

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 18R](#) 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,

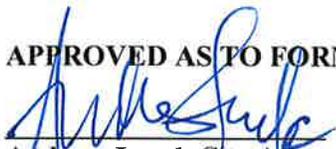
City Manager/Director of Emergency Services

ATTEST:



Debbie Presson, City Clerk

APPROVED AS TO FORM:



Andrew Jared, City Attorney