



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Works
Department No.: 054
For Agenda Of: June 2, 2020
Placement: Departmental
Estimated Tme: 15 Minutes
Continued Item: No
If Yes, date from:
Vote Required: 4/5 Vote

TO: Board of Supervisors

FROM: Department Director: Scott D. McGolpin, Public Works Director, 568-3010
Contact Info: Chris Sneddon, Deputy Director, Transportation, 568-3064

SUBJECT: **Confirmation and Supersession of Emergency Rule #1 By Adopting an Urgency Ordinance to Authorize Public Works Director to Temporarily Issue Special Encroachment Permits for Operations by Businesses and Community Entities in County Roadway Rights-of-Way During the COVID-19 Pandemic Response**

County Counsel Concurrence:

As to form: Yes

Auditor-Controller Concurrence:

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a) Confirm and supersede Emergency Rule #1 of the Director of Emergency Services issued on May 20, 2020 by adopting an urgency ordinance amending Chapter 28 of the Santa Barbara County Code to add Chapter 28B, sections 28B-1 through 28B-12, which authorizes the Public Works Director to issue special encroachment permits for operations by businesses and community entities in County roadway rights-of-way until December 16, 2020 or the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, whichever is earlier, pursuant to Government Code sections 8634, 25123, and 25131 and California Governor Newsom's Executive Orders N-33-20 and N-60-20;
- b) Find that the temporary waiver of the encroachment permit fees in the urgency ordinance is in the public interest as it facilitates the local economy in a way that allows businesses and community entities to comply with social distancing and other COVID-19 response requirements;
- c) Determine that confirmation of Emergency Rule #1 and adoption of the Urgency Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15269(c), 15060(c)(2) and 15060(c); and
- d) Waive the Notice of Exemption 6-day posting requirement for good cause pursuant to County CEQA Guidelines section V.D.2.

Summary Text:

This item is on the agenda to confirm and supersede the Director of Emergency Services' Emergency Rule #1 (Attachment A) that was issued on May 20, 2020 pursuant to Government Code Section 8550 et seq. and Chapter 12, Section 12(b)(1) of the Santa Barbara County Code for operations of businesses and community entities in County roadway rights-of-way during the COVID-19 pandemic response by adopting an urgency ordinance to govern those operations. Like Emergency Rule #1, the Urgency Ordinance:

- Allows the Public Works Director to provide administrative regulations for issuance of a special encroachment permit for the reopening of businesses and community entities and to issue encroachment permits pursuant to those regulations;
- Suspends any fees associated with encroachment permits for use of County roadway rights-of-way during the COVID-19 pandemic response and automatically terminates on December 16, 2020, or upon the termination of the Santa Barbara County Local Emergency from the COVID-19 virus, whichever is earlier;
- Includes requirements for safety, access, and insurance;
- Allows the Public Works Director to close roads if he finds it necessary to safely conduct the reopening or resumed operations;
- Provides for revocation or suspension on twenty-four hours' notice at the discretion of the Public Works Director, including for failure to comply with the site's COVID-19 attestation and site specific protection plan; and
- Requires that the applicant follow all State and local directives regarding reopening of businesses or community entities during the COVID-19 pandemic response.

Background:

On March 4, 2020, Governor Gavin Newsom declared a State of Emergency in California due to the threat of COVID-19. On March 12, 2020, the Director of Emergency Services proclaimed a Local Emergency related to COVID-19 pursuant to Government Code section 8550 et seq. and Chapter 12, Section 12-5(a) of the Santa Barbara County Code. The Board of Supervisors ratified this proclamation on March 17, 2020. On March 12, 2020, the Health Officer of the County of Santa Barbara determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in the County of Santa Barbara, and proclaimed a Local Health Emergency as a result. The Board of Supervisors ratified this proclamation on March 17, 2020.

In direct response to expected strains on healthcare infrastructure, governments across the nation are taking actions to slow the spread of COVID-19 in order to "flatten the curve" of infection and reduce the numbers of individuals infected at any one time by minimizing situations where the virus can spread. In furtherance of this effort, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, requiring all persons residing in the State to remain in their homes or places of residence, except as needed to maintain the continuity of operations for critical infrastructure (the "State Stay-at-Home Order"). On March 19, 2020, the State Public Health Officer ordered 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 for the federal critical infrastructure sectors.

In May 2020, the State articulated a four-stage plan for the reopening of businesses and other entities in California. Stage 2 allows for the gradual reopening of retail starting with low risk sectors such as curbside retail, manufacturing, and logistics. Later in Stage 2, there are to be relaxed retail restrictions and reopening of schools, offices, and limited hospitality and personal services. Stage 3 of the State's COVID-19 pandemic response plan contemplates reopening of higher-risk workplaces. On May 4, 2020, Governor Newsom issued Executive Order N-60-20 to allow a County to pursue a variance to move further into Stage 2 upon notification and certification through submission of a written attestation to the California Department of Public Health Office.

On May 19, 2020, the Board of Supervisors: (1) received the Santa Barbara County Reopening in Safe Environment guide; (2) received draft State and Local Guidance for Industry Sectors and Containment Plan; and (2) authorized and directed the Chair to sign a letter in support of the County of Santa Barbara Health Officer's Variance to Stage 2 of the State of California's Pandemic Roadmap, which would allow the County to move further into Stage 2. On May 20, 2020, the California Department of Public Health Office approved and posted to the State's website the County of Santa Barbara's Variance Attestation allowing the County to move further into Stage Two Resilience Roadmap to include reopening of dine-in restaurants and retail.

On May 20, 2020, the Director of Emergency Services issued Emergency Rule #1. The Rule's purpose was to minimize the economic impacts of COVID-19 and encourage the speedy recovery of businesses, restaurants, retail, and other community entities that were required to close or curtail operations under the State of California's "Stay At Home" orders. It allowed implementation of the County's Reopening in a Safe Environment (RISE) Small Business & Community Partnership Enhancement Program (SBCPEP) by providing a clear, quick path and parameters for businesses and other entities to operate temporarily in County roadway rights-of-way, to allow for social distancing. The Rule temporarily authorized the Santa Barbara County Public Works Director to issue encroachment permits, to businesses and community entities that reopen and resume operations, in County roadway rights-of-way to allow for adequate social distancing during operations.

The recommended Urgency Ordinance would confirm and supersede Emergency Rule #1 and continue to facilitate reopening. Pursuant to the Urgency Ordinance, each location where a business requests to use the County roadway right-of-way would be evaluated to determine the impacts and feasibility of expanding their operations into the County roadway right-of-way. If feasible, the business would still be required to obtain an approved application and meet insurance and safety requirements prior to implementation of their plans to operate in the County roadway right-of-way. The Health Officer of the County of Santa Barbara also issued a Health Officer Order on May 21, 2020, that requires essential and lower-risk businesses or entities that may now open or remain open to implement social distancing when operating.

The recommended Urgency Ordinance is based on evidence of transmissions of the COVID-19 virus both within the County and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19. The recommended Urgency Ordinance is intended to reduce the likelihood of exposure to the COVID-19 virus, thereby slowing the spread of COVID-19 in the County of Santa Barbara.

The recommended Urgency Ordinance recites that it is necessary for the immediate preservation of the public peace, health or safety and in accordance with Government Code sections 8634 and 25123, these conditions warrant and necessitate that the County adopt this Urgency Ordinance to protect the health, safety, and welfare of the residents in the unincorporated area of Santa Barbara County.

Fiscal and Facilities Impacts:

Budgeted: No

Narrative:

Since these businesses are not currently paying fees because they are not operating in the County roadway right-of-way, there would be no loss of revenue that was previously anticipated. Prior to COVID-19, the County collected approximately \$1,200 per month from the program, which was used for betterments such as street furniture, bike racks, and trash cans.

Special Instructions:

Before the expiration of 15 days after passage of this Ordinance, a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the *Santa Barbara News-Press*, a newspaper of general circulation published in the County of Santa Barbara in compliance with Government Code Section 25124.

Following Board approval, Clerk of the Board to please post the Notice of Exemption and forward a stamped copy to Gail Ocheltree Public Works - Transportation, 568-3094.

Please forward a stamped, certified Minute Order approving the recommendations, and one copy of the Ordinance to Gail Ocheltree Public Works - Transportation, 568-3094.

Attachments:

Attachment A: Emergency Rule #1

Attachment B: Urgency Ordinance

Attachment C: CEQA Notice of Exemption

Authored By:

Chris Sneddon, Deputy Director, Public Works – Transportation, 568-3064