

RESOLUTION 19-20-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK EXPANDING TEMPORARILY THE USE OF PROPERTY FOR BUSINESSES IMPACTED BY COVID-19

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of the COVID-19 pandemic; 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, the President of the United States declared a national emergency as a result of COVID-19; and

WHEREAS, on March 16, 2020, the Amador County Health Officer declared a local health emergency as a result of COVID-19; and

WHEREAS, on March 16, 2020, the Director of Emergency Services of the City of Sutter Creek proclaimed the existence of a local emergency within the City, which the City of Sutter Creek Council ratified under Resolution No. 19-20-26; and

WHEREAS, the Governor of the State of California, the Amador County Public Health Officer and the City Council of the City of Sutter Creek have issued a series of Orders that restrict the type of businesses that can operate and how those businesses can provide goods and services to the public due to the risk of the spread of COVID-19; and

WHEREAS, beginning May 8, 2020 Governor Newsom began “Stage 2” of a reopening plan for businesses in California, allowing for businesses within specified industries to reopen with modifications, and

WHEREAS, businesses permitted to reopen must comply with federal, state and local directives and guidelines to ensure compliance with social distancing requirements and other COVID-19 risk mitigation measures, and

WHEREAS, on May 4, 2020, Amador County received a variance from the State Department of Public Health to move further into Stage 2 of reopening based on readiness criteria and the issuance of guidance and plans designed to mitigate the spread of COVID-19; and

WHEREAS, to comply with public health orders, the City of Sutter Creek recognizes that businesses need to have the ability to modify operations which require unique allowances and temporary relief from certain zoning and land use regulations.

NOW, THEREFORE BE IT RESOLVED THE CITY COUNCIL OF THE CITY OF SUTTER CREEK HEREBY ORDERS THAT:

1. Businesses may apply at no cost for the temporary use of the public right of way (e.g., sidewalks), City-owned and private property for modified business operations as may be necessitated by the impacts of COVID-19, subject to the following requirements:
 - a. Businesses must submit a Temporary Use Permit Application in a form approved by the City Manager to the City Hall, which shall include but not be limited to a sketch of the areas where seating or display of goods are to be moved or relocated (the Temporary Use Area);
 - b. Businesses must comply with all local, state and federal laws, regulations and guidelines governing the temporary use, including public health orders and industry-specific COVID-19 requirements;
 - c. All licensing and/or permitting requirements of the California Department of Alcohol and Beverage Control ("ABC"), County of Amador Environmental and Public Health Departments and any other legally authorized department must be obtained and maintained;
 - d. The Temporary Use Area shall not interfere with access under the Americans with Disabilities Act, or unreasonably restrict pedestrian and vehicular traffic;
 - e. The Temporary Use Area shall maintain a minimum of five (5) consecutive feet of sidewalk width constituting a clear continuous pedestrian path of travel which is maintained free of obstacles and obstructions;
 - f. No permanent item or structure may be installed expressly to facilitate the proposed temporary use;
 - g. For liability and ABC Considerations, the temporary use area must be on the same parcel or adjacent parcel owned by the same party;
 - h. Businesses must provide written approval by the landlord, if different than the business owner, for the temporary use;
 - i. No additional signage may be placed advertising the temporary use area;
 - j. No Temporary Use Area may interfere with vehicular traffic;
 - k. The Temporary Use Area shall be maintained in an attractive, clean and safe manner. During non-operational hours, furnishings shall be secured or stored inside;
 - l. If the business is using City-owned property or the public right of way, the

business shall provide the City with a Certificate of Insurance in the amounts required by the City Manager and Additional Insured Endorsement naming the City of Sutter Creek as additionally insured;

m. Any street, sidewalk or other City improvements shall be returned to the City in the condition present prior to granting of the Temporary Use Permit.

2. The City of Sutter Creek reserves the right to determine on a case-by-case basis the suitability and appropriateness of the temporary use and/or Temporary Use Area requested by the business in the Temporary Use Permit Application. The requested use must have limited impact on other businesses operating in close proximity. Applicants that cannot demonstrate compliance with the Temporary Use Area requirements may not be issued a permit.

3. A Temporary Use Permit may be approved and issued without providing notice of or conducting a hearing on the application that would otherwise be required in the Use Permit process.

4. The City may impose conditions of approval and set timelines for compliance that are deemed reasonable and necessary to assure safe and orderly use of the property and assure compatibility with surrounding land uses, if appropriate.

5. A Temporary Use Permit is an interruptible privilege. The City may interrupt operation of the temporary use at any time for anticipated or actual conflicts.

a. No real property right is provided, given or otherwise conveyed to any person or entity through a Temporary Use Permit.

b. The City reserves the right to suspend or revoke a Temporary Use Permit granted under this Order.

6. These Temporary Use Permits, if granted, will only be in effect for so long as the Declared Local Emergency is in effect, or not to exceed September 30, 2020, and may be modified or rescinded by the City Manager or City Council at any time and for any reason, including while the Declared Local Emergency remains in effect.

7. This Resolution is effective immediately upon signature of the Mayor.

8. This Resolution shall be filed in the office of the City Clerk, posted at Sutter Creek City Hall, on the City's website, and posted in public spaces as practicable.

9. If any provision of this Resolution or the application thereof to any person or circumstance is held to be invalid, the remainder of the Resolution, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Resolution are severable.

10. Applicants for a Temporary Use Permit pursuant to this order must have been in possession of a valid business license on or before March 1, 2020.

The foregoing resolution was duly passed and adopted at a regular meeting of the City Council of the City of Sutter Creek on the 1st day of June 2020, by the following vote:

AYES: Cadieux-Faillers, Murphy, Rianda and Peters

NOES:

ABSTAIN: Swift

ABSENT:

THE CITY OF SUTTER CREEK



Robin Peters, Mayor

ATTEST:

Karen Darrow

Karen Darrow, City Clerk