



500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM

Date: July 22, 2020

To: Mayor and Members of the Troy City Council

From: Mark F. Miller, City Manager
Lori Grigg Bluhm, City Attorney
Frank Nastasi, Police Chief

Subject: Enforcement of Governor's Executive Orders

The City of Troy Police Department has received complaints that there are gyms and fitness centers in the City that are operating in violation of Governor Whitmer's Executive Order 2020-110, which states, unequivocally, that *"...the following places are closed to ingress, egress, use, and occupancy by members of the public: (b) Indoor gymnasiums, fitness centers, recreation centers, sports facilities, exercise facilities, exercise studios, and the like."*

Specifically, the Troy Police Department was notified that Power House Gym and the Troy Sports Center is open and allowing customers indoors. More recently, the Troy Police Department was notified that Everest Tae Kwondo and Dojo Zen Bei Martial Arts are also open in violation of the Executive Order. Immediately upon receipt of the complaints, the Troy Police Department visited each business, and informed them of the mandates of the Governor's Executive Order, which requires them to remain closed. Although this process leads to compliance in most situations, unfortunately the Troy Sports Center and Power House Gym businesses are still open, in blatant disregard for the Governor's Executive Order, the creation of a public health concern with a potential for a wide spread COVID-19 outbreak in our community, the amount of City time and resources spent in trying to obtain compliance, and the increased risk to our first responders. There was a recent Detroit Free Press article, where the Manager for Power House Gym unapologetically stated that his primary concern was his own economic status.

Prior to the newspaper article, City Administration had already taken a number of steps designed to obtain compliance with the Governor's public health order. These include:

- Upon receipt of a complaint, and verification that a business is still open, Troy Police Officers immediately respond, and try to obtain compliance through education and communication. Additionally, the City Manager's Office also meets with and connects small businesses with any federal, state or county financial COVID-19 assistance to incentivize compliance.
- For those businesses that are deliberately non-compliant, Troy Police Officers notify the Michigan Attorney General's Office, the Oakland County Health Department, and the Oakland County Prosecutor's Office, and work cooperatively with these other governmental entities.
- A cease and desist order requiring immediate closure is given to the business. This order is signed by Troy Police Chief Frank Nastasi.
- If the business remains open, the Troy Police Department submits misdemeanor warrant requests to the Oakland County Prosecutor's Office for any business that is operating in



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violation of the Governor's Executive Order. As of today's date, there are two pending warrant requests- one for Power House Gym and one for the Troy Sports Center.

- The Oakland County Health Department may also be contacted to assist in obtaining compliance.

The City of Troy does not have the exclusive power to shut down non-compliant businesses. The Governor's Executive Order specifies that non-compliance is a criminal misdemeanor, punishable by up to 90 days in jail and/or fines of up to \$500. The authorization for the misdemeanor charge is under state statute (MCL 10.31 and MCL 30.403), and the Oakland County Prosecutor is vested with charging authority. There is no corresponding City ordinance that would allow citations to be prosecuted by the City Attorney's Office.

Non-compliant businesses should be aware that new criminal charges can be authorized for each day that there is a violation. Additionally, the Court would be apprised of the potential health risks for non-compliance, as well as the amount of City resources expended, and also any any unapologetic actions or statements.