



Office of the City Attorney

**Emergency Order No. 7 of the City of Oakland
City Administrator/Director of the Emergency Operations Center**

Whereas, due to the spread of COVID-19 (coronavirus) within the State, on March 1, 2020, the Alameda County Public Health Department, and on March 4, 2020, Governor Gavin Newsom, declared local and state public health emergencies due to the spread of COVID-19 locally and within the State, pursuant to Health & Safety Code section 101080 and Government Code section 8625, respectively, and

Whereas, on March 9, 2020, the City Administrator in her capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland (“COVID-19 Local Emergency”). The City Administrator declared the COVID-19 Local Emergency pursuant to her power under Oakland Municipal Code (O.M.C.) section 8.50.050(C) to proclaim a local emergency provided that the local emergency proclamation shall remain in effect only if the City Council confirms the existence of the emergency within seven (7) days of the proclamation; and

Whereas, On March 12, the City Council passed Resolution No. 88075 C.M.S. confirming the existence of the COVID-19 Local Emergency; and

Whereas, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, ordering “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”, and further acknowledged that the “supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care”; and

Whereas, the Order N-33-20 provides that, to mitigate/control the spread of COVID-19, when people need to leave their homes or places of residence to carry out specified essential functions or to facilitate necessary activities, they should at all times practice “social distancing”, which means remaining a distance of six (6) feet from other persons when in public places; and

Whereas, the City Administrator in his capacity as the Director of the EOC has authority “to promulgate orders, rules, and regulations on matters reasonably related to the protection of life and property and the preservation of public peace and order, in accordance with Article 14 of the California Emergency Services Act, [and such] rules and regulations must be confirmed at the earliest practicable time by the governing body as required by law;” and

Whereas, on March 16, 2020, the Alameda County Health Officer issued Health Order No. 20-03 directing Alameda County residents to “shelter in place,” or stay at home, except as necessary to take care of essential needs, and deemed health care operations, medical cannabis providers, and the businesses that supply such entities “essential businesses”; and

Whereas, on March 31, 2020, the Alameda County Health Officer issued a replacement order, Health Order No. 20-04, which tightened the restrictions and extended the stay-at-home order through May 3. The Order was extended and revised by County Orders No. 20-11, No. 20-14, No. 20-14a, and the current order, No. 20-14b, permits retail stores, manufacturing, and logistics and warehousing businesses to resume operating during the pandemic, and includes cannabis dispensaries, manufacturers and cultivators; and

Whereas, pursuant to Order N-33-20, Oakland City Hall and other City buildings have been closed to the public and have significantly reduced operations; including: 1) administrative meetings and hearings involving applications for approvals of special activity and other permits needed for commercial activities, and 2) administrative meetings and hearings related to code enforcement and other activities of the Nuisance Abatement Division; and

Whereas, numerous local businesses, including over twenty cannabis dispensaries, manufacturers and cultivators, were burglarized and/or robbed in late May and early June 2020 when vandalism, fires, armed robberies and other destructive activities occurred, suffered significant economic losses and were forced to close; and

Whereas, the City Administrator has determined that it is necessary to provide essential cannabis business permit applicants that were forced to close due to these destructive activities additional time to submit City required permit fees related to re-opening their businesses; and

Whereas, the City Administrator has determined that to facilitate the re-commencement of essential cannabis business operations it is necessary to clear a backlog of hearings that would otherwise delay permit proceedings for new cannabis dispensary applicants that submitted completed cannabis dispensary business permit applications requiring public hearings and meetings, by reducing the 30 day community noticing period to 15 days; and

Whereas, the City Administrator has determined that to expedite business permit issuance and related procedures necessary for various commercial activities to resume or continue it is necessary to amend permit and hearing procedures regulated under Oakland Municipal Code Chapters 5.80, 5.81 (cannabis businesses), 5.02 (business permits generally), 5.12 (cabaret licenses), 5.36 (massage establishment licenses), 5.46 (pawnbroker, secondhand dealer, scrap dealer, or scrap seller permits), 5.51 (food vendor permits), and 5.91 (tobacco retailer permits), to allow required administrative meetings and hearings to be carried out remotely, i.e., electronically/virtually, in a healthy and safe manner consistent with State and Alameda County Health Orders; and

Whereas, the City Administrator has determined that it is necessary to amend hearing and enforcement procedures for matters regulated under Oakland Municipal Code Chapters 1.08 and 1.12, which authorize the City to abate violations of municipal codes, including Chapter 8.24 (Blight Ordinance), Chapter 15.08 (Building Maintenance Code), Chapter 15.12 (Fire Code), and public nuisances involving administrative citations and assessment of civil penalties in order to conduct these proceedings remotely, i.e., electronically/virtually, in a healthy and safe manner consistent with State and Alameda County Health Orders; and

Whereas, all interim modifications to Oakland's Municipal Codes described and cited above are set forth in Attachments A and B, hereto, and are intended to be consistent with Alameda County's Health Order No. 20-14b; and

Whereas, the actions authorized by this Emergency Order No. 7 are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080(b)(4) as actions necessary to mitigate the COVID-19 Local Emergency; and

Now, therefore, effective August 17, 2020 I, Edward D. Reiskin, City Administrator/Director of the Emergency Operations Center (EOC) of the City of Oakland, in accordance with the authority vested in me pursuant to Oakland's Emergency Services Act, Oakland Municipal Code Section 8.50.050.C.5.(a), hereby order the following:

1. Extension of Cannabis Business Permits and Permit Fees Due Date for Burglarized Businesses

All cannabis permits authorized under Oakland Municipal Code Chapters 5.80 and 5.81 for cannabis businesses burglarized between May 25, 2020 and June 8, may be extended once for a one-year period, with no permit fee due until the end of the one-year extension. Cannabis permittees interested in a permit extension must submit a request in writing to the Special Activity Permits Division and said request must be supported with a police report documenting the burglary of their business between May 25, 2020 and June 8, 2020. This provision shall expire on October 7, 2020.

2. Interim Procedures for Noticing Public Hearings and Community Meetings for Cannabis Businesses

The procedures for providing notice of public hearings and community meetings referenced in Oakland Municipal Code Chapters 5.80, 5.81, and 5.02, shall be replaced with the procedures set forth in **Attachment A**, attached hereto and incorporated as if fully set forth herein. The procedures set forth in Attachment A shall remain in effect for the duration of the declared COVID-19 emergency or until it is rescinded by the City Administrator or terminated by the City Council.

3. Interim Rule for Convening Administrative Appeal Hearings via Zoom

The interim rule for conducting administrative appeal hearing for Civil Penalties, Administrative Citations, Cabaret Licenses, Massage Establishment Licenses, Pawnbroker, Secondhand Dealer, Scrap Dealer, or Scrap Seller Permits, Food Vender Permits, Cannabis Business Licenses, Tobacco Retailer Licenses, Blight Ordinance Violations, Building Maintenance Code Violations, and Fire Code Violations, as set forth in Oakland Municipal Code Chapters 1.08, 1.12, 5.02, 5.36, 5.46, 5.51, 5.80, 5.81, 5.91, 8.24, 15.08, and 15.12, respectively, shall be convened via the Zoom application or another suitable online platform as specified by City staff, and is set forth in **Attachment B**, which is attached hereto and incorporated as if fully set forth herein. The attached interim rule shall remain in effect for the duration of the declared COVID-19 emergency or until it is rescinded by the City Administrator or terminated by the City Council.

I FURTHER DIRECT that as soon hereafter as possible, this Order shall be filed in the Office of the City Clerk, posted on the City of Oakland website, and that widespread circulation and notice of this Order shall be provided to the public.

IN WITNESS WHEREOF I have hereunto set my hand this 17th day of August, 2020



Edward D. Reiskin
City Administrator/Director of Emergency
Operations Center, City of Oakland, California

Attest:



Asha N. Reed (Aug 17, 2020 11:21 PDT)

Asha Reed
Acting City Clerk and Clerk of the City Council
City of Oakland, California

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ATTACHMENT A

Interim Procedures for Noticing Public Hearings and Community Meetings for Cannabis Businesses for the Duration of the Order

Pursuant to the Shelter In Place Orders issued by both the Governor of California and the Alameda County Health Officer for the COVID-19 pandemic (“Emergency Orders”), the City of Oakland offices, including those in City Hall, are closed to the public and non-essential personnel are required to work remotely. These requirements extend to the City Administrator’s Office, Special Activity Permits and Nuisance Abatement Division, resulting in much of the Division’s personnel working remotely. Further, Cannabis Public Hearings and Community Meetings are typically convened in City Council Chambers, in conditions where attendees are not able to maintain safe “social distancing” and other health standards in compliance with the health directives and orders from the state and County to minimize COVID-19 exposure.

Accordingly, the following sets forth interim notice procedures for public hearings and community meetings for cannabis businesses in effect duration of this Order:

1. The 30-day notice period required under Oakland Municipal Code Chapters 5.80, 5.81, and 5.02 shall be changed to a 15-day notice period for new proposed cannabis applications requiring public hearings or public meetings that are complete.
2. The City will prepare the public notice using the City’s template.
3. The City will post the public notice and background materials for new proposed uses on the City’s cannabis permitting website, <https://www.oaklandca.gov/topics/cannabis-permits>.
4. The cannabis operator or applicant will be required to post the public notice, and if required, cover the cost of mailing the public notice and publishing such notice via newspaper. Thereafter, when required, the operator or applicant will email the City proof of project site posting.
5. The City will not take action on the cannabis permit or application if the operator or applicant fails to provide proof of posting and cover the cost of mailing, when required, of the public notice.
6. Parties who desire to comment on the ongoing or proposed cannabis operation may email questions or comments to the City during the applicable notice period (15-days for applications referenced in number 1 above; 30-days for all other matters) or during the virtual/electronic public hearing and/or community meeting.
7. The public hearing and/or community meeting will be held electronically/virtually via Zoom or another suitable online platform with the capability for attendees without internet access to participate by phone and as specified by the City.

ATTACHMENT B

Interim Rule for conducting Administrative Appeals Hearings for Civil Penalties, Administrative Citations, Cabaret Licenses, Massage Establishment Licenses, Pawnbroker, Secondhand Dealer, Scrap Dealer, or Scrap Seller Permits, Food Vender Permits, Cannabis Business Licenses, and Fire Code Violation Matters, via Zoom or similar platform for the Duration of the Order

Pursuant to the Shelter-In-Place Orders issued by both the Governor of California (state) and the Alameda County Health Officer (County) for the COVID-19 pandemic (“Emergency Orders”), the City of Oakland offices are closed to the public and non-essential personnel are required to work remotely. These requirements extend to the City Administrator’s Office, Special Activity Permits and Nuisance Abatement Division, and the Fire Prevention Bureau resulting in much of the Unit’s and Bureau’s personnel working remotely. Further, administrative appeal hearings traditionally are convened in hearing rooms inside City Hall, in conditions where participants are not able to participate in the proceedings while maintaining safe “social distancing” and other health standards in compliance with the health directives and orders from the state and County to minimize COVID-19 exposure.

Accordingly, for the duration of this Order, administrative appeal hearings will be convened electronically/virtually via Zoom or another suitable online platform with the capability for attendees without internet access to participate by phone and as specified by the City for the following matters:

- 1) Civil penalties issued pursuant to Oakland Municipal Code Section 1.08.080.
 - 2) Administrative citations issued pursuant to Oakland Municipal Code Section 1.12.080.
 - 3) The denial, revocation or suspension of a cabaret license pursuant to Oakland Municipal Code Section 5.12.030 and the applicable provisions of Oakland Municipal Code Chapter 5.02.
 - 4) The denial, revocation or suspension of a massage establishment license pursuant to Oakland Municipal Code Sections 5.36.310 and the applicable provisions of Oakland Municipal Code Chapter 5.02
 - 5) The revocation or suspension of a pawnbroker, secondhand dealer, scrap dealer, or scrap collector permit pursuant to Oakland Municipal Code Section 5.46.080 and the applicable provisions of Oakland Municipal Code Chapter 5.02.
 - 6) The revocation of a food vending permit pursuant to Oakland Municipal Code Section 5.51.210 and the applicable provisions of Oakland Municipal Code Chapter 5.02.
 - 7) The denial, revocation, or suspension of a cannabis business permit or local authorization for a state cannabis license pursuant to Oakland Municipal Code Sections 5.80.070 and 5.81.120, and the applicable provisions of Oakland Municipal Code Chapter 5.02.
 - 8) The denial or revocation of a tobacco retailer license pursuant to Oakland Municipal Code Section 5.91.120.
 - 9) Blight Ordinance violations issued pursuant to Chapter 8.24 of the Oakland Municipal Code.
 - 10) Building Maintenance Code violations issued pursuant to Chapter 15.08 of the Oakland Municipal Code.
- Fire Code violations issued pursuant to Chapter 15.12 of the Oakland Municipal Code.

CAO Emergency Order (COVID) No. 7 Cannabis Hearing Procedures and Title 1 and 5 Administrative Appeal Hearings (Final)

Final Audit Report

2020-08-17

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