
INTERNAL AFFAIRS COMMITTEE AGENDA

A Committee of the Chico City Council: Councilmembers O'Brien, Tandon, and Chair Reynolds

Meeting of September 12, 2022 – 4:00 p.m.

Council Chamber Building, 421 Main Street, Conference Room 1

REGULAR AGENDA

A. LOCAL EMERGENCY (COVID-19) STATUS

The City Council declared a Local Emergency due to the outbreak of COVID-19 on March 25, 2020. Pursuant to Government Code Section 8630, the City Council is to proclaim the termination of the emergency at the earliest possible date that conditions warrant. City staff requests the Internal Affairs Committee's consideration of the status of the Local Emergency. **(Report – Jennifer Macarthy, Deputy City Manager)**

RECOMMENDATION:

The City Manager recommends that the Internal Affairs Committee consider the status of the Local COVID-19 Emergency, and provide a recommendation to the full Council to either:

- 1) *Terminate the Local Emergency, or*
- 2) *Keep the Local Emergency in place and direct staff to return to Council in sixty (60) days for reconsideration.*

B. DOWNTOWN TEMPORARY PARKLETS

In an effort to meet the needs of residents and businesses during the pandemic, Executive Order 2020-003 was executed providing for the temporary expansion of outside dining at existing restaurants in the public right-of-way (parklets). City staff requests the Internal Affairs Committee's consideration of the future of temporary parklets. **(Report – Jennifer Macarthy, Deputy City Manager)**

RECOMMENDATION:

The City Manager recommends that the Internal Affairs Committee consider the status of the temporary parklets in the downtown area, and provide a recommendation to the full Council to either:

- 1) *Terminate Executive Order 2020-003, or*
- 2) *Adopt no changes to Executive Order 2020-003 and direct staff to draft a comprehensive temporary parklet ordinance.*

C. VICE MAYOR REYNOLDS REQUEST – CITY OPTIONS WITHIN THE SETTLEMENT AGREEMENT

At its meeting of 8/2/22, the Council voted to refer the request of what the City can do within the confines of the Settlement Agreement to improve the quality of life in Chico to the Internal Affairs Committee for further discussion.

D. BUSINESS FROM THE FLOOR

Members of the public may address the Committee at this time on any matter not already listed on the agenda, with comments being limited to three minutes. The Committee cannot take any action at this

meeting on requests made under this section of the agenda.

E. ADJOURNMENT AND NEXT MEETING

The meeting will adjourn to the next regular Internal Affairs Committee meeting scheduled for Monday, October 3, 2022 at 4:00 p.m.

SPEAKER ANNOUNCEMENT

NOTE: Citizens and other interested parties are encouraged to participate in the public process and will be invited to address the Committee regarding each item on the agenda.

Distribution available in the office of the City Clerk

***Posted: 09-08-22 prior to 5:00 p.m. at 421 Main St. Chico, CA 95928 and www.ci.chico.ca.us
Copies of the agenda packet are available for review at: City Clerk's Office, 411 Main St. Chico, CA 95928***



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Internal Affairs Agenda Report

Meeting Date: September 12, 2022

TO: Internal Affairs Committee
FROM: Jennifer Macarthy, Deputy City Manager
RE: Consideration of the Status of the Local Emergency (COVID-19)

REPORT IN BRIEF:

The City Council declared a Local Emergency due to the outbreak of COVID-19 on March 25, 2020 and adopted Resolution 7-20. During the course of the pandemic, Resolution 7-20 was amended twice, and five Executive Orders were executed that are directly tied to the Local Emergency. Per Resolution 7-20, and the subsequent amendments, the Local Emergency remains in effect until terminated by the City Council. Pursuant to Government Code Section 8630, subdivision (d), the City Council will proclaim the termination of the emergency at the earliest possible date that conditions warrant.

Recommendation:

The City Manager recommends the Internal Affairs Committee consider the status of the Local COVID-19 Emergency and provide a recommendation to the full Council to either: (a) terminate the Local Emergency, or (b) keep the Local Emergency in place and direct staff to return to Council in sixty (60) days for reconsideration.

FISCAL IMPACT:

None

BACKGROUND:

On March 20, 2020, the City Council declared a Local Emergency as a result of the impacts from the COVID-19 pandemic and adopted Resolution 7-20 (Attachment 1). The Resolution was amended on two separate occasions: Resolution 20-20 was adopted on May 19, 2020 (Attachment 2), and Resolution 41-20 was adopted on August 4, 2020 (Attachment 3).

In an effort to allow for business operations to continue in a safe manner during the pandemic, the City also executed several Executive Orders that are tied to the Local Emergency. These include:

1. Executive Order No. 2020-001 – Expansion of Planning and Building Entitlements (Attachment 4)
2. Executive Order No. 2020-002 – Temporary Expansion of Outside Dining at Existing Restaurants and Bona Fide Eating Establishments (Attachment 5)
3. Executive Order No. 2020-003 – Temporary Expansion of Outside Dining at Existing Restaurants and Bona Fide Eating Establishments in Public Right of Way (Parklet) (Attachment 6)
4. Executive Order 2020-004 – Temporary Expansion of Outside Commerce for Non-Food Businesses at Existing Businesses on Private Property (Attachment 7)
5. Executive Order No: 2020-005 – Temporary Expansion of Outside Commerce for Non-Food Businesses at Existing Businesses on Public Property (Attachment 8)

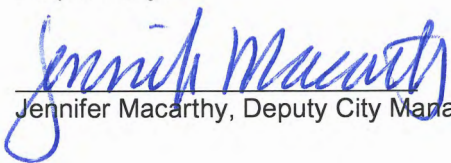
DISCUSSION:

While COVID-19 still exists within our community, the precautions taken by individuals and businesses have allowed the majority of activities within our community to return to pre-pandemic operations. Government Code 8630 requires the City Council to review the need for continuing the Local Emergency once every sixty (60) days, and terminate the Local Emergency at the earliest possible date that conditions warrant.

The following details the impacts to each of the Executive Orders if the Local Emergency is lifted:

1. Executive Order 2020-001 – Extension of Planning and Building Entitlements: All approved land use and planning entitlements, building permits, and tentative, vesting tentative, and final tract maps expiring within the period of, or within 180 days after the end of the period of, the local emergency are automatically extended for a period of 180 days after their expiration or 180 days after the end of the local emergency, whichever is later. All deadlines related to an application for land use and planning entitlements, building permits, and tentative, vesting tentative, and final tract maps expiring within the period of, or within 90 days after the end of the period of, this local emergency are automatically extended for a period of 90 days after the deadline.
2. Executive Orders 2020-002, 003, 004, 005 – All permits issues under these orders shall automatically expire upon the lifting of the City's declared Local Emergency.

Prepared by:


Jennifer Macarthy, Deputy City Manager

Approved and Recommended by:


Mark Sorensen, City Manager

DISTRIBUTION:

City Clerk

ATTACHMENTS:

- Attachment 1 – Resolution 7-20
- Attachment 2 – Resolution 20-20
- Attachment 3 – Resolution 41-20
- Attachment 4 – Executive Order 2020-001
- Attachment 5 – Executive Order 2020-002
- Attachment 6 – Executive Order 2020-003
- Attachment 7 – Executive Order 2020-004
- Attachment 8 – Executive Order 2020-005

RESOLUTION NO. 7-20

RESOLUTION NO. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, DECLARING A LOCAL EMERGENCY DUE TO THE OUTBREAK OF COVID-19, ADOPTING REGULATIONS FOR PRIVATE AND PUBLIC FACILITIES AND GATHERINGS, ESTABLISHING PROTECTIONS FOR RESIDENTIAL AND COMMERCIAL TENANTS, AND AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTIONS AS THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS, in December 2019, a novel coronavirus known as SARS-CoV-2 was first detected in Wuhan, Hubei Province, People's Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally;

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19;

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of COVID-19;

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080;

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i);

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19;

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19;

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events;

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19;

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants;

WHEREAS, on March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, suspending any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions when the basis for the eviction is nonpayment of rent or a foreclosure, arising out of a substantial decrease in household or business income or substantial out-of-pocket medical expenses, caused by the COVID-19 pandemic or by any local, state, or federal government response to COVID-19 and is documented;

WHEREAS, on March 18, 2020, Governor Gavin Newsom signed Executive Order N-29-20 amending requirements under Executive Order N-25-20 regarding minimal access requirements for in person access and attendance at public meetings and requirements under the Brown Act;

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-33-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors;

WHEREAS, on March 21, 2020, Governor Gavin Newsom signed Executive Order N-35-20 amending requirements under Executive Order N-29-20 regarding minimal access requirements for in person access and attendance at public meetings and requirements under the Brown Act;

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed;

WHEREAS, the spread of COVID-19 and its consequences are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Chico and will require, or is likely to require, the assistance and resources of other public or private local, regional or state agencies to combat, a local emergency;

WHEREAS, the mobilization of local resources, the ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully respond to COVID-19;

WHEREAS, these conditions warrant and necessitate that the City declare the existence of a local emergency.

WHEREAS, Government Code section 8630 empowers the governing board of a city to proclaim a local emergency;

WHEREAS, Government Code section 8634 states, "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice";

WHEREAS, based on the state declaration of emergency restrictions on price gouging under Penal Code section 396 have taken effect but are limited in scope and only as to residential tenancies; and

WHEREAS, the effect of the COVID-19 and/or the state declaration of emergency restrictions requiring all residents to stay at home or place of residence has placed or will place a severe economic hardship on the ability of persons within the City of Chico to pay rent or mortgage due to decreases in household or business income, layoffs, reduction of income from reduction of compensable hours worked, reduction of operating hours, and/or out-of-pocket medical expenses, causing many Chico residents and businesses to be in threat of eviction or judicial foreclosure;

WHEREAS, the City of Chico desires to exercise its police powers to address the emergency situation caused by and the effects of the COVID-19 emergency;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Proclamation of Local Emergency. Pursuant to Government Code section 8630, subdivision (a), the City Council proclaims that a local emergency exists within the City of Chico due to the outbreak of COVID-19.

SECTION 3. Regulation of Public Gatherings. Commencing immediately, the Director of Emergency Services is directed to postpone or cancel all non-essential public community events or group activities in City-owned properties, including City Council, commission, or board meetings. The City Council shall convene for regularly scheduled meetings of the City Council on the first Tuesday of each Month, and at special meetings as otherwise lawfully called.

SECTION 4. Regulation of Public Facilities. Commencing immediately, the Director of Emergency Services is directed to close all City-owned facilities that require close contact of vulnerable individuals, including those over 60 years old or with compromised immune systems. Such direction does not pertain to utilization of City-owned facilities, places, or structures as places of shelter or services to address the impacts of COVID-19.

SECTION 5. Regulation of Private Facilities. Pursuant to Executive Order No. N-33-20, all persons are to stay at their place of residence except persons as necessary to maintain continuity of operations at essential facilities and sectors referenced in Executive Order No. N-33-20, and as further clarified by Governor Newsom, until further notice. This provision does not apply to gatherings within a single household or living unit.

SECTION 6. Enforcement. Any violation of the above prohibition may be punishable by a fine not to exceed \$1,000 or imprisonment not to exceed six months, pursuant to the Chico

Municipal Code section 2.68.090 or Government Code section 8665. Violation of any Executive Order related to COVID-19 may be punishable pursuant to Government Code section 8665 or by a fine not to exceed \$1,000 or imprisonment not to exceed six months, pursuant to the Chico Municipal Code section 2.68.090. For individuals experiencing homelessness and residing in public areas within the City of Chico, absent a facility or other location able to provide shelter for such individual, the term “place of residence” shall be interpreted to mean the location where such individual regularly sleep prior to the declaration of emergency. Such interpretation shall not be read as an exemption from social distancing or other generally applicable public health requirements in effect due to the COVID-19 emergency. Persons are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize social distancing requirements in their operation).

SECTION 7. Exemption of Delivery Vehicles. Pursuant to Executive Order No. N-35-20, City ordinances, including conditions of approval for any development or project, which inhibits the delivery of food products, pharmaceuticals, and other emergency necessities distributed through grocery stores and other retail or institutional channels, including but not limited to hospitals, jails, restaurants and schools are suspended through the duration of this emergency. Delivery and distribution of food done in compliance with CDC guidelines shall be allowed.

SECTION 8. Guidance for Religious Gatherings. The leaders of the City’s houses of worship are urged, in the strongest possible terms, to limit gatherings on their premises and to explore and implement ways to practice their respective faiths while observing social distancing practices.

SECTION 9. Protection of Affected Tenants.

- a. It is hereby ordered that no landlord shall evict a residential or commercial tenant in the City of Chico during this local emergency period if the tenant is able to demonstrate an inability to pay rent due to financial impacts related to COVID-19. To take advantage of the protections afforded under this Section 9, a tenant must do all the following:
 - i. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment; and
 - ii. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment.
- b. Nothing in this section shall be construed to mean that the tenant will not still be obligated to pay lawfully charged rent. Tenants will have up to six months following the expiration of the local emergency period to repay any back due rent, verifiably caused by financial impacts related to COVID-19. Such protections afforded in this section are not enforceable by the City against a landlord but may utilized by applicable tenants afforded protections in this section as an affirmative defense in an unlawful detainer action or other applicable legal proceeding. This section shall remain in effect through May 31, 2020, or as otherwise extended by further Executive Order extending the expiration date in paragraph 2 of Executive Order

N-28-20, through the during the pendency of the local emergency period. Any tenant who receives a notice of eviction may bring a civil action against the landlord to contest the validity of the notice pursuant to this section and paragraph 2 of Executive Order N-28-20, as such may be amended.

- c. This section applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date of this Resolution where the basis of such action is a non-payment of rent arising out of the financial impacts related to COVID-19.
- d. “Financial impacts related to COVID-19” is :
 - (i) a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income cause by a reduction in opening hours or consumer demand); or substantial out-of-pocket medical expenses; and
 - (ii) the decrease in household or business income or substantial out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19, and is documented.

Examples of such COVID-19 related documented impacts include:

- i. Being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
- ii. Lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19;
- iii. Compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency related to with COVID-19;
- iv. Extraordinary out-of-pocket medical expenses related to COVID-19; or
- v. Child-care needs arising from school closures related to COVID-19.

SECTION 10. Utility Service Termination and Parking Provisions. For a period of 60 days from the date of this Resolution, the City hereby suspends:

- a. The imposition of late payment penalties or fees for delinquent payment of sewer service bills (underlying charge is not forgiven);
- b. The collection of fees for parking meter service within the Downtown Chico Parking Plan area (time limits within such parking areas remain in effect); and
- c. The imposition of late payment penalties for parking violations (underlying violation fine for violation of parking regulation remains in effect).

SECTION 11. Emergency Authority. Pursuant to Government Code section 8634, the City Council authorizes the Director of Emergency Services to take any measures necessary to protect and preserve public health and safety, including activation of the Emergency Operations Center.

SECTION 12. Public Health Officials. The City Council authorizes the Director of Emergency Services to implement any guidance, recommendations, or requirements imposed by the State Department of Public Health or the Butte County Health Officer.

SECTION 13. Termination. Pursuant to Government Code section 8630, subdivision (d), the City Council will proclaim the termination of the emergency at the earliest possible date that conditions warrant.

SECTION 14. Review. Pursuant paragraph 8 of the Proclamation of State of Emergency dated March 4, 2020, the requirement under Government Code section 8630, subdivision (c), regarding City Council review of the need for continuing the local emergency within 60 days from the previous declaration or review waived, and this declaration shall remain in effect until the City Council terminates the local emergency.

SECTION 15. Extension of Expiring Entitlements. All entitlements expiring within the period of this local emergency are automatically extended for a period of 30 days, with further extensions to be made at the discretion of the Director of Emergency Services.

SECTION 16. Cost Accounting. City staff will begin accounting for their time and expenses related to addressing the local emergency caused by COVID-19.

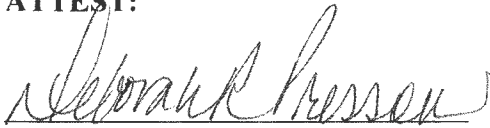
SECTION 17. Cost Recovery. The City will seek recovery for the cost of responding to COVID-19, as this proclamation is made within 10 days of the Governor's Executive Order N-25-20 and the President's declaration of a national emergency, qualifying the City for assistance under the California Disaster Assistance Act and for reimbursement from the Federal Emergency Management Agency.

SECTION 18. Submissions. The City Clerk will transmit a copy of this Resolution at the earliest opportunity to the Butte County Office of Emergency Management and the California Governor's Office of Emergency Services.

SECTION 19. Certification. The City Clerk will certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

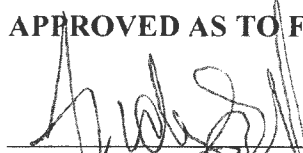
PASSED, APPROVED AND ADOPTED on this 25th day of March, 2020.

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew L. Jared, City Attorney

I HEREBY CERTIFY the foregoing resolution was duly adopted by the City Council of the City of Chico, California, at a regular meeting held on the 25th day of March, 2020, by the following vote:

AYES: Schwab, Brown, Huber, Morgan, Stone

NOES: None

ABSENT: Ory, Reynolds

ABSTAINED: None

RESOLUTION NO. 20-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, AMENDING RESOLUTION 07-20 REGARDING THE DECLARATION OF A LOCAL EMERGENCY DUE TO THE OUTBREAK OF COVID-19, AND ASSOCIATED REGULATIONS, AND COORDINATING EFFORTS REGARDING THE STATEWIDE STAY AT HOME ORDER.

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19;

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of COVID-19;

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080;

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i);

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19;

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19;

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events;

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19;

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants;

WHEREAS, on March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, suspending any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions when the basis for the eviction is nonpayment of rent or a foreclosure, arising out of a substantial decrease in household or business income or substantial out-of-pocket medical

expenses, caused by the COVID-19 pandemic or by any local, state, or federal government response to COVID-19 and is documented;

WHEREAS, on March 18, 2020, Governor Gavin Newsom signed Executive Order N-29-20 amending requirements under Executive Order N-25-20 regarding minimal access requirements for in person access and attendance at public meetings and requirements under the Brown Act;

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-33-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors (the “statewide stay at home order”);

WHEREAS, on March 25, 2020, the City Council of the City of Chico adopted Resolution 7-20, proclaiming a local emergency due to the outbreak of COVID-19, adopting regulations for private and public facilities and gatherings, establishing protections for residential and commercial tenants, and authorizing the City Manager to take all necessary actions as the Director of Emergency Services.

WHEREAS, on May 1, 2020, due to the success of the statewide stay at home order, Governor Newsom issued the Resilience Roadmap outlining the way in which the statewide stay at home order will be modified, with such program being modified and updated at <https://covid19.ca.gov/roadmap/>;

WHEREAS, the Resilience Roadmap allows for reopening of certain workplaces in stages 2 and 3, and allows advancement through stage 2 after attestation by each county as criteria are met to allow such reopening;

WHEREAS, on May 8, 2020, the County of Butte submitted its Attestation <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Butte%20County%20Attestation.pdf>) that it had met certain criteria in containing COVID-19 to allow consideration of advancing through Stage 2 of the statewide stay at home order consistent with the Resilience Roadmap, and allow further reopening of certain workplaces;

WHEREAS, subsequent to the County of Butte’s submission, the Butte County Attestation and Reopen Plan was approved by the state for a Local Variance consistent with the Resilience Roadmap;

WHEREAS, workplaces opening under the Reopen Plan must comply with the state guidelines for certain workplaces <https://covid19.ca.gov/industry-guidance/>;

WHEREAS, the state guidelines for certain workplaces may be amended on short notice through amendment of the guidance found at <https://covid19.ca.gov/industry-guidance/>;

WHEREAS, the state may amend the Reopen Plan on short notice through amendment of guidance found on its websites;

WHEREAS, the County of Butte has created an active information page at <http://www.buttecounty.net/publichealth/ButteReopens> where as information is provided by the local work groups, health professionals and the State, guidance applicable to businesses and activities in the County of Butte will be updated;

WHEREAS, the potential spread of COVID-19 remain likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Chico, necessitating the assistance and resources of other public or private local, regional or state agencies to combat, in the effort to control a local emergency:

WHEREAS, the City of Chico continues to desire to exercise its police powers to address the emergency situation caused by and the effects of the COVID-19 emergency, while coordinating its efforts in this regard with the County of Butte and the State of California;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, DOES RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Prior Declaration of Local Emergency and Resolution 07-20. Nothing in this Resolution shall amend the proclamation of a local emergency as stated in Section 2 of Resolution 07-20, or any portion of such resolution unless expressly stated herein.

SECTION 3. Regulation of Public Gatherings. Commencing immediately, Section 3 of Resolution 07-20 is hereby amended commencing immediately to allow the Director of Emergency Services to postpone, cancel, reschedule, or schedule public community events or group activities in City-owned properties, including City Council, commission, or board meetings as they determine in the best interest of the City, consistent with the state guidelines. The City Council shall resume its regular meeting schedule of meeting on the first and third Tuesdays of the month effective August 4, 2020, and may call special meetings as otherwise lawfully called. Items other than essential City business shall be postponed until guidelines are established by the State or County addressing allowing attendance at public meetings. Attendance by the public at such meetings shall remain limited to participation via electronic means until further order of the City Council, acting consistent with state guidelines.

SECTION 4. Regulation of Public Facilities. Commencing immediately, Section 4 of Resolution 07-20 is hereby amended to allow the Director of Emergency Services to manage all City-owned facilities that require close contact of vulnerable individuals, including those over 60 years old or with compromised immune systems, as they determine in the best interest of the City, consistent with the state guidelines. Such direction shall not prevent utilization of City-owned facilities, places, or structures as places of shelter or services to address the impacts of COVID-19.

SECTION 5. Regulation of Private Facilities. Commencing immediately, Section 4 of Resolution 07-20 is hereby amended to allow the Director of Emergency Services to coordinate efforts in the enforcement of the statewide stay at home order with the Butte County Attestation and Reopen Plan, as such may be amended by the County of Butte or state guidance. The Director of Emergency Services is authorized to take any actions determined necessary for the protection of the residents of Chico in the event that an escalation of COVID-19 cases warrant, without further action by the City Council until such time the City Council may amend this Resolution.

SECTION 6. Utility Service Termination and Parking Provisions. The following penalties and provisions are extended for a period of 90 days from the date of this Resolution:

- a. The imposition of late payment penalties or fees for delinquent payment of sewer service bills (underlying charge is not forgiven);
- b. The collection of fees for parking meter service within the Downtown Chico Parking Plan area (time limits within such parking areas remain in effect); and
- c. The imposition of late payment penalties for parking violations (underlying violation fine for violation of parking regulation remains in effect).

SECTION 7. Emergency Authority. Pursuant to Government Code section 8634, the City Council authorizes the Director of Emergency Services to take any measures necessary to protect and preserve public health and safety, including activation of the Emergency Operations Center.

SECTION 8. Guidance of State and Local Public Health Officials. The City Council authorizes the Director of Emergency Services to take such action as appropriate to implement any guidance, recommendations, or requirements not otherwise in conflict with this resolution imposed by the Governor of California, the State Public Health Official, the State Department of Public Health, the Butte County Department of Public Health, or the Butte County Health Officer without further action by the City Council. Any action taken by the Director in the form of a Proclamation shall be published by the Director on the city webpage.

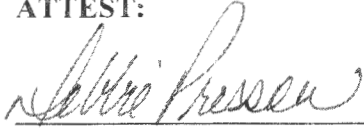
SECTION 9. Termination. Pursuant to Government Code section 8630, subdivision (d), the City Council will proclaim the termination of the emergency at the earliest possible date that conditions warrant.

SECTION 10. Submissions. The City Clerk will transmit a copy of this Resolution at the earliest opportunity to the Butte County Office of Emergency Management and the California Governor's Office of Emergency Services.

SECTION 11. Certification. The City Clerk will certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

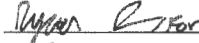
PASSED, APPROVED AND ADOPTED on this 19th day of May 2020.

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew L. Jared, City Attorney

I HEREBY CERTIFY the foregoing resolution was duly adopted by the City Council of the City of Chico, California, at a regular meeting held on the 19th day of May, 2020, by the following vote:

AYES: Brown, Huber, Ory, Reynolds, Schwab, and Stone

NOES: Morgan

ABSENT: None

ABSTAINED: None

RESOLUTION NO. 41-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, AMENDING RESOLUTION 20-20 REGARDING THE DECLARATION OF A LOCAL EMERGENCY DUE TO THE OUTBREAK OF COVID-19, AND ASSOCIATED REGULATIONS, AND COORDINATING EFFORTS REGARDING THE STATEWIDE STAY AT HOME ORDER.

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19;

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of COVID-19;

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080;

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i);

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19;

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19;

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events;

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19;

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants;

WHEREAS, on March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, suspending any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions when the basis for the eviction is nonpayment of rent or a foreclosure, arising out of a substantial decrease in household or business income or substantial out-of-pocket medical

expenses, caused by the COVID-19 pandemic or by any local, state, or federal government response to COVID-19 and is documented;

WHEREAS, on March 18, 2020, Governor Gavin Newsom signed Executive Order N-29-20 amending requirements under Executive Order N-25-20 regarding minimal access requirements for in person access and attendance at public meetings and requirements under the Brown Act;

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-33-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors (the “statewide stay at home order”);

WHEREAS, on March 25, 2020, the City Council of the City of Chico adopted Resolution 7-20, proclaiming a local emergency due to the outbreak of COVID-19, adopting regulations for private and public facilities and gatherings, establishing protections for residential and commercial tenants, and authorizing the City Manager to take all necessary actions as the Director of Emergency Services;

WHEREAS, on May 1, 2020, due to the success of the statewide stay at home order, Governor Newsom issued the Resilience Roadmap outlining the way in which the statewide stay at home order will be modified, with such program being modified and updated at <https://covid19.ca.gov/roadmap/>;

WHEREAS, the Resilience Roadmap allows for reopening of certain workplaces in stages 2 and 3, and allows advancement through stage 2 after attestation by each county as criteria are met to allow such reopening;

WHEREAS, on May 8, 2020, the County of Butte submitted its Attestation (<https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Butte%20County%20Attestation.pdf>) that it had met certain criteria in containing COVID-19 to allow consideration of advancing through Stage 2 of the statewide stay at home order consistent with the Resilience Roadmap, and allow further reopening of certain workplaces;

WHEREAS, subsequent to the County of Butte’s submission, the Butte County Attestation and Reopen Plan was approved by the state for a Local Variance consistent with the Resilience Roadmap;

WHEREAS, workplaces opening under the Reopen Plan must comply with the state guidelines for certain workplaces <https://covid19.ca.gov/industry-guidance/>;

WHEREAS, the state guidelines for certain workplaces may be amended on short notice through amendment of the guidance found at <https://covid19.ca.gov/industry-guidance/>;

WHEREAS, the state may amend the Reopen Plan on short notice through amendment of guidance found on its websites;

WHEREAS, the County of Butte has created an active information page at <http://www.buttecounty.net/publichealth/ButteReopens> where as information is provided by the local work groups, health professionals and the State, guidance applicable to businesses and activities in the County of Butte will be updated;

WHEREAS, on May 19, 2020, the City Council of the City of Chico adopted Resolution 20-20, amending Resolution 7-20;

WHEREAS, the potential spread of COVID-19 remain likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Chico, necessitating the assistance and resources of other public or private local, regional or state agencies to combat, in the effort to control a local emergency;

WHEREAS, the City of Chico continues to desire to exercise its police powers to address the emergency situation caused by and the effects of the COVID-19 emergency, while coordinating its efforts in this regard with the County of Butte and the State of California;

WHEREAS, on June 28, 2020, the City Council provided direction concerning opening public meetings to the greatest extent possible by use of in person communication and electronic communication methods, commencing at the August 4, 2020 council meeting, and thereby desires to amend Section 3 of Resolution 20-20 concerning these issues;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, DOES RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

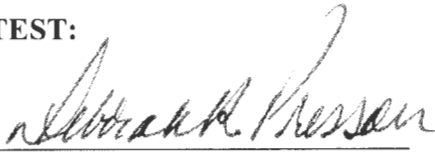
SECTION 2. Regulation of Public Gatherings. Commencing immediately, Section 3 of Resolution 20-20 is hereby amended commencing immediately to allow any items to be heard by the City at any meeting of the City Council or commission, provided, that the public is afforded the opportunity to view such meeting and provide comment by electronic means during the meeting, or provide testimony at the place of the meeting in person while utilizing appropriate social distancing as established by the Director of Emergency Services, consistent with state law and guidelines.

SECTION 3. Submissions. The City Clerk will transmit a copy of this Resolution at the earliest opportunity to the Butte County Office of Emergency Management and the California Governor's Office of Emergency Services.

SECTION 4. Certification. The City Clerk will certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

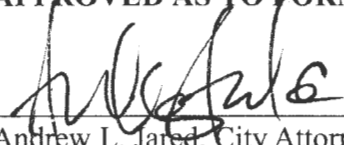
PASSED, APPROVED AND ADOPTED on this 4th day of August 2020.

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew L. Jared, City Attorney

I HEREBY CERTIFY the foregoing resolution was duly adopted by the City Council of the City of Chico, California, at a regular meeting held on the 4 th day of August, 2020, by the following vote:

AYES: Huber, Morgan, Ory, Reynolds, Stone, Brown, Schwab

NOES: None

ABSENT: None

ABSTAINED: None

**DIRECTOR OF EMERGENCY SERVICES EXECUTIVE ORDER NO. 2020-001
(EXTENSION OF PLANNING AND BUILDING ENTITLEMENTS)**

WHEREAS, in December 2019, a novel coronavirus known as SARS-CoV-2 was first detected in Wuhan, Hubei Province, People's Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally;

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19;

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080;

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i);

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19;

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19;

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events;

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19;

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants;

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-33-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors;

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed;

WHEREAS, Chico Municipal Code section 2.68.030 empowers the City Manager, as Director of Emergency Services, to declare the existence or threatened existence of a local emergency that is beyond the control of the services, personnel, equipment, facilities and resources of the City and which will require, or is likely to require, the assistance and resources of other public or private local, regional or state agencies to combat, a local emergency;

WHEREAS, Government Code section 8634 states, "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and

regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice;

WHEREAS, on March 25, 2020, the City Council approved Resolution 7-20 declaring a local emergency due to the outbreak of COVID-19, adopting regulations for private and public facilities and gatherings, establishing protections for residential and commercial tenants, and authoring the City Manager to take all necessary actions as the Director of Emergency Services; and

WHEREAS, this order is enforceable under Government Code Section 8665 and/or Chico Municipal Code Section 2.68.090.

NOW, THEREFORE, I, Mark Orme, City Manager of the City of Chico, as Director of Emergency Services, in accordance with the authority vested in me by Government Code section 8634 and City Council Resolution No. 7-20, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

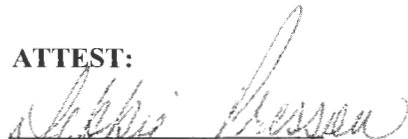
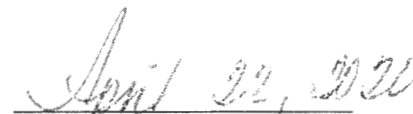
- 1) All approved land use and planning entitlements, building permits, and tentative, vesting tentative, and final tract maps expiring within the period of, or within 180 days after the end of the period of, this local emergency are automatically extended for a period of 180 days after their expiration or 180 days after the end of the local emergency, whichever is later. All deadlines related to an application for land use and planning entitlements, building permits, and tentative, vesting tentative, and final tract maps expiring within the period of, or within 90 days after the end of the period of, this local emergency are automatically extended for a period of 90 days after the deadline.
- 2) This Order shall be filed in the Office of the City Clerk, posted at the City Council Chambers, and available on the City's webpage.

SO ORDERED.

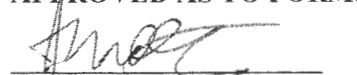


Mark Orme,
City Manager/Director of Emergency Services

ATTEST:


Debbie Presson, City Clerk
Date signed

APPROVED AS TO FORM:


Andrew Jared, City Attorney

CITY OF CHICO
EMERGENCY SERVICES DIRECTOR EXECUTIVE ORDER NO. 2020-002

DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF CHICO TO PROTECT THE PUBLIC HEALTH REGARDING TEMPORARY EXPANSION OF OUTSIDE DINING AT EXISTING RESTAURANTS AND BONA FIDE EATING ESTABLISHMENTS

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19; and

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080; and

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i); and

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19; and

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19; and

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19; and

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants; and

WHEREAS, on March 16, 2020, the California Department of Public Health established guidelines for social distancing, elimination of non-essential gatherings, and isolation for specific individuals, in order to prevent the transmission of COVID-19 (“DPH Guidance”); and

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-3-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors; and

WHEREAS, Governor Gavin Newsom and State Public Health Officer Dr. Sonia Y. Angell have continued to issue various Executive Orders and Public Health Orders; and

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to

control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS, on July 13, 2020, State Public Health Officer Dr. Sonia Y. Angell issued a Public Health Order causing all bars, pubs, brewpubs, and breweries, whether operating indoors or outdoors, across the state to close, unless such businesses offer outdoor, sit-down, dine-in meals in compliance with state guidance; and

WHEREAS, the July 13, 2020 State Public Health Officer Order also prohibits all restaurants statewide from engaging in indoor dine-in operations, but allowed continued operation of outdoor dining subject to state guidance for outdoor dining; and

WHEREAS, businesses desiring to utilize the exceptions for outdoor dining under the July 13, 2020 State Public Health Officer Order, must comply with the Covid-19 Industry Guidance bulletins published by the California Department of Public Health and CalOSHA which allow restaurants providing outdoor dining service to expand their outdoor seating, and alcohol offerings in compliance with local laws and regulations;

WHEREAS, City of Chico has various local laws and regulations related to location and operation of businesses;

WHEREAS, Chico Municipal Code section 2.68.030 empowers the City Manager, as Director of Emergency Services, to declare the existence or threatened existence of a local emergency that is beyond the control of the services, personnel, equipment, facilities and resources of the City and which will require, or is likely to require, the assistance and resources of other public or private local, regional or state agencies to combat, a local emergency; and

WHEREAS, Government Code section 8634 states, "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice; and

WHEREAS, on March 25, 2020, the City Council approved Resolution 7-20 declaring a local emergency due to the outbreak of COVID-19, adopting regulations for private and public facilities and gatherings, establishing protections for residential and commercial tenants, and authoring the City Manager to take all necessary actions as the Director of Emergency Services; and

WHEREAS, increasing rates of COVID-19 exposure are resulting in the State of California placing certain counties with insufficient progress to containing their disease transmission and hospitalization rates, the County may be forced into closing certain businesses, including indoor dining, by an order of the State Public Health Officer; and

WHEREAS, allowing for the use of outdoor space would enhance a Food Establishment's ability to institute exposure reduction measures and reduce the propagation of COVID-19 while allowing for access to needed food staples; and

WHEREAS, the health and vitality of Food Establishments support the general economic and proper function of the community are critical to the continued ability to combat the COVID-19 virus and ensure future health and safety; and

WHEREAS, this order is enforceable under Government Code Section 8665 and/or Chico Municipal Code Section 2.68.090.

NOW, THEREFORE, I, Mark Orme, City Manager of the City of Chico, as Director of Emergency Services, in accordance with the authority vested in me by Government Code section 8634 and City Council Resolution No. 7-20, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. Notwithstanding anything to the contrary in the City's zoning ordinances, development code, approved land use entitlements, or site plan review approvals, all existing restaurants, wineries, tasting rooms, bars, pubs, brewpubs, and breweries (collectively, "Food Establishments") may utilize additional outdoor dining areas by completing a Temporary Use for Covid-19 (Outdoor Dining) application (Exhibit A), operating pursuant to the standards and conditions therein, and adhering to requirements specified by the Community Development Director and the requirements of the July 13, 2020 State Public Health Order. The Director may impose additional conditions deemed reasonably necessary to ensure the safe and lawful operation of outdoor Food Establishment activities and services. No fee will be required for the application.

2. Areas that Food Establishments may utilize pursuant to a Temporary Use for Covid-19 (Outdoor Dining) include private sidewalks (non-public right of way), parking lots, recreation space, and other space on private property that is conducive to outdoor dining, within the lot on which such Food Establishment exists or within the private shopping center on which such Food Establishment exists.

3. Food Establishments desiring to use public common areas including sidewalks, streets, parking lots, recreation space, and other public space that might be conducive to outdoor activities and services may apply through Public Works under a separate application.

4. The City shall have the right to immediately suspend the operation of Temporary Use for Covid-19 (Outdoor Dining) due to failure to abide by applicable standards, conditions, and guidelines. Upon expiration or revocation Temporary Use for Covid-19 (Outdoor Dining), the Food Establishment shall restore the area to its prior condition.

5. Temporary Use for Covid-19 (Outdoor Dining) is not intended to convey a property or vested right to operate contrary to City codes, standards, and requirements. All Temporary Use for Covid-19 (Outdoor Dining) shall automatically expire upon the lifting or expiration of the City's declared local emergency, or upon earlier modification of this Order.

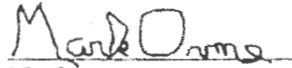
6. Temporary Use for Covid-19 (Outdoor Dining) are approved at the discretion of the Community Development Director ("Director") and may be revoked or modified by the Director for the following reasons:

- A. Approval based on a material misrepresentation by, on behalf of, or attributable to the applicant or the property owner, regardless of whether the misrepresentation was intentional or negligent or otherwise inadvertent;
- B. One or more of the standards, conditions or guidelines have not been met or have been violated;
- C. The improvement, use, or exercise of any right or privilege allowed is detrimental to the public interest, health, safety, convenience, or welfare of the city, or constitutes a nuisance;

7. Upon determining to order the revocation of a Temporary Use issued, the Director shall cause written notice of such order to be served on the person to whom the Temporary Use was issued. A person served with a notice of the order of the Director revoking a Temporary Use issued pursuant to the provisions of this chapter shall promptly terminate the use of the Temporary Use. Denial or revocation of a Temporary Use for Covid-19 (Outdoor Dining) may be appealed to the City Manager, where the decision shall be final. The denial or revocation of a Temporary Use may be appealed to the City Manager, where the decision shall be final. Any appeal to the City Manager shall be an informal proceeding without the technical rules of evidence.

8. This Order shall be filed in the Office of the City Clerk, posted at Chico City Hall, and published in the Chico Enterprise Record.

SO ORDERED.



Mark Orme,
City Manager/Director of Emergency Services

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew Jared, City Attorney



City of Chico

TEMPORARY USE COVID-19 OUTDOOR DINING

This Temporary Use is intended to assist local Food Establishments (otherwise referred to as “restaurants, wineries, tasting rooms, bars, pubs, brewpubs, and breweries”) to comply with state guidelines regarding operating under recent outdoor dining guidelines while minimizing health and safety risks to employees and customers. The temporary use allows established Food Establishments, currently licensed to operate in Chico, to expand or create outdoor dining areas on private property due to the reduced seating capacity and social distancing requirements associated with COVID-19.

For any questions regarding the allowance for this temporary use, please contact the Planning Division at (530) 879-6800. Applications may be submitted via email to zoning@chico.ca.gov. There shall be no fee associated with this process.

Business Information

Organization/Business Name _____ Business Owner Contact Name _____ Phone # _____ Business Owner Mailing Address _____ _____ Business Owner Email _____ Business Tax Number _____

Property Owner Information

Shopping Center Name (if applicable) _____ Property Owner _____ Phone # _____ Property Owner Mailing Address _____ _____ As the authorized agent of the Property Owner of said Shopping Center, I authorize applicant to utilize the space identified in this application for use as temporary outdoor dining. _____ Property Owner _____ Date _____
--

Restaurant Information

Shopping Center Name (if applicable) _____ Pre-COVID-19 Seating Capacity Indoor ____ Outdoor ____ # Parking Spaces ____ Temporary Seating Capacity Indoor ____ Outdoor ____ # Parking Spaces ____ Use Permit: ____ No ____ Yes. If yes, resolution number: _____ Alcohol Served: ____ No ____ Yes. Will alcohol be served in a new or modified outdoor seating area? (Y/N) _____

Purpose of the COVID-19 Temporary Outdoor Dining

- Allows for restaurants to temporarily convert common areas and parking spaces to outdoor dining when located on private property.
- Tables, chairs, umbrellas, movable barricades and other minor appurtenances may be placed in these areas as allowed and restricted per the standards outlined below.
- Unenclosed tents (open on four sides) may be utilized for outdoor dining areas as allowed and restricted per the standards outlined below.

Who is Eligible?

- Restaurants operating at a reduced indoor capacity, with a valid City of Chico business license and all other required licensing.

Procedure

1. Submit this completed form, including property owner authorization and Business Owner signature.
2. Submit a site plan showing the parcel boundary lines, limits of the outdoor dining area, as well as the number and location of tables. This will be reviewed to ensure Fire Department access is not impeded, tables do not conflict with traffic patterns, adequate parking remains available to customers, and ADA compliance.
 - a. Plan MUST show: dimensions of the proposed outdoor dining area, number and size of tables, number of seats per table, spacing between tables, lighting (where applicable), and any other proposed changes. The plan shall indicate the location and number of all usable off-street parking areas under the proposed configuration. If the plan proposal includes a tent, the tent can only be used as a type of roof covering without sides. Dimensions of the tent(s) MUST be provided.
 - b. Plan may be hand-drawn on an aerial photo printed from Google Maps or similar service.
 - c. The business owner is responsible for implementing all industry guidance for re-opening from the California Department of Public Health and Butte County Public Health Department.
3. Submit general liability insurance of \$1 million per occurrence and \$2 million in the aggregate with additional insured endorsements CG 20 12* or CG 20 26. Must provide certificate of insurance listing the City of Chico as a named insured and include policy declarations, coverage part, and schedule of forms (endorsement/exclusions list). Email hr@chicoca.gov to obtain more specific insurance information if needed. Valid and sufficient insurance as determined by the City's Risk Manager is required prior to approval of this application.
4. Where proposed outdoor dining DOES NOT include vehicular use areas, City staff will verify that all required information has been provided and will send a reply email to the business owner stating that the restaurant has been authorized for the temporary outdoor seating arrangement. The email shall list any conditions of approval necessary to meet code requirements or to restore the temporary seating area to its previous state. Upon receipt of that email, the temporary outdoor seating may begin operation. City staff will subsequently visit the establishment to assist the restaurant owner or restaurant manager in assuring compliance with all applicable requirements.
5. Where the proposed outdoor seating DOES include vehicular use areas, City staff will verify that all required information has been provided and will route the proposal for review by the Public Works Department and Fire Marshal. Should the review result in approval, City staff will send a reply email to the business owner stating that the restaurant has been approved for the new/additional outdoor seating. This initial approval email shall include any conditions of

approval (if applicable), and provide notification that the operator must call to schedule an inspection once the temporary seating arrangement has been set up. The restaurant owner or restaurant manager must be present in order to immediately address any compliance issues. Following a passing inspection, City staff shall send a final email stating that the new/additional outdoor seating is approved to begin operation.

6. Any additional conditions or requirements will be included in the final application approval.

Standards for Temporary Use - COVID-19 Outdoor Dining

1. The temporary use shall be in accordance with all Executive Orders of the Governor, Executive Orders of the City of Chico, City of Chico Regulations, Butte County Regulations, and the California Department of Health Regulations.
2. The temporary use shall comply with all applicable Fire Department regulations.
3. Operations authorized are limited solely to temporary outdoor dining on private property. Additional activities or operations other than patron dining are not allowed. No parties or special events.
4. Under no circumstances shall the total pre-COVID-19 seating capacity of an establishment be increased as a result of this authorization. The intent is to mitigate the amount of the reduced indoor seating capacity by allowing additional outdoor seating capacity.
5. Open sided tents may be installed over approved outdoor dining areas for protection from the elements, consistent with applicable building and fire codes. All temporary shade protection structures may be subject to removal at the direction of the Building Division (e.g., in the event of extreme weather).
6. No streets, fire lanes, driveways, access easements, or other shared means for traffic circulation shall be impeded or blocked.
7. A maximum of fifty percent (50%) of the number of normally required parking spaces may be occupied or otherwise rendered unusable by the placement of temporary seating and other features associated with the temporary use. Such maximum may be increased or decreased at the discretion of the City's Public Works Director based on unique site conditions.
8. Outdoor dining areas shall be separated from parking and vehicular use areas by temporary physical barriers (e.g., planters).
9. All sidewalks or other pedestrian paths must maintain a minimum five-foot width.
10. A minimum of six feet of distance must be maintained between table groups.
11. Each table group shall be limited to parties of no more than ten (10) individuals.
12. New/additional outdoor seating shall not block any established exits from any building.
13. Seating areas shall not encroach into any required landscaped areas or buffers.
14. Umbrellas, tables, chairs, or tents shall not block any public rights-of-way, fire lanes, hydrants, or ADA parking spaces.
15. ADA parking spaces shall not be used for outdoor dining purposes. All existing ADA access and parking shall be maintained.
16. To ensure that all dining establishments are afforded an equitable opportunity to establish temporary outdoor seating arrangements, no business owner shall be authorized to have outdoor dining on sidewalk space in front of another dining establishment. Outdoor dining areas provided within parking lots shared with another dining establishment shall be limited to the width of the associated tenant suite as determined feasible by the Community Development Director.
17. Temporary outdoor dining shall be allowed within the same hours of operation of the establishment.
18. Any alcohol sales or consumption shall comply with State and local regulations.

19. Permanent plumbing, electrical, and lighting fixtures shall not be installed pursuant to this authorization. All such temporary improvements shall be properly permitted, as applicable, and removed once social distancing guidelines by the California Department of Public Health are lifted.
20. Any direction by the Fire Marshal to modify or discontinue the temporary use due to safety concerns shall be heeded immediately.
21. All outdoor dining areas must be maintained and kept clean of litter.
22. The temporary outdoor dining authorization may be revoked if compliance with the standards listed above is not maintained.
23. The City reserves the right to require the removal of temporary outdoor dining should it, in the opinion of the City, pose a hazard to the health, safety, and/or welfare of the public.
24. Upon expiration of State order restricting indoor seating capacity, the temporary outdoor dining use shall cease within five days from the date of the order expiration. Following this cessation, the area used for temporary outdoor dining shall be returned to its previous state.

Conditions of Use:

- a. **Incorporation of Standards for Temporary Use COVID-19 (Outdoor Dining).** The standards for operation of a temporary outdoor dining use and any additional conditions to ensure adherence to same are incorporated herein by this reference. Business Owner expressly agrees to abide by each and every one of these standards and conditions.
- b. **Indemnification.** To the fullest extent permitted by law, during the operative period of this Temporary Use, Business shall defend (with counsel of City's choosing), indemnify and hold City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Business, its officials, officers, employees, sublessees, consultants or agents in connection with Business's activity under this Temporary Use including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Business shall reimburse City and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Business's responsibility for such defense and indemnity obligations shall survive the of this Temporary Use for the full period of time allowed by law. The defense and indemnification obligations are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Temporary Use or as determined by the City's Risk Manager. Business's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by City, its directors, officials, officers, employees, agents, or volunteers.
- c. **Removal or Relocation of Improvements.** Pursuant to the conditions of operation, no fixed improvements are permitted. City reserves the right to order the removal or relocation of any fixed improvements at Business Owner's cost. Business Owner hereby grants to City the right to remove or relocate any such fixed improvements and to come upon Business Owner's premises to effect said removal or relocation if deemed necessary by City. Business Owner waives any claim or right it may have for inverse condemnation, damages, or loss of income or business resulting from said removal. Upon removal or relocation of said improvements, all rights of Business Owner under this agreement shall terminate.

- d. **Duty to Comply with the Law.** Business Owner shall comply with all applicable local, State, and Federal laws and regulations at all times during the effective period of this agreement, including, but not limited to, laws regarding the obstruction of vehicular traffic, the Americans with Disabilities Act (ADA), California Alcohol Beverage Control (ABC) regulations and orders relating to the service of alcohol, and County health laws regarding provision of food services.
- e. **Insurance.** Business Owner shall procure and maintain for the duration of this Temporary Use for Covid-19 (Outdoor Dining) insurance against claims for injuries to persons or damages to property which may arise from or in connection with this Temporary Use for Covid-19 (Outdoor Dining). The cost of such insurance shall be borne by Business Owner. No later than 7 days after the requested start date of outdoor activities, Business Owner shall provide the City with proof of insurance, satisfactory to the City's Risk Manager, adding the City of Chico as an additional insured on Business Owner's insurance policies. Questions about coverage requirements may be made to hr@chico.ca.gov.
- f. **Alcohol Sales or Service.** If Business Owner proposes to sell or serve alcohol as a part of its outdoor activities, Business Owner shall furnish, along with this Temporary Use for Covid-19 (Outdoor Dining), proof of a liquor liability coverage endorsement or policy. Business Owner shall obtain authorization by ABC for outdoor alcohol service prior to operation and provide documentation of such upon request.
- g. **Violation of Agreement.** Any violation of this Temporary Use for Covid-19 (Outdoor Dining) or any other local, State, or Federal law shall constitute an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to enforcement as such; violations of this Temporary Use for Covid-19 (Outdoor Dining) or the provisions of the Order may result in the immediate termination of this Temporary Use for Covid-19 (Outdoor Dining) and the cessation of any activities authorized by this Temporary Use for Covid-19 (Outdoor Dining) or the Order. The City shall not be responsible for any liability or damages associated with issuance or revocation of a Waiver, or with the immediate suspension of outdoor Business Establishment activities as provided for under this Order, and the Business Establishment, affiliates, successors, and assigns, in accepting a Waiver agree to release, hold harmless, and defend the City from any such liability.
- h. **No Vested or Ongoing Rights Conferred.** Business Owner understands and agrees that this Temporary Use for Covid-19 (Outdoor Dining) and the Order confer no vested rights to any ongoing or continued activities, and any and all activities authorized by this Temporary Use for Covid-19 (Outdoor Dining) and the Order are temporary in nature and granted solely to enable businesses to operate in compliance with State, County, and local orders regarding social distancing and COVID-19.
- i. **Non-Transferable.** This Temporary Use for Covid-19 (Outdoor Dining) is non-transferable. Only the Business Owner with whom this Temporary Use for Covid-19 (Outdoor Dining) was entered shall be permitted to engage in the activities authorized herein.
- j. **Independent Contractor.** It is understood and agreed that Business Owner, in the performance of this Temporary Use for Covid-19 (Outdoor Dining), will be acting in a wholly independent capacity and not as agent, employee, partner, or joint venturer of City.
- k. **Entire Agreement.** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations of modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by the party to be charged and duly recorded.

THE UNDERSIGNED AGREES THAT THE PROPOSED ACTIVITIES DESCRIBED ABOVE SHALL BE IN ACCORDANCE WITH AND SUBJECT TO THE TERMS AND CONDITIONS ABOVE, THE ORDER, AND ALL OTHER APPLICABLE LOCAL, STATE AND FEDERAL LAWS.

Business Owner

Date

Property Owner

Date

AUTHORIZED:

Community Development Department Director
or Designee

Date

APPROVED AS TO FORM:

Andrew L. Jared, City Attorney*
* pursuant to Chico City Charter, sec. 906(D)

Final Approved Application will include:

- Completed Temporary Use COVID-19 Outdoor Dining application signed by all parties listed above.
- **Attachment A** Completed Site Plan
- **Attachment B** Additional Conditions Required by the City
- **Attachment C** Complete Insurance Documentation including Additional Insured Endorsement

ATTACHMENT A
COMPLETED SITE PLAN

ATTACHMENT B
ADDITIONAL CONDITIONS

ATTACHMENT C
INSURANCE DOCUMENTS

CITY OF CHICO
EMERGENCY SERVICES DIRECTOR EXECUTIVE ORDER NO. 2020-003

DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF CHICO TO PROTECT THE PUBLIC HEALTH REGARDING TEMPORARY EXPANSION OF OUTSIDE DINING AT EXISTING RESTAURANTS AND BONAFIDE EATING ESTABLISHMENTS IN PUBLIC RIGHT OF WAY (PARKLET)

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19; and

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080; and

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i); and

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19; and

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19; and

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19; and

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants; and

WHEREAS, on March 16, 2020, the California Department of Public Health established guidelines for social distancing, elimination of non-essential gatherings, and isolation for specific individuals, in order to prevent the transmission of COVID-19 (“DPH Guidance”); and

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-3-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors; and

WHEREAS, Governor Gavin Newsom and State Public Health Officer Dr. Sonia Y. Angell have continued to issue various Executive Orders and Public Health Orders; and

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to

control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS, on July 13, 2020, State Public Health Officer Dr. Sonia Y. Angell issued a Public Health Order causing all bars, pubs, brewpubs, and breweries, whether operating indoors or outdoors, across the state to close, unless such businesses offer outdoor, sit-down, dine-in meals in compliance with state guidance; and

WHEREAS, the July 13, 2020 State Public Health Officer Order also prohibits all restaurants statewide from engaging in indoor dine-in operations, but allowed continued operation of outdoor dining subject to state guidance for outdoor dining; and

WHEREAS, businesses desiring to utilize the exceptions for outdoor dining under the July 13, 2020 State Public Health Officer Order, must comply with the Covid-19 Industry Guidance bulletins published by the California Department of Public Health and CalOSHA which allow restaurants providing outdoor dining service to expand their outdoor seating, and alcohol offerings in compliance with local laws and regulations;

WHEREAS, City of Chico has various local laws and regulations related to location and operation of businesses;

WHEREAS, Chico Municipal Code section 2.68.030 empowers the City Manager, as Director of Emergency Services, to declare the existence or threatened existence of a local emergency that is beyond the control of the services, personnel, equipment, facilities and resources of the City and which will require, or is likely to require, the assistance and resources of other public or private local, regional or state agencies to combat, a local emergency; and

WHEREAS, Government Code section 8634 states, "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice; and

WHEREAS, on March 25, 2020, the City Council approved Resolution 7-20 declaring a local emergency due to the outbreak of COVID-19, adopting regulations for private and public facilities and gatherings, establishing protections for residential and commercial tenants, and authoring the City Manager to take all necessary actions as the Director of Emergency Services; and

WHEREAS, on July 15, 2020, the City Manager, as Director of Emergency Services, issued Emergency Services Director Executive Order No. 2020-002 allowing for the expansion of restaurant seating on private property; and

WHEREAS, increasing rates of COVID-19 exposure are resulting in the State of California placing certain counties with insufficient progress to containing their disease transmission and hospitalization rates, the County may be forced into closing certain businesses, including indoor dining, by an order of the State Public Health Officer; and

WHEREAS, allowing for the use of outdoor space would enhance a Food Establishment's ability to institute exposure reduction measures and reduce the propagation of COVID-19 while allowing for access to needed food staples; and

WHEREAS, the health and vitality of Food Establishments support the general economic and proper function of the community are critical to the continued ability to combat the COVID-19 virus and ensure future health and safety; and

WHEREAS, this order is enforceable under Government Code Section 8665 and/or Chico Municipal Code Section 2.68.090.

NOW, THEREFORE, I, Mark Orme, City Manager of the City of Chico, as Director of Emergency Services, in accordance with the authority vested in me by Government Code section 8634 and City Council Resolution No. 7-20, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) Food Establishments desiring to use public common areas including public sidewalks, streets, parking lots, recreation space, and other public space on a temporary basis that might be conducive to outdoor activities and services may apply through Public Works under a separate application. Such use will be processed under CMC Section 14.70 – Use of Public Right-of-Way for Operation of Outdoor Cafes.

2) To accommodate additional seating capacity due to indoor seating closures, the use of “parklets” will be allowed during the term of this emergency. “Parklet” is defined as a small seating area or green space created and managed by the applicant as a public amenity on or alongside a sidewalk within the area of former roadside parking space or right of way temporarily removed for such use, with the approval of the Director of Public Works - Engineering.

3) Safety measures will be required to ensure protection of the public and businesses using this space, at the approval of the Director of Public Works - Engineering.

4) For the use of parklets, the provisions of CMC Section 14.70.060.B are temporarily amended to read as follows as such pertains to parklets for food establishments:

“B. Widening of Sidewalk. Where a restaurant owner or operator proposes to operate a parklet ~~an outdoor café~~ in the public right-of-way and the proposal includes the widening of a sidewalk or use of parking or right of way by converting existing on-street parking space(s) to and area of use for a food establishment then the use of the public right-of-way for the operation of a parklet ~~an outdoor café~~ shall be limited as follows:

1. Upon approval of Director of Public Works- Engineering, there shall be no limit on the number of spaces required located directly in front of or adjacent to the licensee’s restaurant, that may be converted to widened sidewalk for use as a parklet;
2. Parking spaces directly adjacent to the business, as well as neighboring spaces will be allowed to be used. No parking spaces or other ADA accessible facilities may be eliminated by establishing such parklet;
3. Both parallel and diagonal parking spaces may be utilized to implement these temporary parklets;
4. All costs attendant to the widening of sidewalk for the operation of a parklet shall be at licensee’s sole cost and expense; and

5. Any construction of widened sidewalk shall comply with the requirements of Title 18B and be constructed pursuant to a valid encroachment permit. Any use of existing parking spaces or right of way as a parklet without construction of a widened sidewalk shall incorporate appropriate ADA access, and may utilize the parking/street surface without additional improvement, pursuant to a valid encroachment permit and approval of the Director of Public Works -- Engineering.
 6. Any use of existing parking spaces or rights of way shall incorporate traffic design, including vehicle barrier devices, to be approved by the City's Traffic Engineer.
- 5) No Architectural Review will be required as outlined in CMC Section 14.70.075.
- 6) The City shall have the right to immediately suspend the operation of a Parklet use due to failure to abide by applicable standards, conditions, and guidelines. Upon expiration or revocation, the permittee shall restore the Parklet area to its prior condition.
- 7) Neither this order nor a permit issued under CMC 14.70 is intended to convey a property or vested right to operate contrary to City codes, standards, and requirements. All permits issued under CMC 14.70 pursuant to this Order shall automatically expire upon the lifting or expiration of the City's declared local emergency, or upon earlier modification of this Order.
- 8) Revocation or denial shall be administered pursuant to CMC 14.70.90
- 9) All other requirements of CMC 14.70 not contrary to this order shall remain in full force and effect and applicable to permits issued hereunder.
- 10) This Order shall be filed in the Office of the City Clerk, posted at Chico City Hall, and published in the Chico Enterprise Record.

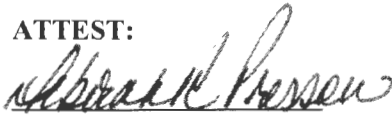
SO ORDERED.



Mark Orme,

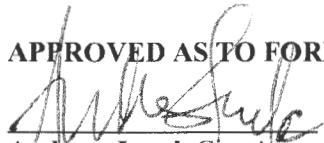
City Manager/Director of Emergency Services

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew Jared, City Attorney

CITY OF CHICO
EMERGENCY SERVICES DIRECTOR EXECUTIVE ORDER NO. 2020-004

DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF CHICO TO PROTECT THE PUBLIC HEALTH REGARDING TEMPORARY EXPANSION OF OUTSIDE COMMERCE FOR NON-FOOD BUSINESSES AT EXISTING BUSINESSES ON PRIVATE PROPERTY

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19; and

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080; and

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i); and

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19; and

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19; and

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19; and

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants; and

WHEREAS, on March 16, 2020, the California Department of Public Health established guidelines for social distancing, elimination of non-essential gatherings, and isolation for specific individuals, in order to prevent the transmission of COVID-19 (“DPH Guidance”); and

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-3-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors; and

WHEREAS, on March 25, 2020, the City Council approved Resolution 7-20 declaring a local emergency due to the outbreak of COVID-19, adopting regulations for private and public facilities and gatherings, establishing protections for residential and commercial tenants, and authoring the City Manager to take all necessary actions as the Director of Emergency Services; and

WHEREAS, Governor Gavin Newsom and State Public Health Officer Dr. Sonia Y. Angell have continued to issue various Executive Orders and Public Health Orders; and

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS, on July 13, 2020, State Public Health Officer Dr. Sonia Y. Angell issued a Public Health Order causing all bars, pubs, brewpubs, and breweries, whether operating indoors or outdoors, across the state to close, unless such businesses offer outdoor, sit-down, dine-in meals in compliance with state guidance. In addition, the State Public Health Officer also implemented additional indoor sector closures for Counties on a Monitoring List for three consecutive days which included gyms, places of worship, protests, non-critical offices, personal care services, malls and air salons/barbers; and

WHEREAS, businesses desiring to utilize the exceptions for outdoor activity under the July 13, 2020 State Public Health Officer Order, must comply with the Covid-19 Industry Guidance bulletins published by the California Department of Public Health and CalOSHA which allow certain business types to providing outdoor service while in compliance with local laws and regulations; and

WHEREAS, City of Chico has various local laws and regulations related to location and operation of businesses; and

WHEREAS, on July 15, 2020, the City Manager, as Director of Emergency Services, issued Emergency Services Director Executive Order No. 2020-002 allowing for the expansion of restaurant seating on private property; and

WHEREAS, the City already retains an outdoor café permit allow for food establishments to utilize public right of way adjacent to their business for outdoor service, and the City intends to work with businesses to allow for temporary outdoor service; and

WHEREAS, on July 25, 2020 after being listed on the State's Monitoring List for three days, Butte County would be subject to the additional indoor sector closures; and

WHEREAS, allowing for the use of outdoor space would enhance impacted businesses with the ability to institute exposure reduction measures and reduce the propagation of COVID-19 while allowing for access to needed goods and services; and

WHEREAS, the health and vitality of local businesses support the general economic and proper functioning of the community and are critical to the continued ability to combat the COVID-19 virus and ensure future health and safety; and

WHEREAS, Chico Municipal Code section 2.68.030 empowers the City Manager, as Director of Emergency Services, to declare the existence or threatened existence of a local emergency that is beyond the control of the services, personnel, equipment, facilities and resources of the City and which will require, or is likely to require, the assistance and resources of other public or private local, regional or state agencies to combat, a local emergency; and

WHEREAS, Government Code section 8634 states, "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such

orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice; and

WHEREAS, this order is enforceable under Government Code Section 8665 and/or Chico Municipal Code Section 2.68.090.

NOW, THEREFORE, I, Mark Orme, City Manager of the City of Chico, as Director of Emergency Services, in accordance with the authority vested in me by Government Code section 8634 and City Council Resolution No. 7-20, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

A. Use of Private Property

1) Notwithstanding anything to the contrary in the City's zoning ordinances, development code, approved land use entitlements, or site plan review approvals, all businesses subject to the California State Public Health Order of July 13, 2020 (collectively, "Businesses" or "Business") may utilize additional outdoor private areas by completing a Temporary Use for Covid-19 (Outdoor Service) application (Exhibit A), operating pursuant to the standards and conditions therein, and adhering to requirements specified by the Community Development Director and the requirements of the July 13, 2020 State Public Health Order. The Director may impose additional conditions deemed reasonably necessary to ensure the safe and lawful operation of outdoor Business activities and services. No fee will be required for the application.

2) Areas that Businesses may utilize pursuant to a Temporary Use for Covid-19 (Outdoor Service) include private sidewalks (non-public right of way), parking lots, recreation space, and other space on private property that is conducive to outdoor commerce, within the lot on which such Business exists or within the private shopping center on which such Business exists. Business may occupy up to 100% of the square footage of usable floor space of the Business' building outdoors, but in no event shall occupy more than 50% of the available parking area on site. Such use shall be in compliance with ADA regulations and shall not eliminate any ADA parking spaces. Such use shall not operate outside of such business' regular operating hours.

3) Businesses desiring to use public common areas including sidewalks, streets, parking lots, recreation space, and other public space that might be conducive to outdoor activities and services may apply through Public Works under a separate application.

4) The City shall have the right to immediately suspend the operation of Temporary Use for Covid-19 (Outdoor Service) due to failure to abide by applicable standards, conditions, and guidelines. Upon expiration or revocation Temporary Use for Covid-19 (Outdoor Service), the Business shall restore the area to its prior condition.

5) Temporary Use for Covid-19 (Outdoor Service) is not intended to convey a property or vested right to operate contrary to City codes, standards, and requirements. All Temporary Use for Covid-19 (Outdoor Service) shall automatically expire upon the lifting or expiration of the City's declared local emergency, or upon earlier modification of this Order.

6) Temporary Use for Covid-19 (Outdoor Service) are approved at the discretion of the Community Development Director (“Director”) and may be revoked or modified by the Director for the following reasons:

- A. Approval based on a material misrepresentation by, on behalf of, or attributable to the applicant or the property owner, regardless of whether the misrepresentation was intentional or negligent or otherwise inadvertent;
- B. One or more of the standards, conditions or guidelines have not been met or have been violated;
- C. The improvement, use, or exercise of any right or privilege allowed is detrimental to the public interest, health, safety, convenience, or welfare of the city, or constitutes a nuisance;

7) Upon determining to order the revocation of a Temporary Use issued, the Director shall cause written notice of such order to be served on the person to whom the Temporary Use was issued. A person served with a notice of the order of the Director revoking a Temporary Use issued pursuant to the provisions of this chapter shall promptly terminate the use of the Temporary Use. Denial or revocation of a Temporary Use for Covid-19 (Outdoor Service) may be appealed to the City Manager, where the decision shall be final. The denial or revocation of a Temporary Use may be appealed to the City Manager, where the decision shall be final. Any appeal to the City Manager shall be an informal proceeding without the technical rules of evidence.

8) This Order shall be filed in the Office of the City Clerk, posted at Chico City Hall, and published in the Chico Enterprise Record.

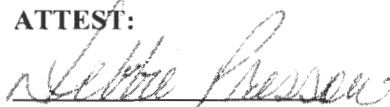
SO ORDERED.



Mark Orme,

City Manager/Director of Emergency Services

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew Jared, City Attorney



City of Chico

TEMPORARY USE OF EXPANDED PRIVATE COVID-19 OUTDOOR COMMERCE

This Temporary Use is intended to assist non-food businesses impacted by State Public Health Orders issued since July 13, 2020 to comply with state guidelines regarding operating under recent outdoor operation guidelines while minimizing health and safety risks to employees and customers. The temporary use allows businesses impacted by closing indoor operations but allowed to operate outside, currently licensed to operate in Chico, to expand or create outdoor commerce areas on private property adjacent to their business.

For any questions regarding the allowance for this temporary use for private property, please contact the Planning Division at (530) 879-6800. Applications may be submitted via email to zoning@chicoca.gov. There shall be no fee associated with this process.

Business Information

Organization/Business Name	_____
Business Owner Contact Name	_____ Phone # _____
Business Owner Mailing Address	_____
Business Owner Email	_____
Business Tax Number	_____

Property Owner Information

Shopping Center Name (if applicable)	_____
Property Owner Name	_____ Phone # _____
Property Owner Mailing Address	_____
<i>As the authorized agent of the Property Owner of said Shopping Center, I authorize applicant to utilize the space identified in this application for use as temporary outdoor commerce.</i>	
Property Owner	Date

Business Details

Shopping Center Name (if applicable)	_____
Pre-COVID-19 square footage:	Indoor _____ Outdoor _____ # Parking Spaces _____
Temporary square footage:	Indoor _____ Outdoor _____ # Parking Spaces _____
Use Permit:	No _____ Yes _____ If yes, resolution number: _____

Purpose of the COVID-19 Temporary Outdoor Commerce

- Allows for businesses to temporarily convert common areas and parking spaces to outdoor commerce areas when located on private property.
- Tables, racks, umbrellas, movable barricades and other minor appurtenances may be placed in these areas as allowed and restricted per the standards outlined below.
- Unenclosed tents (open on four sides) may be utilized for outdoor commerce areas as allowed and restricted per the standards outlined below.

Who is Eligible?

- Businesses operating at a reduced indoor capacity, with a valid City of Chico business license and all other required licensing.

Procedure

1. Submit this completed form, including property owner authorization and Business Owner signature.
2. Submit a site plan showing the parcel boundary lines, limits of the outdoor commerce area, as well as the number and location of tables, racks, umbrellas, movable barricades, other minor appurtenances and any other furniture. This will be reviewed to ensure Fire Department access is not impeded, no conflicts with traffic patterns, adequate parking remains available to customers, and ADA compliance.
 - a. Plan MUST show: dimensions of the proposed outdoor commerce area, location, spacing, number and size of tables, racks, umbrellas, movable barricades and other minor appurtenances, lighting (where applicable), location of furniture and any other proposed changes. The plan shall indicate the location and number of all usable off-street parking areas under the proposed configuration. If the plan proposal includes a tent, the tent can only be used as a type of roof covering without sides. Dimensions of the tent(s) MUST be provided.
 - b. Plan may be hand-drawn on an aerial photo printed from Google Maps or similar service.
 - c. The business owner is responsible for implementing all industry guidance for re-opening from the California Department of Public Health and Butte County Public Health Department.
3. Submit general liability insurance of \$1 million per occurrence and \$2 million in the aggregate with additional insured endorsements CG 20 12* or CG 20 26. Must provide certificate of insurance listing the City of Chico as a named insured and include policy declarations, coverage part, and schedule of forms (endorsement/exclusions list). Email hr@chicoca.gov to obtain more specific insurance information if needed. Valid and sufficient insurance as determined by the City's Risk Manager is required prior to approval of this application.
4. Where proposed outdoor commerce DOES NOT include vehicular use areas, City staff will verify that all required information has been provided and will send a reply email to the business owner stating that the business has been authorized for the temporary outdoor service. The email shall list any conditions of approval necessary to meet code requirements or to restore the temporary service area to its previous state. Upon receipt of that email, the temporary outdoor service may begin operation. City staff will subsequently visit the establishment to assist the business owner or business manager in assuring compliance with all applicable requirements.
5. Where the proposed outdoor service DOES include vehicular use areas, City staff will verify that all required information has been provided and will route the proposal for review by the

Public Works Department and Fire Marshal. Should the review result in approval, City staff will send a reply email to the business owner stating that the business has been approved for the new/additional outdoor activity. This initial approval email shall include any conditions of approval (if applicable) and provide notification that the operator must call to schedule an inspection once the temporary arrangement has been set up. The business owner or business manager must be present in order to immediately address any compliance issues. Following a passing inspection, City staff shall send a final email stating that the new/additional outdoor activity is approved to begin operation.

6. Any additional conditions or requirements will be included in the final application approval.

Standards for Temporary Use - COVID-19 Outdoor Commerce

1. The temporary use shall be in accordance with all Executive Orders of the Governor, Executive Orders of the City of Chico, City of Chico Regulations, Butte County Regulations, and the California Department of Health Regulations.
2. The temporary use shall comply with all applicable Fire Department regulations.
3. Operations authorized are limited solely to temporary outdoor commerce on private property. Additional activities or operations other than patron commerce are not allowed. No parties or special events.
4. Under no circumstances shall the total pre-COVID-19 floor capacity of an establishment be increased as a result of this authorization. The intent is to mitigate the amount of the reduced indoor floor capacity by allowing additional outdoor floor capacity.
5. Open sided tents may be installed over approved outdoor commerce areas for protection from the elements, consistent with applicable building and fire codes. All temporary shade protection structures may be subject to removal at the direction of the Building Division (e.g., in the event of extreme weather).
6. No streets, fire lanes, driveways, access easements, or other shared means for traffic circulation shall be impeded or blocked.
7. A maximum of fifty percent (50%) of the number of normally required parking spaces may be occupied or otherwise rendered unusable by the placement of temporary service area and other features associated with the temporary use. Such maximum may be increased or decreased at the discretion of the City's Public Works Director based on unique site conditions.
8. Outdoor commerce areas shall be separated from parking and vehicular use areas by temporary physical barriers (e.g., planters).
9. All sidewalks or other pedestrian paths must maintain a minimum five-foot width.
10. New/additional outdoor area shall not block any established exits from any building.
11. Service areas shall not encroach into any required landscaped areas or buffers.
12. Umbrellas, tables, racks, umbrellas, movable barricades and other minor appurtenances or tents shall not block any public rights-of-way, fire lanes, hydrants, or ADA parking spaces.
13. ADA parking spaces shall not be used for outdoor commerce purposes. All existing ADA access and parking shall be maintained.
14. To ensure that all commerce establishments are afforded an equitable opportunity to establish temporary outdoor service, no business owner shall be authorized to have outdoor commerce on sidewalk space in front of another commerce establishment. Outdoor commerce areas provided within parking lots shared with another commerce establishment shall be limited to the width of the associated tenant suite as determined feasible by the Community Development Director.
15. Temporary outdoor commerce shall be allowed within the same hours of operation of the establishment.

16. Permanent plumbing, electrical, and lighting fixtures shall not be installed pursuant to this authorization. All such temporary improvements shall be properly permitted, as applicable, and removed once social distancing guidelines by the California Department of Public Health are lifted.
17. Any direction by the Fire Marshal to modify or discontinue the temporary use due to safety concerns shall be heeded immediately.
18. All outdoor commerce areas must be maintained and kept clean of litter.
19. The temporary outdoor commerce authorization may be revoked if compliance with the standards listed above is not maintained.
20. The City reserves the right to require the removal of temporary outdoor commerce should it, in the opinion of the City, pose a hazard to the health, safety, and/or welfare of the public.
21. Upon expiration of State order restricting indoor floor capacity, the temporary outdoor commerce use shall cease within five days from the date of the order expiration. Following this cessation, the area used for temporary outdoor commerce shall be returned to its previous state.

Conditions of Use:

- a. **Incorporation of Standards for Temporary Use COVID-19 (Outdoor Commerce).** The standards for operation of a temporary outdoor commerce use and any additional conditions to ensure adherence to same are incorporated herein by this reference. Business Owner expressly agrees to abide by each and every one of these standards and conditions.
- b. **Indemnification.** To the fullest extent permitted by law, during the operative period of this Temporary Use, Business shall defend (with counsel of City's choosing), indemnify and hold City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Business, its officials, officers, employees, sublessees, consultants or agents in connection with Business's activity under this Temporary Use including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Business shall reimburse City and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Business's responsibility for such defense and indemnity obligations shall survive the of this Temporary Use for the full period of time allowed by law. The defense and indemnification obligations are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Temporary Use or as determined by the City's Risk Manager. Business's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by City, its directors, officials, officers, employees, agents, or volunteers.
- c. **Removal or Relocation of Improvements.** Pursuant to the conditions of operation, no fixed improvements are permitted. City reserves the right to order the removal or relocation of any fixed improvements at Business Owner's cost. Business Owner hereby grants to City the right to remove or relocate any such fixed improvements and to come upon Business Owner's premises to effect said removal or relocation if deemed necessary by City. Business Owner waives any claim or right it may have for inverse condemnation, damages, or loss of income or business resulting from said removal. Upon removal or relocation of said improvements, all rights of Business Owner under this agreement shall terminate.

- d. **Duty to Comply with the Law.** Business Owner shall comply with all applicable local, State, and Federal laws and regulations at all times during the effective period of this agreement, including, but not limited to, laws regarding the obstruction of vehicular traffic, the Americans with Disabilities Act (ADA), California Alcohol Beverage Control (ABC) regulations and orders relating to the service of alcohol, and County health laws regarding provision of food services.
- e. **Insurance.** Business Owner shall procure and maintain for the duration of this Temporary Use for Covid-19 (Outdoor Commerce) insurance against claims for injuries to persons or damages to property which may arise from or in connection with this Temporary Use for Covid-19 (Outdoor Commerce). The cost of such insurance shall be borne by Business Owner. No later than 7 days after the requested start date of outdoor activities, Business Owner shall provide the City with proof of insurance, satisfactory to the City's Risk Manager, adding the City of Chico as an additional insured on Business Owner's insurance policies. Questions about coverage requirements may be made to hr@chicoca.gov.
- f. **Violation of Agreement.** Any violation of this Temporary Use for Covid-19 (Outdoor Commerce) or any other local, State, or Federal law shall constitute an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to enforcement as such; violations of this Temporary Use for Covid-19 (Outdoor Commerce) or the provisions of the Order may result in the immediate termination of this Temporary Use for Covid-19 (Outdoor Commerce) and the cessation of any activities authorized by this Temporary Use for Covid-19 (Outdoor Commerce) or the Order. The City shall not be responsible for any liability or damages associated with issuance or revocation of a Waiver, or with the immediate suspension of outdoor Business Establishment activities as provided for under this Order, and the Business Establishment, affiliates, successors, and assigns, in accepting a Waiver agree to release, hold harmless, and defend the City from any such liability.
- g. **No Vested or Ongoing Rights Conferred.** Business Owner understands and agrees that this Temporary Use for Covid-19 (Outdoor Commerce) and the Order confer no vested rights to any ongoing or continued activities, and any and all activities authorized by this Temporary Use for Covid-19 (Outdoor Commerce) and the Order are temporary in nature and granted solely to enable businesses to operate in compliance with State, County, and local orders regarding social distancing and COVID-19.
- h. **Non-Transferable.** This Temporary Use for Covid-19 (Outdoor Commerce) is non-transferable. Only the Business Owner with whom this Temporary Use for Covid-19 (Outdoor Commerce) was entered shall be permitted to engage in the activities authorized herein.
- i. **Independent Contractor.** It is understood and agreed that Business Owner, in the performance of this Temporary Use for Covid-19 (Outdoor Commerce), will be acting in a wholly independent capacity and not as agent, employee, partner, or joint venturer of City.
- j. **Entire Agreement.** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations of modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by the party to be charged and duly recorded.

THE UNDERSIGNED AGREES THAT THE PROPOSED ACTIVITIES DESCRIBED ABOVE SHALL BE IN ACCORDANCE WITH AND SUBJECT TO THE TERMS AND CONDITIONS ABOVE, THE ORDER, AND ALL OTHER APPLICABLE LOCAL, STATE AND FEDERAL LAWS.

Business Owner

Date

Property Owner

Date

AUTHORIZED:

Community Development Department Director
or Designee

Date

APPROVED AS TO FORM:



Andrew L. Jared, City Attorney*

* pursuant to Chico City Charter, sec. 906(D)

Final Approved Application will include:

- Completed Temporary Use COVID-19 Outdoor Commerce application signed by all parties listed above.
- **Attachment A** Completed Site Plan
- **Attachment B** Additional Conditions Required by the City
- **Attachment C** Complete Insurance Documentation including Additional Insured Endorsement

**ATTACHMENT A
COMPLETED SITE PLAN**

**ATTACHMENT B
ADDITIONAL CONDITIONS**

THE UNDERSIGNED AGREES THAT THE PROPOSED ACTIVITIES DESCRIBED IN THIS APPLICATION SHALL BE IN ACCORDANCE WITH AND SUBJECT TO THE TERMS AND CONDITIONS ABOVE, THE ORDER, AND ALL OTHER APPLICABLE LOCAL, STATE AND FEDERAL LAWS.

Business Owner

Date

ATTACHMENT C
INSURANCE DOCUMENTS

CITY OF CHICO
EMERGENCY SERVICES DIRECTOR EXECUTIVE ORDER NO. 2020-005

DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF CHICO TO PROTECT THE PUBLIC HEALTH REGARDING TEMPORARY EXPANSION OF OUTSIDE COMMERCE FOR NON-FOOD BUSINESSES AT EXISTING BUSINESSES ON PUBLIC PROPERTY

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19; and

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080; and

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i); and

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19; and

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19; and

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19; and

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants; and

WHEREAS, on March 16, 2020, the California Department of Public Health established guidelines for social distancing, elimination of non-essential gatherings, and isolation for specific individuals, in order to prevent the transmission of COVID-19 (“DPH Guidance”); and

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-3-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors; and

WHEREAS, on March 25, 2020, the City Council approved Resolution 7-20 declaring a local emergency due to the outbreak of COVID-19, adopting regulations for private and public facilities and gatherings, establishing protections for residential and commercial tenants, and authoring the City Manager to take all necessary actions as the Director of Emergency Services; and

WHEREAS, Governor Gavin Newsom and State Public Health Officer Dr. Sonia Y. Angell have continued to issue various Executive Orders and Public Health Orders; and

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS, on July 13, 2020, State Public Health Officer Dr. Sonia Y. Angell issued a Public Health Order causing all bars, pubs, brewpubs, and breweries, whether operating indoors or outdoors, across the state to close, unless such businesses offer outdoor, sit-down, dine-in meals in compliance with state guidance. In addition, the State Public Health Officer also implemented additional indoor sector closures for Counties on a Monitoring List for three consecutive days which included gyms, places of worship, protests, non-critical offices, personal care services, malls and air salons/barbers; and

WHEREAS, businesses desiring to utilize the exceptions for outdoor activity under the July 13, 2020 State Public Health Officer Order, must comply with the Covid-19 Industry Guidance bulletins published by the California Department of Public Health and CalOSHA which allow certain business types to providing outdoor service while in compliance with local laws and regulations; and

WHEREAS, City of Chico has various local laws and regulations related to location and operation of businesses; and

WHEREAS, on July 15, 2020, the City Manager, as Director of Emergency Services, issued Emergency Services Director Executive Order No. 2020-002 allowing for the expansion of restaurant seating on private property; and

WHEREAS, the City already retains an outdoor café permit allow for food establishments to utilize public right of way adjacent to their business for outdoor service, and the City intends to work with businesses to allow for temporary outdoor service; and

WHEREAS, on July 25, 2020 after being listed on the State's Monitoring List for three days, Butte County would be subject to the additional indoor sector closures; and

WHEREAS, allowing for the use of outdoor space would enhance impacted businesses with the ability to institute exposure reduction measures and reduce the propagation of COVID-19 while allowing for access to needed goods and services; and

WHEREAS, the health and vitality of local businesses support the general economic and proper functioning of the community and are critical to the continued ability to combat the COVID-19 virus and ensure future health and safety; and

WHEREAS, Chico Municipal Code section 2.68.030 empowers the City Manager, as Director of Emergency Services, to declare the existence or threatened existence of a local emergency that is beyond the control of the services, personnel, equipment, facilities and resources of the City and which will require, or is likely to require, the assistance and resources of other public or private local, regional or state agencies to combat, a local emergency; and

WHEREAS, Government Code section 8634 states, "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or

regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice; and

WHEREAS, this order is enforceable under Government Code Section 8665 and/or Chico Municipal Code Section 2.68.090.

NOW, THEREFORE, I, Mark Orme, City Manager of the City of Chico, as Director of Emergency Services, in accordance with the authority vested in me by Government Code section 8634 and City Council Resolution No. 7-20, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

A. Use of Public Property

- 1) Chico Municipal Code Section 14.70 is temporarily expanded to apply to other non-food businesses impacted by the State Public Health Order issued July 13, 2020.
- 2) Businesses desiring to use public common areas including public sidewalks, streets, parking lots, recreation space, and other public space on a temporary basis that might be conducive to outdoor activities and services may apply through Public Works under a separate application. Such use will be processed under CMC Section 14.70 – Use of Public Right-of-Way for Operation of Outdoor Cafes.
- 3) Such use shall be in compliance with ADA regulations and shall not eliminate any ADA parking spaces. Such use shall not operate outside of such business' regular operating hours. Such use shall not leave merchandise, equipment, display fixtures or other items in the public right of way during hours of non-operation.
- 4) Safety measures will be required to address the protection of the public and businesses using this space, at the approval of the Director of Public Works - Engineering.
- 5) No Architectural Review will be required as outlined in CMC Section 14.70.075.
- 6) The City shall have the right to immediately suspend the operation within the public common area due to failure to abide by applicable standards, conditions, and guidelines. Upon expiration or revocation, the permittee shall restore the public common areas to its prior condition.
- 7) Neither this order nor a permit issued under CMC 14.70 is intended to convey a property or vested right to operate contrary to City codes, standards, and requirements. All permits issued under CMC 14.70 pursuant to this Order shall automatically expire upon the lifting or expiration of the City's declared local emergency, or upon earlier modification of this Order.
- 8) Revocation or denial shall be administered pursuant to CMC 14.70.90
- 9) All other requirements of CMC 14.70 not contrary to this order shall remain in full force and effect and applicable to permits issued hereunder.

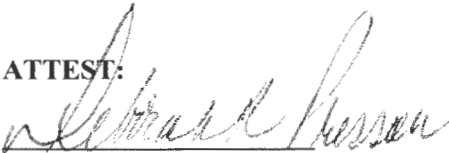
10) This Order shall be filed in the Office of the City Clerk, posted at Chico City Hall, and place on the City of Chico website.

SO ORDERED.



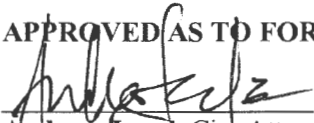
Mark Orme,
City Manager/Director of Emergency Services

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew Jared, City Attorney



Internal Affairs Agenda Report

Meeting Date: September 12, 2022

TO: Internal Affairs Committee

FROM: Jennifer Macarthy, Deputy City Manager

RE: Consideration of the Status of Downtown Temporary Parklets

REPORT IN BRIEF:

On March 25, 2020, the City of Chico adopted Resolution No. 7-20 declaring a local emergency due to the COVID-19 pandemic. Per Resolution 7-20, and the subsequent amendments, the Local Emergency remains in effect until terminated by the City Council. In addition, five Executive Orders were issued during the pandemic. Executive Order No: 2020-003 provided for the temporary expansion of outside dining at existing restaurants in the public right-of-way (parklets). The Executive Order is to remain in place until such time as the Local Emergency is terminated, or upon the earlier modification of the order. Staff requests the Internal Affairs Committee's consideration of the future of temporary parklets in the Downtown area.

Recommendation:

The City Manager recommends the Internal Affairs Committee consider the status of the temporary parklets in the downtown area, and provide a recommendation to the full Council to either:

1. Terminate Executive Order 2020-003.
2. Adopt no changes to Executive Order 2020-003 and direct staff to draft a more comprehensive temporary parklet ordinance.

FISCAL IMPACT: The City Council allocated \$300,000 of one-time American Rescue Plan funds toward the design, construction, and implementation of temporary parklets in the downtown area.

BACKGROUND:

On March 20, 2020, the City Council adopted Resolution No. 7-20 declaring a Local Emergency due to the COVID-19 pandemic (Attachment 1). On July 13, 2020, the State Public Health Officer issued an order prohibiting all restaurants statewide from engaging in indoor dine-in operations but allowed continued operation of outdoor dining subject to state guidance. In an effort to allow local businesses the opportunity to meet the needs of our community, the City Manager, acting as the Director of Emergency Services in accordance with Government Code section 8634 and City Council Resolution 7-20 issued Emergency Services Director Executive Order No. 2020-003 – *Declaration of the Director of Emergency Services of the City of Chico to Protect the Public Health Regarding Temporary Expansion of Outside Dining at Existing Restaurants and Bona fide Eating Establishments in Public Right of Way (Parklet)* (Attachment 2).

Seven downtown businesses went through the process to obtain a permit as describe in Executive Order No. 2020-003 to place a temporary parklet in the public right-of-way. A temporary parklet is defined as a temporary gathering place created alongside a sidewalk, within the public right-of-way, especially within a former parking space. Examples of temporary parklets in Downtown include those restaurants such as Banshee and Mom's utilizing concrete barriers (K-Rails) to define their outdoor dining areas.

Prior to the Local Emergency and Executive Order No. 2020-003, businesses interested in creating outdoor dining in the public right-of-way were required to go through the process detailed in Chico Municipal Code 14.70, and construct permanent infrastructure improvements. Examples of permanent infrastructure improvements to allow for outdoor dining include such restaurants as Tres Hombres and the Raw Bar. The location of both the temporary

parklets and the permeant outdoor seating areas are shown in Attachment 3.

In June 2021, the Council allocated \$300,000 in one-time American Rescue Plan funds toward the design, construction, and implementation of temporary parklets in the downtown area. The purpose of the project was to replace the existing K-Rail parklets with safe, aesthetically pleasing parklets, and allow for continued use of outdoor dining in an effort to continue to provide a safe dining experience for local residents and visitors.

DISCUSSION:

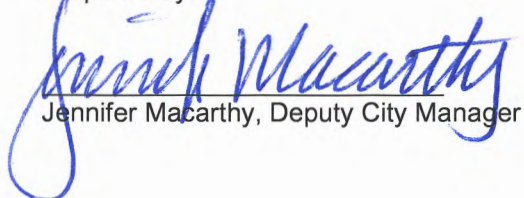
In an effort to allow for businesses to be successful during the pandemic, the City moved quickly to authorize a series of Executive Orders. Executive Order 2020-003 allows for the temporary placement of parklets in the City's right-of-way. Seven businesses have gone through the process outlined in the Executive Order to obtain permits to allow for the placement of temporary parklets in the City's right-of-way and six have completed the set-up of temporary parklets utilizing K-Rails in Downtown.

Realizing that the temporary parklets that were erected during the pandemic did not fit the charm and character of the downtown area, in June 2021 the City Council approved funding through the American Rescue Plan Act to design aesthetically pleasing and safe temporary parklets to replace the current K-Rail parklets. The outreach process with downtown businesses was initiated in July 2021. Since that time, City staff has procured the design consultant Russell Galloway and Associates (RGA) and assigned City Project Management resources to the project. RGA is developing a conceptual design that is constructible within our approved budget. Completion of the conceptual design is anticipated in the coming month.


Before commencing construction or installation of the newly design parklets to replace the existing K-Rail parklets, City staff desires direction as it pertains to Executive Order 2020-003, and requests the Internal Affairs Committee consider one of the following recommendations to bring forward to the full City Council for consideration at a future Council meeting:

1. Terminate Executive Order 2020-003. This action will require local businesses to stop utilizing and remove the temporary K-Rail parklets upon termination of the Executive Order regardless of the status of the Local Emergency.
2. Adopt no changes to Executive Order 2020-003 and direct staff to draft a more comprehensive temporary parklet ordinance. This action will allow staff the opportunity to draft an ordinance with a more comprehensive approach to temporary parklets in the downtown area for Council's consideration. Elements to consider in the ordinance could include such items as safety, parking, aesthetics, and business owner participation. The use of temporary K-Rail parklets would cease upon the termination of the Local Emergency by Council.

Prepared by:


Jennifer Macarthy, Deputy City Manager

Approved and Recommended by:


Mark Sorensen, City Manager

DISTRIBUTION:

City Clerk

ATTACHMENTS:

Attachment 1 – Resolution 7-20

Attachment 2 – Executive Order 2020-003

Attachment 3 – Downtown Parklet Location Map

RESOLUTION NO. 7-20

RESOLUTION NO. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, DECLARING A LOCAL EMERGENCY DUE TO THE OUTBREAK OF COVID-19, ADOPTING REGULATIONS FOR PRIVATE AND PUBLIC FACILITIES AND GATHERINGS, ESTABLISHING PROTECTIONS FOR RESIDENTIAL AND COMMERCIAL TENANTS, AND AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTIONS AS THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS, in December 2019, a novel coronavirus known as SARS-CoV-2 was first detected in Wuhan, Hubei Province, People's Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally;

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19;

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of COVID-19;

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080;

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i);

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19;

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19;

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events;

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19;

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants;

WHEREAS, on March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-20, suspending any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions when the basis for the eviction is nonpayment of rent or a foreclosure, arising out of a substantial decrease in household or business income or substantial out-of-pocket medical expenses, caused by the COVID-19 pandemic or by any local, state, or federal government response to COVID-19 and is documented;

WHEREAS, on March 18, 2020, Governor Gavin Newsom signed Executive Order N-29-20 amending requirements under Executive Order N-25-20 regarding minimal access requirements for in person access and attendance at public meetings and requirements under the Brown Act;

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-33-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors;

WHEREAS, on March 21, 2020, Governor Gavin Newsom signed Executive Order N-35-20 amending requirements under Executive Order N-29-20 regarding minimal access requirements for in person access and attendance at public meetings and requirements under the Brown Act;

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed;

WHEREAS, the spread of COVID-19 and its consequences are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Chico and will require, or is likely to require, the assistance and resources of other public or private local, regional or state agencies to combat, a local emergency;

WHEREAS, the mobilization of local resources, the ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully respond to COVID-19;

WHEREAS, these conditions warrant and necessitate that the City declare the existence of a local emergency.

WHEREAS, Government Code section 8630 empowers the governing board of a city to proclaim a local emergency;

WHEREAS, Government Code section 8634 states, "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice";

WHEREAS, based on the state declaration of emergency restrictions on price gouging under Penal Code section 396 have taken effect but are limited in scope and only as to residential tenancies; and

WHEREAS, the effect of the COVID-19 and/or the state declaration of emergency restrictions requiring all residents to stay at home or place of residence has placed or will place a severe economic hardship on the ability of persons within the City of Chico to pay rent or mortgage due to decreases in household or business income, layoffs, reduction of income from reduction of compensable hours worked, reduction of operating hours, and/or out-of-pocket medical expenses, causing many Chico residents and businesses to be in threat of eviction or judicial foreclosure;

WHEREAS, the City of Chico desires to exercise its police powers to address the emergency situation caused by and the effects of the COVID-19 emergency;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Proclamation of Local Emergency. Pursuant to Government Code section 8630, subdivision (a), the City Council proclaims that a local emergency exists within the City of Chico due to the outbreak of COVID-19.

SECTION 3. Regulation of Public Gatherings. Commencing immediately, the Director of Emergency Services is directed to postpone or cancel all non-essential public community events or group activities in City-owned properties, including City Council, commission, or board meetings. The City Council shall convene for regularly scheduled meetings of the City Council on the first Tuesday of each Month, and at special meetings as otherwise lawfully called.

SECTION 4. Regulation of Public Facilities. Commencing immediately, the Director of Emergency Services is directed to close all City-owned facilities that require close contact of vulnerable individuals, including those over 60 years old or with compromised immune systems. Such direction does not pertain to utilization of City-owned facilities, places, or structures as places of shelter or services to address the impacts of COVID-19.

SECTION 5. Regulation of Private Facilities. Pursuant to Executive Order No. N-33-20, all persons are to stay at their place of residence except persons as necessary to maintain continuity of operations at essential facilities and sectors referenced in Executive Order No. N-33-20, and as further clarified by Governor Newsom, until further notice. This provision does not apply to gatherings within a single household or living unit.

SECTION 6. Enforcement. Any violation of the above prohibition may be punishable by a fine not to exceed \$1,000 or imprisonment not to exceed six months, pursuant to the Chico

Municipal Code section 2.68.090 or Government Code section 8665. Violation of any Executive Order related to COVID-19 may be punishable pursuant to Government Code section 8665 or by a fine not to exceed \$1,000 or imprisonment not to exceed six months, pursuant to the Chico Municipal Code section 2.68.090. For individuals experiencing homelessness and residing in public areas within the City of Chico, absent a facility or other location able to provide shelter for such individual, the term “place of residence” shall be interpreted to mean the location where such individual regularly sleep prior to the declaration of emergency. Such interpretation shall not be read as an exemption from social distancing or other generally applicable public health requirements in effect due to the COVID-19 emergency. Persons are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to utilize social distancing requirements in their operation).

SECTION 7. Exemption of Delivery Vehicles. Pursuant to Executive Order No. N-35-20, City ordinances, including conditions of approval for any development or project, which inhibits the delivery of food products, pharmaceuticals, and other emergency necessities distributed through grocery stores and other retail or institutional channels, including but not limited to hospitals, jails, restaurants and schools are suspended through the duration of this emergency. Delivery and distribution of food done in compliance with CDC guidelines shall be allowed.

SECTION 8. Guidance for Religious Gatherings. The leaders of the City’s houses of worship are urged, in the strongest possible terms, to limit gatherings on their premises and to explore and implement ways to practice their respective faiths while observing social distancing practices.

SECTION 9. Protection of Affected Tenants.

- a. It is hereby ordered that no landlord shall evict a residential or commercial tenant in the City of Chico during this local emergency period if the tenant is able to demonstrate an inability to pay rent due to financial impacts related to COVID-19. To take advantage of the protections afforded under this Section 9, a tenant must do all the following:
 - i. Notify the landlord in writing before the day rent is due that the tenant has a covered reason for delayed payment; and
 - ii. Provide the landlord with verifiable documentation to support the assertion of a covered reason for delayed payment.
- b. Nothing in this section shall be construed to mean that the tenant will not still be obligated to pay lawfully charged rent. Tenants will have up to six months following the expiration of the local emergency period to repay any back due rent, verifiably caused by financial impacts related to COVID-19. Such protections afforded in this section are not enforceable by the City against a landlord but may utilized by applicable tenants afforded protections in this section as an affirmative defense in an unlawful detainer action or other applicable legal proceeding. This section shall remain in effect through May 31, 2020, or as otherwise extended by further Executive Order extending the expiration date in paragraph 2 of Executive Order

N-28-20, through the during the pendency of the local emergency period. Any tenant who receives a notice of eviction may bring a civil action against the landlord to contest the validity of the notice pursuant to this section and paragraph 2 of Executive Order N-28-20, as such may be amended.

- c. This section applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date of this Resolution where the basis of such action is a non-payment of rent arising out of the financial impacts related to COVID-19.
- d. “Financial impacts related to COVID-19” is :
 - (i) a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income cause by a reduction in opening hours or consumer demand); or substantial out-of-pocket medical expenses; and
 - (ii) the decrease in household or business income or substantial out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19, and is documented.

Examples of such COVID-19 related documented impacts include:

- i. Being sick with COVID-19, or caring for a household or family member who is sick with COVID-19;
- ii. Lay-off, loss of hours, or other income reduction resulting from business closure or other economic or employer impacts of COVID-19;
- iii. Compliance with a recommendation from a government health authority to stay home, self-quarantine, or avoid congregating with others during the state of emergency related to with COVID-19;
- iv. Extraordinary out-of-pocket medical expenses related to COVID-19; or
- v. Child-care needs arising from school closures related to COVID-19.

SECTION 10. Utility Service Termination and Parking Provisions. For a period of 60 days from the date of this Resolution, the City hereby suspends:

- a. The imposition of late payment penalties or fees for delinquent payment of sewer service bills (underlying charge is not forgiven);
- b. The collection of fees for parking meter service within the Downtown Chico Parking Plan area (time limits within such parking areas remain in effect); and
- c. The imposition of late payment penalties for parking violations (underlying violation fine for violation of parking regulation remains in effect).

SECTION 11. Emergency Authority. Pursuant to Government Code section 8634, the City Council authorizes the Director of Emergency Services to take any measures necessary to protect and preserve public health and safety, including activation of the Emergency Operations Center.

SECTION 12. Public Health Officials. The City Council authorizes the Director of Emergency Services to implement any guidance, recommendations, or requirements imposed by the State Department of Public Health or the Butte County Health Officer.

SECTION 13. Termination. Pursuant to Government Code section 8630, subdivision (d), the City Council will proclaim the termination of the emergency at the earliest possible date that conditions warrant.

SECTION 14. Review. Pursuant paragraph 8 of the Proclamation of State of Emergency dated March 4, 2020, the requirement under Government Code section 8630, subdivision (c), regarding City Council review of the need for continuing the local emergency within 60 days from the previous declaration or review waived, and this declaration shall remain in effect until the City Council terminates the local emergency.

SECTION 15. Extension of Expiring Entitlements. All entitlements expiring within the period of this local emergency are automatically extended for a period of 30 days, with further extensions to be made at the discretion of the Director of Emergency Services.

SECTION 16. Cost Accounting. City staff will begin accounting for their time and expenses related to addressing the local emergency caused by COVID-19.


SECTION 17. Cost Recovery. The City will seek recovery for the cost of responding to COVID-19, as this proclamation is made within 10 days of the Governor's Executive Order N-25-20 and the President's declaration of a national emergency, qualifying the City for assistance under the California Disaster Assistance Act and for reimbursement from the Federal Emergency Management Agency.

SECTION 18. Submissions. The City Clerk will transmit a copy of this Resolution at the earliest opportunity to the Butte County Office of Emergency Management and the California Governor's Office of Emergency Services.

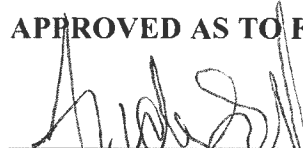
SECTION 19. Certification. The City Clerk will certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

PASSED, APPROVED AND ADOPTED on this 25th day of March, 2020.

ATTEST:


Debbie Presson, City Clerk

APPROVED AS TO FORM:


Andrew L. Jafed, City Attorney

I HEREBY CERTIFY the foregoing resolution was duly adopted by the City Council of the City of Chico, California, at a regular meeting held on the 25th day of March, 2020, by the following vote:

AYES: Schwab, Brown, Huber, Morgan, Stone

NOES: None

ABSENT: Ory, Reynolds

ABSTAINED: None

CITY OF CHICO
EMERGENCY SERVICES DIRECTOR EXECUTIVE ORDER NO. 2020-003

DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF CHICO TO PROTECT THE PUBLIC HEALTH REGARDING TEMPORARY EXPANSION OF OUTSIDE DINING AT EXISTING RESTAURANTS AND BONAFIDE EATING ESTABLISHMENTS IN PUBLIC RIGHT OF WAY (PARKLET)

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19; and

WHEREAS, on March 6, 2020, Butte County Health Officer, Dr. Andy Miller, declared a local public health emergency as a result of COVID-19, citing an imminent and proximate threat of COVID-19 in the County pursuant to Health and Safety Code section 101080; and

WHEREAS, on March 6, 2020, the Butte County Assistant Chief Administration Officer, Brian Ring, proclaimed a local emergency as a result of COVID-19 pursuant to Butte County Code section 8-5(i); and

WHEREAS, on March 10, 2020, the Butte County Board of Supervisors ratified the proclamation of a local emergency in the County of Butte as a result of COVID-19; and

WHEREAS, on March 11, 2020, the City Manager of the City of Chico implemented department level emergency operations to monitor and respond to developments in the effects of COVID-19; and

WHEREAS, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19; and

WHEREAS, on March 15, 2020, Governor Gavin Newsom called for the closure of all bars, pubs, and wineries in the State and restrictions on restaurants; and

WHEREAS, on March 16, 2020, the California Department of Public Health established guidelines for social distancing, elimination of non-essential gatherings, and isolation for specific individuals, in order to prevent the transmission of COVID-19 (“DPH Guidance”); and

WHEREAS, on March 19, 2020, Governor Gavin Newsom signed Executive Order N-3-20 requiring that all persons statewide stay at their home or place of residence except as needed to maintain continuity of operations of the critical infrastructure sectors; and

WHEREAS, Governor Gavin Newsom and State Public Health Officer Dr. Sonia Y. Angell have continued to issue various Executive Orders and Public Health Orders; and

WHEREAS, despite sustained efforts, COVID-19 remains a threat, and further efforts to

control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS, on July 13, 2020, State Public Health Officer Dr. Sonia Y. Angell issued a Public Health Order causing all bars, pubs, brewpubs, and breweries, whether operating indoors or outdoors, across the state to close, unless such businesses offer outdoor, sit-down, dine-in meals in compliance with state guidance; and

WHEREAS, the July 13, 2020 State Public Health Officer Order also prohibits all restaurants statewide from engaging in indoor dine-in operations, but allowed continued operation of outdoor dining subject to state guidance for outdoor dining; and

WHEREAS, businesses desiring to utilize the exceptions for outdoor dining under the July 13, 2020 State Public Health Officer Order, must comply with the Covid-19 Industry Guidance bulletins published by the California Department of Public Health and CalOSHA which allow restaurants providing outdoor dining service to expand their outdoor seating, and alcohol offerings in compliance with local laws and regulations;

WHEREAS, City of Chico has various local laws and regulations related to location and operation of businesses;

WHEREAS, Chico Municipal Code section 2.68.030 empowers the City Manager, as Director of Emergency Services, to declare the existence or threatened existence of a local emergency that is beyond the control of the services, personnel, equipment, facilities and resources of the City and which will require, or is likely to require, the assistance and resources of other public or private local, regional or state agencies to combat, a local emergency; and

WHEREAS, Government Code section 8634 states, "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice; and

WHEREAS, on March 25, 2020, the City Council approved Resolution 7-20 declaring a local emergency due to the outbreak of COVID-19, adopting regulations for private and public facilities and gatherings, establishing protections for residential and commercial tenants, and authoring the City Manager to take all necessary actions as the Director of Emergency Services; and

WHEREAS, on July 15, 2020, the City Manager, as Director of Emergency Services, issued Emergency Services Director Executive Order No. 2020-002 allowing for the expansion of restaurant seating on private property; and

WHEREAS, increasing rates of COVID-19 exposure are resulting in the State of California placing certain counties with insufficient progress to containing their disease transmission and hospitalization rates, the County may be forced into closing certain businesses, including indoor dining, by an order of the State Public Health Officer; and

WHEREAS, allowing for the use of outdoor space would enhance a Food Establishment's ability to institute exposure reduction measures and reduce the propagation of COVID-19 while allowing for access to needed food staples; and

WHEREAS, the health and vitality of Food Establishments support the general economic and proper function of the community are critical to the continued ability to combat the COVID-19 virus and ensure future health and safety; and

WHEREAS, this order is enforceable under Government Code Section 8665 and/or Chico Municipal Code Section 2.68.090.

NOW, THEREFORE, I, Mark Orme, City Manager of the City of Chico, as Director of Emergency Services, in accordance with the authority vested in me by Government Code section 8634 and City Council Resolution No. 7-20, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1) Food Establishments desiring to use public common areas including public sidewalks, streets, parking lots, recreation space, and other public space on a temporary basis that might be conducive to outdoor activities and services may apply through Public Works under a separate application. Such use will be processed under CMC Section 14.70 – Use of Public Right-of-Way for Operation of Outdoor Cafes.

2) To accommodate additional seating capacity due to indoor seating closures, the use of “parklets” will be allowed during the term of this emergency. “Parklet” is defined as a small seating area or green space created and managed by the applicant as a public amenity on or alongside a sidewalk within the area of former roadside parking space or right of way temporarily removed for such use, with the approval of the Director of Public Works - Engineering.

3) Safety measures will be required to ensure protection of the public and businesses using this space, at the approval of the Director of Public Works - Engineering.

4) For the use of parklets, the provisions of CMC Section 14.70.060.B are temporarily amended to read as follows as such pertains to parklets for food establishments:

“B. Widening of Sidewalk. Where a restaurant owner or operator proposes to operate a parklet ~~an outdoor café~~ in the public right-of-way and the proposal includes the widening of a sidewalk or use of parking or right of way by converting existing on-street parking space(s) to and area of use for a food establishment then the use of the public right-of-way for the operation of a parklet ~~an outdoor café~~ shall be limited as follows:

1. Upon approval of Director of Public Works- Engineering, there shall be no limit on the number of spaces required located directly in front of or adjacent to the licensee’s restaurant, that may be converted to widened sidewalk for use as a parklet;
2. Parking spaces directly adjacent to the business, as well as neighboring spaces will be allowed to be used. No parking spaces or other ADA accessible facilities may be eliminated by establishing such parklet;
3. Both parallel and diagonal parking spaces may be utilized to implement these temporary parklets;
4. All costs attendant to the widening of sidewalk for the operation of a parklet shall be at licensee’s sole cost and expense; and

5. Any construction of widened sidewalk shall comply with the requirements of Title 13R and be constructed pursuant to a valid encroachment permit. Any use of existing parking spaces or right of way as a parklet without construction of a widened sidewalk shall incorporate appropriate ADA access, and may utilize the parking/street surface without additional improvement, pursuant to a valid encroachment permit and approval of the Director of Public Works -- Engineering.
 6. Any use of existing parking spaces or rights of way shall incorporate traffic design, including vehicle barrier devices, to be approved by the City's Traffic Engineer.
- 5) No Architectural Review will be required as outlined in CMC Section 14.70.075.
- 6) The City shall have the right to immediately suspend the operation of a Parklet use due to failure to abide by applicable standards, conditions, and guidelines. Upon expiration or revocation, the permittee shall restore the Parklet area to its prior condition.
- 7) Neither this order nor a permit issued under CMC 14.70 is intended to convey a property or vested right to operate contrary to City codes, standards, and requirements. All permits issued under CMC 14.70 pursuant to this Order shall automatically expire upon the lifting or expiration of the City's declared local emergency, or upon earlier modification of this Order.
- 8) Revocation or denial shall be administered pursuant to CMC 14.70.90
- 9) All other requirements of CMC 14.70 not contrary to this order shall remain in full force and effect and applicable to permits issued hereunder.
- 10) This Order shall be filed in the Office of the City Clerk, posted at Chico City Hall, and published in the Chico Enterprise Record.


SO ORDERED.



Mark Orme,

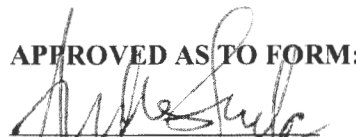
City Manager/Director of Emergency Services

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew Jared, City Attorney

Current Outdoor Café Permits

Name	# Metered Spaces Displaced
BANSHEE	6
DRUNKEN DUMPLING	0
DUFFY'S TAVERN	4
MADISON BEAR GARDEN	8
MOMONA	2
MOM S	3
NAKED LOUNGE	3
PITA PIT	2
RAWBAR	2
Tres Hombres	2
Burgers & Brew	2
Cinco Natural Foods	0
Jamba Juice	2
La Salles Catering	2
La Salles Restaurant	2
Tellers	2
Upper Crust	0
Woodstock Pizza	2

-  Temporary Parklet
-  Permanent
-  Sidewalk



Esri Community Maps Contributors, Butter County, California State Parks, OpenStreetMap, Microsoft, Esri, HERE, Garmin, Swatch, GeoTechnologies, IGN, MET/NASA, USGS, Bureau of Land Management, FPA, NPS, US Census Bureau, USDA

Debbie Presson

From: Kasey Reynolds
Sent: Tuesday, June 7, 2022 7:58 PM
To: Debbie Presson
Subject: Agenda Request

Debbie could you please forward the following request to Council for my request this evening.

I would like to aginize a discussion to see what we CAN do within the confines of the Settlement Agreement to improve the quality of life in Chico.

This would include but not limited to be looking at our Chico Municipal Codes and other means available to address the concerns and sentiments expressed by our community at the Council meeting this evening.

Thank you,

Kasey Reynolds