

# Before the Board of Supervisors County of Placer, State of California

**In the matter of:**

Resolution of the Board of Supervisors Proclaiming the Termination of the Placer County Declaration of Local Health Emergency Regarding COVID-19 and Rescinding Resolution No. 2020-034, as modified by Resolution 2020-137, in its entirety.

Resolution No.: 2020-194

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held September 08, 2020, by the following vote:

Ayes: WEYGANDT, HOLMES, UHLER, GUSTAFSON, GORE

Noes: NONE

Absent: NONE

Signed and approved by me after its passage.

  
Chair, Board of Supervisors

Attest:

  
Clerk of said Board

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WHEREAS, on March 2, 2020 Placer County Public Health reported the first confirmed case of COVID-19 in Placer County; and

WHEREAS, on March 3, 2020 the Placer County Public Health Officer issued a Declaration of Local Health Emergency, pursuant to California Health and Safety Code Section 101080, and the County Executive Officer issued a proclamation of the existence of a county-wide local emergency, pursuant to Government Code Sections 8630 and 8558; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency ("State of Emergency") to formalize emergency actions and help prepare for the broader spread of the COVID-19 disease; and

WHEREAS, on March 9, 2020, the Placer County Board of Supervisors passed a resolution ratifying the Declaration of Local Health Emergency ("Resolution No.2020-034); and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 ordering all individuals in California to stay in their place of residence except as needed to maintain continuity of operations of federal critical infrastructure sectors, thereby reducing and stopping non-essential businesses from continuing operations ("Stay at Home Order"); and

WHEREAS, on March 19, 2020, the Placer County Health Officer issued a directive instructing individuals to shelter at their place of residence and restricting non-essential activities in response to the COVID-19 outbreak; and

WHEREAS, on April 10, 2020, the Placer County Health Officer issued an order, which was amended on April 16, 2020, to replace the March 19<sup>th</sup> Directive. The April 16, 2020 Order clarified, strengthened, and extended the terms of the previous directive to reduce person-to-person contact and increase physical distancing in order to further slow transmission of COVID-19. The Order was issued based on the increasing occurrence of cases of COVID-19, and it expired on May 1, 2020; and

WHEREAS, on May 7, 2020, the California State Public Health Officer and Director of the California Department of Public Health ordered that all local health jurisdictions in the state could begin a gradual movement into Stage 2 of California's Pandemic Roadmap to Resilience, which allowed for the gradual reopening of businesses under the state order; and

WHEREAS, on May 11, 2020, the Board approved the Placer County Health Officer's attestation for a variance from the California Department of Public Health to move more quickly through Stage 2 of California's Pandemic Roadmap than the rest of the state; and

WHEREAS, on May 12, 2020, the California Department of Public Health granted Placer County's variance application; and

WHEREAS, on June 12, 2020, several Stage 3 economic sectors in Placer County were allowed to resume operations after the California Department of Public Health provided guidance for how these sectors could reopen under the state's guidelines; and

WHEREAS, numerous businesses and uses in Placer County resumed operations in Placer County in reliance on the State's guidelines; and

WHEREAS, on June 18, 2020, Governor Newsom and the CDPH mandated the wearing of masks or cloth face coverings in most indoor public spaces, with very limited exceptions; and

WHEREAS, on June 23, 2020, the Board adopted Resolution No. 2020-137 which amended Resolution No. 2020-034 to return the authority to terminate the local health emergency to the Board of Supervisors; and

WHEREAS, on June 30, 2020, Placer County, as a state condition to receive CARES Act funding (i.e. federal funding allocated to local governments under the Coronavirus Aid, Relief, and Economic Security Act [HR 748; CARES Act]) certified that it would “adhere to federal guidance and the state’s stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, and subsequent Executive Orders or statutes, and all California Department of Public Health orders, directives, and guidance in response to COVID-19 emergency”; and

WHEREAS, on July 1, 2020, Governor Newsom and the CDPH ordered that all counties on the state watch list for more than three days in a row would have to shut down bars and a range of indoor businesses, including dine-in restaurants, cardrooms and movie theaters; and

WHEREAS, on July 11, 2020, the State Public Health Officer issued an Amended State Public Health Officer Order for Placer County after Placer County was on the State’s county monitoring list for three days. The state order (which is still in effect) required the closure of bars and indoor operations for certain sectors (restaurants, wineries, family entertainment centers, zoos, museums, and cardrooms); and

WHEREAS, on July 13, 2020, Governor Newsom mandated a statewide shutdown of bars, indoor and outdoor service, and the shutdown of indoor dine-in restaurants, wineries, movie theaters, zoos, museums, cardrooms, and other entertainment centers. For counties, determined by the state CDPH to be on a “watch-list”, the order suspended indoor business for places of worship, fitness centers, shopping malls, personal care services, non-essential office spaces, hair salons and barbershops; and

WHEREAS, as a result of the state’s action, the businesses who had expended time and money to adhere to the State guidelines and reopened on or around June 12<sup>th</sup> were forced again to close down most operations; and

WHEREAS, on July 17, 2020, the CDPH released a school reopening framework that precluded schools from reopening for in-person instruction until 14 days after a county is removed for the state watch list. The CDPH also announced a waiver process by which elementary schools could reopen for in-person instruction if they were granted a waiver by the local Public Health Officer; and

WHEREAS, on August 7, 2020, the Governor and CDPH disclosed a state data glitch that resulted in an undercounting of the rate of COVID-19 infection from July 25, 2020 to August 4, 2020, caused up to 300,000 records to be backlogged, and led to CDPH freezing the state watch list, as of July 31, 2020, resulting in no county, including Placer, being able to move off the watch list until the State fixed its computer program problems; and

WHEREAS, finally on August 19, 2020, the County was removed from the Monitoring List and the 14-day countdown began to reopen schools in Placer; and

WHEREAS, on August 28, 2020, the State Public Health Office issued a new framework entitled “Blueprint for a Safer Economy” (“Blueprint”), which the State

claimed would allow for the “safe progression of opening up more businesses in each county so impacts of any given change can be fully evaluated”; and

WHEREAS the Blueprint is a color coded four tier system with the tiers representing the “risk of community disease transmission” with an associated list of uses and businesses that can reopen and the percentage of reopening permitted. Tier 4 (Yellow) is characterized as “minimal transmission” and at the other end of the spectrum, Tier 1 (Purple) is characterized as “substantial transmission”; and

WHEREAS, as of August 28, 2020, the vast majority of counties, including Placer, were ranked in the “widespread” or most restrictive category (Tier 1- Purple), despite the fact that Placer and San Diego had been (as of that date) off the monitoring list for more than 14 days. While Placer remains in Tier 1, San Diego and San Francisco Counties have been ranked in Tier 2, the red zone, which allows a broader range of businesses and churches to open for limited indoor uses; and

WHEREAS, the County’s Public Health Officer pointed out to the Acting State Public Health Officer that the State used the County data for weeks ending 8/11 and 8/18 which “overlaps with when Placer County was still on the Monitoring List. As a result, Placer County has been placed in the most restrictive tier, Purple, despite having been removed from the Monitoring List on August 19.” (Letter dated August 28, 2020 from Placer County Health Officer Dr. Aimee Sisson to Acting State Public Health Officer Dr. Erica Pan); and

WHEREAS, Dr. Sisson states in the same August 28<sup>th</sup> letter that the County’s “14-day case rate has steadily declined and its testing rate is at 4.0%. below the State threshold for this indicator”, and

WHEREAS, on August 28, 2020, Dr. Pan responded to Dr. Sisson via email and acknowledged that both Placer and San Diego Counties “will have been off the County Data Monitoring list for 14 days as of 9/1st. Per our 7/17<sup>th</sup> framework, schools may reopen once a county is off of the CDM for 14 days/2 weeks, thus your schools are allowed to reopen unless you have stricter local health officer requirements as of 9/1<sup>st</sup>” (Pan Email August 28, 2020); and

WHEREAS, under this new Blueprint system, even at the Tier 4 level, many businesses and uses such as churches, movie theaters, gyms, restaurants, bars and family entertainment centers are only allowed to operate indoors at a 50% capacity; and

WHEREAS, the Governor admits that there is no Tier in the Blueprint system that will allow businesses and uses in any county to open up to 100% capacity or use even if a county achieved Tier 4 and remained in that Tier for weeks. The Governor stated in his August 28, 2020 press conference that the state didn’t “put up green because we don’t believe that there is a green light which says go back to the way things were or back to the pre-pandemic mindset”; despite the fact that the Governor can use other health directives such as face coverings, distancing, hand sanitizing, to continue to reduce the spread; and

WHEREAS, to qualify for the Tier 4 under the State’s Blueprint monitoring system, a county must have less than 1 new case per 100,000 residents and even then, businesses are limited to 50% capacity. This criterion does not constitute either a local

or state emergency that merits the State's continued actions to restrict businesses and uses, such as religious activities in churches, in either Placer County or the state; and

WHEREAS, the Governor in his September 2, 2020, news conference made the recharacterization of the "COVID-19 pandemic" as potentially the "Twindemic" and stated that the effort by the state will now be focused on fighting both COVID and the flu through "the flu season"; and

WHEREAS, the State's position is untenable for residents of Placer County and many other counties in the state. It will likely force a significant number of businesses to permanently close, livelihoods to be destroyed, and will result in substantial additional unemployment and evictions; and

WHEREAS, the State cannot support the continued restriction on businesses and uses from reopening when it has yet to articulate or establish the root cause of the spread of COVID-19 in the state; and

WHEREAS, the original intent of the State of Emergency and subsequent Stay at Home Order ("State Actions") was to prevent the catastrophic failure of the hospital system due to an anticipated surge of Covid-19 cases; and

WHEREAS, the Board concludes this has been prevented in Placer County; and

WHEREAS, the key implementation step of the State Actions was designed to "flatten the curve", in order to avoid the overcrowding of our hospitals; and

WHEREAS, the Board concludes that the curve has been flattened in Placer County; and

WHEREAS, the Board of Supervisors is informed and believes, based on expert opinion, that the State's response to the COVID-19 emergency has not prevented the spread of COVID-19, but only delayed the spread of COVID-19 cases and that the State's monitoring plans have not established that any of these restrictions on businesses and uses actually targets the root cause or prevents of the spread of COVID-19 in California; and

WHEREAS, the Board of Supervisors is informed and believes, based on expert opinion, that the actual infection fatality rate of COVID-19 might be substantially lower than reported by the CDC, that the current herd immunity threshold (H.I.T.) could very well be as low as 10% to 20% of any given population because the contact rate of each person varies and some individuals have prior immunity based on previous exposure to other coronaviruses, and that long-term mitigation efforts unnecessarily prolong the profound negative physical, mental, emotional and economic impacts created by COVID-19; and

WHEREAS, the Board of Supervisors is informed and believes, based on expert scientific opinion, that COVID-19 is a serious virus that can lead to death and that particular segments of society, such as individuals over 65 and persons with pre-existing physical health conditions, are more susceptible to the negative effects of COVID-19 and that state or local restrictions, if any, should target those particular segments of the population; and

WHEREAS, recent information from the National Center for Health Statistics that underscored that most deaths are not *by* COVID but *with* COVID. By combining the two statistics, the state is setting the rate of deaths *by* COVID artificially high. Under the subheading labeled “comorbidities”, meaning the additional conditions people experienced in addition to a primary diagnosis such as COVID, the National Center for Health Statistics “shared that ‘for 6% of the deaths, COVID-19 was the only cause mentioned’ on the death certificate, meaning that only 6 percent of individuals had no underlying health complications other than COVID-19 reported when they died.” (The Scientist quoting the National Center for Health Statistics, September 2, 2020 article entitled “No the CDC Has Not ‘Quietly Updated’ COVID-19 Death Estimates”); and

WHEREAS, the Board is informed and believes, based on expert scientific opinion, that the state should carefully move towards a public health immunity instead of penalizing millions of Californians, and thousands of Placer County residents with more unproven and seemingly arbitrary restrictions as evidenced in the State’s August 28<sup>th</sup> Blueprint system; and

WHEREAS, the Board of Supervisors is informed and believes, based on expert scientific opinion, that initial state actions have “flattened the curve” to allow for adequate preparation by the hospital system in Placer County and that the hospital system is not at risk of catastrophic failure due to COVID-19; and

WHEREAS, as of Wednesday, September 2, 2020, the Placer County COVID-19 dashboard reports that Placer County, with an estimated population of 398,329 by the U.S. Census Bureau, had 3,062 laboratory confirmed positive COVID-19 cases, 2,689 likely recovered COVID-19 cases, 34 deaths of persons with laboratory confirmed positive COVID-19 cases; and

WHEREAS, the known positive COVID-19 cases (3,062) represent 8 tenths of 1% of the population of Placer County and the number of deaths (34) associated with COVID-19 represent 8 one-thousandths of 1% of the population of Placer County; and

WHEREAS, based on the fact that the County’s COVID case numbers have steadily reduced in number through August, it is the Board’s conclusion that the circumstances that led to the Board’s resolution ratifying the March 4th Proclamation of Local Health Emergency no longer exist; and

WHEREAS, pursuant to California Health and Safety Code section 101080, the Board, having reviewed the need for continuing the Local Health Emergency and recognizing that it is obligated under statute to terminate the same at “the earliest possible date that the conditions warrant termination”, now conclude that current conditions related to COVID-19 in Placer County warrant termination of the Local Health Emergency and rescission of Resolution No. 2020-034.

**NOW THEREFORE BE IT RESOLVED**, by the Board of Supervisors, County of Placer, State of California does hereby terminate, pursuant to California Health and Safety Code section 101080, the Proclamation of Local Health Emergency and thereby rescind Resolution No. 2020-034, as modified by Resolution No. 2020-137 in its entirety.

**BE IT FURTHER RESOLVED**, by the Board of Supervisors, County of Placer, State of California that all residents of Placer County should recognize they are individually responsible for their own personal choices in response to COVID-19, that an individual's behavior could increase or decrease their chances of being infected by COVID-19 (a virus that can cause fatalities and other serious medical conditions) or having a family member infected, and that local government, in a free society, cannot eliminate all risk to COVID-19.

**BE IT FURTHER RESOLVED**, by the Board of Supervisors, County of Placer, State of California that California's new Blueprint monitoring system establishes an arbitrary regulation of local economies to the significant financial detriment of citizens. The State's Blueprint system by the Governor's own admission has no "green tier" and therefore no end of state regulation regardless of what many medical experts would find to be a reasonable ratio of new cases per 100,000 population.

**BE IT FURTHER RESOLVED**, by the Board of Supervisors, County of Placer, State of California, that the Governor's September 2, 2020 news conference recharacterization of the "COVID-19 pandemic" as the "Twindemic" and the Governor's stated goal that the effort by the state will be focused on fighting both COVID-19 and the flu through "the flu season" is an unwarranted extension of the present state of emergency. The Board finds this forecast an overreach of the Governor's authority under the State Emergency Act and an overregulation by the State of local county and city jurisdictions.

**BE IT FURTHER RESOLVED** the Board of Supervisors, County of Placer, State of California reserve the authority under state law to declare another local health emergency should the case and/or hospitalization numbers so warrant.

**BE IT FURTHER RESOLVED**, by the Board of Supervisors, County of Placer, State of California that the California State of Emergency and the state's stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, and subsequent Executive Orders or statutes, and all California Department of Public Health orders, directives, and guidance ("State Requirements") remain in effect.

**BE IT FURTHER RESOLVED**, by the Board of Supervisors, County of Placer, State of California, this resolution shall be effective immediately upon adoption.