



City Manager's Office

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**CITY OF FREMONT
DIRECTOR OF EMERGENCY SERVICES
EO 2020-08**

**AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES
ESTABLISHING AN EMERGENCY PARK BUSINESS OPERATING PERMIT
PROGRAM TO AUTHORIZE FITNESS BUSINESSES TO PROVIDE OUTDOOR
FITNESS CLASSES IN FREMONT PARKS DURING THE COVID-19 PANDEMIC**

WHEREAS, international, national, state and local health and governmental authorities are responding on an urgent, emergency basis to an unprecedented outbreak of respiratory disease caused by a novel coronavirus that emerged in 2019 (“COVID-19”); and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for broader spread of COVID-19; and

WHEREAS, on March 10, 2020, the County of Alameda (“County”) declared a public health emergency as a result of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and

WHEREAS, on March 16, 2020, the County of Alameda joined Contra Costa, Marin, San Francisco, San Mateo, Santa Clara counties and the City of Berkeley on a legal order directing their respective residents to shelter at home for three weeks beginning March 17, 2020 (“Shelter-in-Place Order”). The Shelter-in-Place Order also requires all businesses except essential businesses as described in the Order to cease all activities at facilities located within the County except minimum basic operations and prohibits all public and private gatherings of any number of people except for limited purposes as well as all non-essential travel; and

WHEREAS, on March 17, 2020, the Fremont City Council proclaimed the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, the County of Alameda’s Public Health Officer has issued subsequent orders that continue to restrict movement and public and private gatherings as set forth in the Shelter in Place Order; including restrictions on gyms and other indoor fitness centers; and

WHEREAS, the closure of all indoor gyms and fitness centers has placed a sudden and severe financial strain on many gyms and fitness centers, particularly those that already operate on thin margins, adding to financial pressures in the industry that predate the COVID-19 crisis; and

WHEREAS, it is in the public interest to take action to maximize gym and fitness center revenue from outdoor fitness classes that are currently one of the primary sources of revenue for

these businesses to enable gyms and fitness centers to survive this crisis and remain as sources of employment and neighborhood vitality in the City; and

WHEREAS, as gyms and indoor fitness centers return to modified, lower capacity service, it is unclear how gyms and indoor fitness centers will fare, as these businesses must create new, physically distanced workout areas and implement increased training and sanitation measures; and

WHEREAS, it is unclear how quickly gym patrons will return to these businesses and gyms and fitness centers may continue to see a significant loss of revenue for an ongoing period of time; and

WHEREAS, many gyms and fitness centers provide group classes or personal training but have insufficient space outside of the businesses' indoor locations and are interested in using City parks to hold fitness classes for members. These outdoor classes benefit the community by promoting health and wellness and maintaining outdoor activities during COVID-19. It is imperative that the City regulate the use of its parks to provide proper health and safety measures for exercise and physical fitness activity programs; and

WHEREAS, the Fremont Municipal Code (FMC) Section 12.20.060(q) prohibits business being conducted in City parks and FMC Section 12.20.040 requires permits be issued to gatherings of twenty-five (25) people or more; and

WHEREAS, the adoption of this order is necessary for the immediate preservation of the public peace, health, and safety. Social distancing and stay-at-home orders are expected to remain in force for the foreseeable future, threatening loss of employment to more residents, loss of income, and limiting indoor fitness opportunities. The adoption of this order allows the City to support health, wellness and outdoor activities and to encourage fitness businesses to maintain an active business while employing proper health and safety measures during the COVID-19 emergency.

NOW, THEREFORE, I HEREBY PROCLAIM AND ORDER, in my capacity as the City's Director of Emergency Services, the following rules and regulations, which shall apply to fitness classes taking place in outdoor locations within City of Fremont community parks and Central Park:

SECTION 1. Emergency Park Business Operating Permits.

- a. An Emergency Park Business Operating Permit process is required to regulate the use of community parks and Central Park by gyms and other fitness businesses. Such businesses determined by the Director or designee to be involved in providing outdoor fitness classes to the public at City community parks and Central Park, due to the COVID-19 emergency (a "Fitness Business"), must apply for an Emergency Park Business Operating Permit.
- b. An Emergency Park Business Operating Permit shall be processed in the same manner as park permits pursuant to FMC Section 12.20.040; however, any gathering by a Fitness Business, no matter the size, must apply for the Emergency Park Business Operating Permit.

- c. The prohibition against conducting business in the community parks and Central Park pursuant to FMC Section 12.20.060(q) is waived for Fitness Businesses that obtain an Emergency Park Business Operating Permit.
- d. All Emergency Park Business Operating Permits shall automatically expire upon the date that the City Council terminates the local emergency related to COVID-19, unless an earlier expiration date is stated in the permit.
- e. This order shall terminate automatically on the date that the City Council terminates the local emergency related to COVID-19.
- f. Violations of this order shall be punishable as set forth in Chapters 1.15, 1.20, and 12.20 of the Fremont Municipal Code.
- g. 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 Fremont, its departments, officers, or employees.

SECTION 2. CEQA

Under Title 14 of the California Code of Regulations, Section 15061(b)(3) and Section 15378(b), each as a separate and independent basis this Order is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

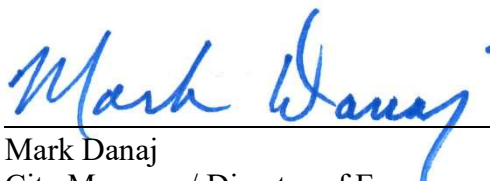
SECTION 3. Savings Clause

If any section, subsection, sentence, clause or phrase of this Order is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Order. The Director of Emergency Services hereby declares that he would have issued this Executive Order and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. Notice

The City Clerk shall certify to the issuance of this Order and shall cause notice of it to be widely disseminated to the public.

APPROVED and ISSUED this 29th day of September 2020.



Mark Danaj
City Manager / Director of Emergency Services