

ORDINANCE NO. 2020-04

AN URGENCY ORDINANCE OF THE CITY OF SAN JUAN BAUTISTA ADDING “COVID-19 REQUIREMENTS AND REMEDIES” TO THE SAN JUAN BAUTISTA MUNICIPAL CODE AT TITLE 5, CHAPTER 5- 34 AND ADOPTING REQUIREMENTS FOR FACE COVERINGS AND THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH’S GUIDANCE FOR THE USE OF FACE COVERINGS TO BE ENFORCEABLE BY ADMINISTRATIVE CITATION AND ADOPTING REGIONAL STAY AT HOME ORDERS AND DECLARING VIOLATIONS OF THE REGIONAL STAY AT HOME ORDERS TO BE A PUBLIC NUISANCE SUBJECT TO FINE OR REVOCATION OF BUSINESS LICENSE

THE COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES ORDAIN AS FOLLOWS:

Chapter 5-34 entitled “COVID-19 Requirements and Remedies” is hereby added to the San Juan Bautista Municipal Code.

WHEREAS, on March 17, 2020 the City of San Juan Bautista City Council declared the existence of a local emergency for the protection of persons and property within the city caused of the severe acute respiratory illness caused by a novel coronavirus named “SARS-CoV-2 (coronavirus disease 2019, abbreviated “COVID-19”); and

WHEREAS, Resolution No. 2020-10, consistent with Government Code section 8634, designated authority as the Director of Emergency Services (City Manager) to issue and to enforce orders and regulations to mitigate the effects of the local emergency on and as necessary for the protection of life and property during the local emergency; and

WHEREAS, on March 19, 2020, the Governor of the State of California issued Executive Order N-33-20, ordering all individuals in the State of California to stay home or at their place of residence, except as outlined by the California Department of Public Health, during the COVID-19 pandemic for the preservation of public health and safety throughout California. That Order requires all Californians to heed the state public health directives; and

WHEREAS, on July 8, 2020, the California Department of Public Health placed San Benito County on the COVID-19 County Data Monitoring Project watch list in response to elevated disease transmission as indicated by San Benito County exceeding the state’s 14-day case threshold of 100 cases per 100,000 residents and by exceeding the state’s threshold for percent change in 3-day average COVID-19 hospitalizations; and

WHEREAS, due to San Benito County’s placement on the watch list, on July 6, 2020, the State’s Governor indicated that the state has ordered San Benito County to close bars (all

operations) and indoor operations for the following sectors: restaurants, wineries, movie theaters, zoos, museums, and card rooms and on Monday, July 13, 2020, these restrictions were expanded to include other personal service industries; 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

WHEREAS, on June 18, 2020, the California Department of Public Health (CDPH) released Guidance for the Use of Face Coverings (Guidance), which was updated on July 29, 2020, and whereas according to the CDPH Guidance, “... we have learned a lot about COVID-19 transmission, most notably that people who are infected but are asymptomatic or pre-symptomatic play an important part in community spread. The use of face coverings by everyone can limit the release of infected droplets when talking, coughing, and/or sneezing, as well as reinforce physical distancing;” and

WHEREAS, the number of infected persons in San Benito County is rising and having a high number of people in public without wearing a face covering seriously impedes community efforts to stem the local transmission of COVID-19

WHEREAS, one or more business within the City of San Juan Bautista continue to operate in-person in defiance of the current Regional Stay at Home Orders and allow its patrons to be on the facility without wearing a face covering; and

WHEREAS, home gatherings disallowed under the Regional Stay at Home Orders have occurred within the City of San Juan Bautista 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, especially without face coverings, such interpersonal contact, thus creating a significant risk of transmitting the COVID-19 virus; and

WHEREAS, the City of San Juan Bautista as the licensor 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 San Juan Bautista and that violations of any public health orders including, but not limited to, the Regional Stay at Home Orders are a public nuisance;

WHEREAS, the intent of this Ordinance is to provide a tool, in addition to education, to compel compliance with the Guidance and Regional Stay at Home Orders by authorizing enforcement of the Guidance and Regional Stay at Home Orders through the issuance of administrative Citations pursuant to the City of San Juan Bautista Municipal Code Section 2-7.

WHEREAS, this ordinance is an urgency ordinance necessary for the immediate preservation of public health, safety and welfare;

WHEREAS, an urgency ordinance takes immediate effect and is necessary to avoid the immediate threat to public peace, health and safety. Failure to adopt this urgency ordinance would impede efforts to stem the local transmission of COVID-19, which causes serious health implications for the person who contracted COVID-19, including illness, lasting effects and possible death. The hospitals in San Benito County are filled to capacity and cannot or may not be able to accommodate those who are infected. The City has a compelling interest in stopping the spread of COVID-19, and authorizing an administrative enforcement tool for failure to comply with the CDPH Guidance or the Regional Stay at Home Orders is a narrowly tailored means of achieving that objective;

WHEREAS, this urgency ordinance is exempt from the California Environmental Quality Act, pursuant to Guideline Article 18, Section 15269 (c) because the City is adopting an urgency ordinance related to COVID-19. Specific actions are needed to prevent or mitigate the spread of COVID-19 such as, but not limited to, infraction citation or administrative enforcement of the CDPH Guidance or the Regional Stay at Home Orders. The actions proposed are immediate actions and are necessary to protect the health and safety of the City's citizens.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that:

SECTION 1. The recital set forth above are incorporated herein as if fully set forth, are true and correct, and are adopted as findings.

SECTION 2. The CDPH Guidance and exemptions, attached hereto as Exhibit "A" and incorporated hereto as if fully set forth, and as may be amended from time to time, is

hereby expressly acknowledged and declared to be enforceable within the City of San Juan Bautista as if directly enacted by the City.

SECTION 3. 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 and declared to be enforceable within the City of San Juan Bautista as if directly enacted by the City.

SECTION 4. Any Responsible Person, as defined by the City of San Juan Bautista Municipal Code Section 2-7 -105 (D), who violates the Guidance or the Regional Stay at Home Orders is in violation of this Ordinance and is subject to administrative citations under the City of San Juan Municipal Code Section 2-7-120. The fine amount shall be \$100.00 for the first violation, \$250.00 for the second violation and \$500.00 for each subsequent violation.

SECTION 5. Additionally, in order to address the immediate threat to peace, health, safety, and welfare of the residents of the City of San Juan Bautista, 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 San Juan Bautista to be a public nuisance pursuant to San Juan Bautista Municipal Code Chapter 13, Article 5, and declares such violations by private citizens operating businesses to be a public nuisance pursuant to San Juan Bautista Municipal Coder Municipal Code Chapter 13, Article 5.

SECTION 6. 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 also be subject to an administrative citation and a fine of \$1,000 per day that said violation continues. In addition to said fine, the City of San Juan Bautista 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 8. Businesses and individuals cited hereunder shall be able to appeal said citations and penalties pursuant to the procedure set forth San Juan Bautista Municipal Code Chapter 2-7.

SECTION 9. This Ordinance shall be liberally construed to provide the broadest possible protection against the COVID-19 pandemic for the citizens of the City of San Juan Bautista. The terms of this Ordinance supersede any conflicting provision in the San Juan Bautista Municipal Code.

SECTION 10. 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 11. 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 San Juan Bautista 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 12. This Ordinance shall take effect immediately as an urgency Ordinance, and shall be applicable in every respect as of December 18, 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 well-being from the negative consequences of the COVID-19 pandemic.

PASSED AND ADOPTED, by the City Council of the City of San Juan Bautista at a Special Meeting on this 18th day of December, 2020, by the following four-fifths vote:

AYES: Jordan, Edge, Flores, Freeman, Freels

NOES: None

ABSENT: None

ABSTAIN: None



Leslie Jordan, Mayor

ATTEST:



Trish Paetz, Deputy City Clerk