



**STAFF REPORT  
CITY COUNCIL EMERGENCY MEETING AGENDA  
MEETING DATE: DECEMBER 17, 2020**

**SUBMITTED:** December 16, 2020

**AGENDA ITEM:** CITY COUNCIL OF THE CITY OF HOLLISTER:

**DEPARTMENT:** City Clerk

**CONTACT:** Christine Black, City Clerk

**DEPARTMENT HEAD:** Christine Black, City Clerk

831-636-4300 x 1017

**SPONSOR(S):** Velazquez

**TITLE OF ITEM: ORDINANCE NO. AN URGENCY ORDINANCE OF THE CITY OF HOLLISTER TO DEFINE GROUNDS FOR REVOCATION OF A BUSINESS LICENSE FOR FAILURE TO ADHERE TO STATE COVID-19 ORDERS**

**DESCRIPTION:** An Urgency Ordinance to allow citations and fines for violations of California Public Health Department Resolutions during the COVID-19 pandemic.

**RECOMMENDATION:** Read by title only, waive full reading, and adopt an Urgency Ordinance defining violations of California Public Health Department Regional Stay at Home Orders to be public nuisances subject to citation and fines.

**DEPARTMENT SUMMARY:** Due to the COVID-19 pandemic, the California Department of Public Health has implemented a Regional Stay At Home Order and a supplemental order on December 3, 2020 and December 6, 2020 respectively. The Regional Stay at Home Orders require that regions with an ICU capacity of less than 15% close all non-essential businesses for in person operation. The City of Hollister is a part of the San Joaquin Valley Region under these orders. Because the San Joaquin Valley Region's ICU capacity is below 15%, the Stay at Home Orders are in effect. Violations of these Stay at Home Orders in the City of Hollister present a threat to public peace, health, safety, and welfare, whether the violations are committed by businesses or individuals. This proposed Ordinance would adopt an Urgency Ordinance to allow individuals and business that violate the Stay at Home Orders to constitute a public nuisance, be cited as such, and be fined \$1,000 and have the City-issued business license revoked. The normal City appeals process for such citations would apply.

**FINANCIAL IMPACT:** None.

**CEQA:** Exempt.

**THIS REPORT WAS REVIEWED BY THE CITY MANAGER WHO CONCURS WITH THE STAFF RECOMMENDATION**

A handwritten signature in black ink, appearing to read "Brett Miller".

**Brett Miller, City Manager**

**ORDINANCE NO.****AN URGENCY ORDINANCE OF THE CITY OF HOLLISTER TO DEFINE GROUNDS  
FOR REVOCATION OF A BUSINESS LICENSE FOR FAILURE TO ADHERE TO  
STATE COVID-19 ORDERS****THE COUNCIL OF THE CITY OF HOLLISTER DOES ORDAIN as follows:**

**WHEREAS**, Governor Newsom has declared a state of emergency for the State of California as a result of the COVID-19 pandemic; and

**WHEREAS**, the State of California implemented a Regional Stay At Home Order and a supplemental order on December 3, 2020 and December 6, 2020 respectively (referred to herein jointly as "the Regional Stay at Home Orders"); and

**WHEREAS**, the Regional Stay at Home Orders require that counties and/or regions with an ICU capacity of less than 15% close all non-essential businesses for in person operation; and

**WHEREAS**, on December 6, 2020 the Regional Stay at Home Orders went into effect because the County of San Benito is considered a part of the San Joaquin Valley region, which had fallen below 15% ICU capacity; and

**WHEREAS**, several businesses within the City of Hollister continue to operate in-person in defiance of the current Regional Stay at Home Orders; and

**WHEREAS**, home gatherings disallowed under the Regional Stay at Home Orders have occurred within the City of Hollister and present a threat to public peace, health, safety, and welfare; and

**WHEREAS**, the COVID-19 virus is primarily transmitted through interpersonal contact in confined spaces and in-person operation of business facilitates such interpersonal contact, thus creating a significant risk of transmitting the COVID-19 virus; and

**WHEREAS**, the City of Hollister as the licenser of businesses has determined that businesses defying the Regional Stay at Home Orders pose a significant threat to the health and safety of the citizens of the City of Hollister and that violations of any public health orders including, but not limited to, the Regional Stay at Home Orders are a public nuisance; and

**WHEREAS**, California Government Code section 53069.4 authorizes a local agency such as the City of Hollister to adopt Ordinances and regulations to promote and protect the health, safety, and welfare of its citizens; and

**WHEREAS**, the City Council of the City of Hollister has found that an emergency exists and that it is necessary and appropriate to adopt an urgency Ordinance to address the defiance of the Regional Stay at Home Orders in order to protect the public peace, health, safety, and welfare of the residents of the City of Hollister.



**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOLLISTER** that it hereby declares, determines, and orders as follows:

**SECTION 1.** The provisions of the Regional Stay at Home Orders dated December 3, 2020, and December 6, 2020, and issued by the California Department of Public Health, including their recitals, are incorporated herein as if fully set forth.

**SECTION 2.** The above recitals, and the recitals contained in the Regional Stay at Home Orders dated December 3, 2020, and December 6, 2020 and issued by the California Department of Public Health are true and correct.

**SECTION 3.** Findings and Purpose. In order to address the immediate threat to peace, health, safety, and welfare of the residents of the City of Hollister, this Ordinance declares violation of the Regional Stay at Home Orders dated December 3, 2020, and December 6, 2020, by a business within the City of Hollister to be a public nuisance pursuant to Hollister Municipal Code section 1.16.030, and declares such violations by private citizens to be a public nuisance pursuant to Hollister Municipal Code Chapter 8.32.

**SECTION 4.** Penalties. Any business or individual cited as a public nuisance for violating the Regional Stay at Home Orders dated December 3, 2020 and December 6, 2020 shall be subject to a fine pursuant to Hollister Municipal Code section 1.16.040 and/or section 8.32.160, but in no case less than \$1,000 per day the said violation continues. In addition to said fine, the City of Hollister may immediately revoke the business license of any business which is cited hereunder for operating as a public nuisance and/or in violation of the Regional Stay at Home Orders dated December 3, 2020, and December 6, 2020.

**SECTION 5.** Businesses and individuals cited hereunder shall be able to appeal said citations and penalties pursuant to the procedure set forth in Hollister Municipal Code section 1.18.060 through and including section 1.18.130.

**SECTION 6.** This Ordinance shall be liberally construed to provide the broadest possible protection against the COVID-19 pandemic for the citizens of the City of Hollister. The terms of this Ordinance supersede any conflicting provision in the Hollister Municipal Code.

**SECTION 7.** The City Manager, the City Attorney, and all other City officers and department heads are authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this Ordinance.

**SECTION 8.** Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the

validity of the remaining portions of this Ordinance. The City Council of the City of Hollister has hereby declared that it would have passed this Ordinance and each, section, subsection, sentence, clause, and phrase of this Ordinance, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

**SECTION 9.** This Ordinance shall take effect immediately as an urgency Ordinance, and shall be applicable in every respect as of December 17, 2020. This is based on the City Council's finding that this Ordinance is adopted in compliance with all relevant Government Code sections regarding the adoption of urgency Ordinances by cities, and that this Ordinance is necessary to protect the public peace, health, safety, and wellbeing from the negative consequences of the COVID-19 pandemic.

**PASSED AND ADOPTED**, by the City Council of the City of Hollister at a Special Meeting on this 17th day of December, 2020, by the following vote:

**PASSED AND ADOPTED**, by the City Council of the City of Hollister at a Emergency Meeting held this 17th day of December, 2020, by the following vote:

ATTEST:

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Ignacio Velazquez, Mayor

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Christine Black, MMC, City Clerk

APPROVED AS TO FORM:

Epperson Law Group PC

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Jason S. Epperson, City Attorney

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