frame, window signs or banner signs, for business advertisement and promotion are suspended until termination of the local emergency, provided that such signs do not block, impede or otherwise interfere with the public rights-of-way and the safe travel of vehicles and pedestrians.

10. The provisions in the Folsom Municipal Code and any Conditional Use Permit limiting or restricting the hours of delivery of goods and supplies to businesses are hereby suspended until termination of the local emergency.

11. Temporary waiver of rental payments for rental or lease of City facilities under a formal written lease agreement or concessionaire agreement due and payable to the City, as described in Emergency Order DES-01-20, shall be extended until termination of the local emergency.

12. Temporary modification to the Contract between the City of Folsom and the Sacramento Society for the Prevention of Cruelty to Animals for Shelter Services dated January 1, 2018, as described in Emergency Order DES-01-20, shall be extended until termination of the local emergency.

Failure of any person to comply with this Order and any order issued by a law enforcement officer pursuant to this Order constitutes an imminent threat to public health.

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 City of Folsom, its departments, officers, employees, or any other person.

If any provision of this Order to the application thereof to any person or circumstances is held to be invalid, 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.

This Order shall be filed in the City Clerk's Office and given widespread publicity and notice.

**IT IS SO ORDERED:
DES-04-20**

Date: May 1, 2020

By: 
Elaine Andersen
City Manager
Director of Emergency Services

EXHIBIT A

[RE-OPENING OF CITY FACILITIES]

- **Andy Morin Sports Complex. Masks or cloth face coverings required to enter facility. Only non-contact sports or recreational activities are authorized.**

- **Athletic fields, including but not limited to Lembi, Livermore, Econome, Kemp, Catlin, Davies, Ed Mitchell, Briggs, Rodeo, Handy Family, McFarland, Mann, Nisenan, Cohn, and Sheldon parks. Only non-contact sports or recreational activities are authorized. Drop-in play only, no organized league practices or games authorized.**

- Ball walls

- Bocce ball courts

- FIDO Field Dog Park

- Pickleball courts

- Playgrounds and play equipment

- Tennis courts

- Volleyball courts

- B.T. Collins Disc Golf Course

- Skate park

- Bike park

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