

ORDINANCE NO.

URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKLIN REDUCING OUTDOOR DINING
AND BEVERAGE SERVICE ESTABLISHMENT REGULATIONS ON AN INTERIM BASIS IN RESPONSE TO
COVID-19

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California in response to the threat of COVID-19;

WHEREAS, the declaration of a State of Emergency in California has not been terminated; and

WHEREAS, state and federal public health authorities have issued public health orders and guidance which provide that COVID-19 and/or variants thereof, present a current and immediate threat to the public health, safety, and/or welfare; and

WHEREAS, state and federal public health authorities continue to recommend physical distancing and the use of outdoor spaces for gatherings as a means to avoid the spread of COVID-19 and the variants thereof; and

WHEREAS, the COVID-19 pandemic, executive and public health orders and guidance, directly impact business operations with the City of Rocklin since physical distancing for the creation of physical space between individuals reduces the ability of the ability for some businesses to operate at financially viable levels; and

WHEREAS, the COVID-19 pandemic, the executive and public health orders and guidance, and physical distancing measures have resulted in reduced business operations with the City of Rocklin, a loss of revenue and employment, and impacts to the livelihood of Rocklin business owners and residents; and

WHEREAS, easing restrictions on outdoor dining and beverage service operations will preserve the public health and safety by enhancing Rocklin residents and businesses' ability to follow public health authority recommendations to provide for physical distancing between others, as well as using outdoor spaces for gatherings; and

WHEREAS, California Government Code section 65858 authorizes the adoption of urgency interim ordinances for the administration of zoning laws and regulations; and

WHEREAS, California Government Code section 36937 also authorizes the adoption of urgency ordinance for the immediate preservation of the public peace, health or safety; and

WHEREAS, notice of the public hearing for this urgency ordinance was provided in a manner that complies with California law, and public hearing was held on October 26, 2021.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ROCKLIN DOES ORDAIN AS FOLLOWS:

Section 1. Legislative Findings. The findings and recitals set forth above are true and correct.

Section 2. Purpose. The purpose of this interim ordinance is to ease City zoning regulations regarding temporary outdoor dining and beverage service operations which have been adversely impacted by the COVID-19 pandemic, executive and public health orders and guidance.

Section 3. Authority. This ordinance is enacted under the authority granted to cities by Article XI, Section 7 of the California Constitution and Government Code sections 36937, 37100 and 65858.

Section 4. Urgency. The City Council hereby declares, based upon the findings set forth above, that there is a current and immediate threat to the public health, safety and/or welfare, and a need for immediate preservation of the public peace, health and/or safety that warrants this urgency measure pursuant to Government Code sections 36937 and 65858.

Section 5. Enact. A Temporary Outdoor Business Permit, as follows.

- A. The City Council authorizes the Director of Community Development, to create a Temporary Outdoor Business Permit application to allow temporary outdoor use of private property for dining and beverage service operations (including temporary structures and improvements), to review applications for such a permit, and to issue such permits with necessary conditions of approval as set forth herein. Said conditions of approval shall not include waiver of safety provisions of the California Building and Fire Codes.

Temporary Outdoor Business Permits shall be subject to the following minimum conditions of approval:

- a. Outdoor dining and beverage service areas shall comply with ADA access requirements.
- b. Tents, tables, chairs, umbrellas, or other temporary objects shall be located in a manner that does not obstruct the entrance to any building or fire safety equipment, impede the flow of pedestrian or vehicle traffic, or create a hazardous condition.
- c. The outdoor dining and/or beverage service area must remain clear of drive aisles and fire lanes necessary to provide adequate vehicular circulation and access by public safety vehicles in the event of a fire, medical, or other emergency.
- d. Outdoor storage or preparation of food or beverages is not permitted.
- e. Operating hours for outdoor dining and beverage service establishments shall be the same as the indoor operating hours.
- f. Use of a public address system that can be heard outside of the building is prohibited.

- g. Use of an amplified sound system to provide music for the outdoor seating area is permissible however such music is intended to be a muted background noise and should not be audible from a distance of 100-feet from the building. .
 - h. The use of tents, temporary shelters or coverings for outdoor dining and beverage service shall comply with the California Building Code and Fire Code, and shall require review and approval by the Community Development Department and the Rocklin Fire Department. Tents greater than 400 square feet shall not be installed without a permit, approval and inspection from the Rocklin Fire Department.
 - i. The use of any heating appliances shall conform to the City's Outdoor Dining Tent Checklist and Safety Information Sheet.
 - j. The outdoor dining and/or beverage service area shall be maintained free of trash, debris, and clutter.
- B. The Community Development Director and the Chief of the Rocklin Fire Department are authorized to apply such other conditions to a given Temporary Outdoor Business Permit as necessary to provide for the public health and safety.
- C. Only those restaurants or other commercial businesses that are allowed to operate under the state and county regulations applicable at the time the application is submitted are eligible to apply for the Temporary Outdoor Business Permit.
- D. The Temporary Outdoor Business Permit shall authorize the revocable and limited use of outdoor dining and/or beverage service seating for restaurants or support the permitted uses of the applicant's commercial business in private parking lots or other private outdoor areas adjacent to restaurants or other businesses, as specified in the Permit.
- E. The City may revoke a temporary outdoor business permit at any time if the City Manager or designee determines that the conditions of the permit are being violated or the public health, safety or welfare warrant such action.
- F. No business shall be found out of compliance with the parking requirements of the Rocklin Municipal Code based on the temporary use of parking spaces for outdoor dining or beverage service subject to a permit issued pursuant to this ordinance.
- G. Encroachment permits are required if the operation would involve impacts or improvements on City property.
- H. If an applicant intends to use a shared private parking lot or other private common area for expanded outdoor dining seating or other permitted commercial business activity, the applicant must obtain written consent from the property owner(s) of the private property with whom the private property is shared, and such consent shall be provided upon submission of the permit application.
- I. There shall be no application fee required for a Temporary Outdoor Business Permit.

- J. No business shall be found out of compliance with the design review provisions of the Rocklin Municipal Code based upon a temporary outdoor dining and/or beverage service operating in compliance with a permit issued pursuant to this ordinance.
- K. All Permits authorized by this Ordinance are subject to compliance with state, federal, and local law, including but not limited to, the building and fire codes, health guidelines and orders, and all applicable laws and regulations pertaining to outdoor dining and beverage service (including but not limited to sale and consumption of alcoholic beverages and food service). Except as otherwise specifically set forth in this ordinance, all provisions of local law continue to apply to temporary outdoor dining operations in the City of Rocklin.
- L. The Director of Community Development, upon consultation with the Fire Chief and the Police Chief, shall have sole discretion to grant a permit under this ordinance. No otherwise non-permitted outdoor dining and/or beverage service use may commence or improvements for such be installed until a permit has been issued. A violation of the permit's conditions of approval shall be subject to the Code Enforcement provisions of the Rocklin Municipal Code.

Section 6. Effective Date. This interim urgency ordinance shall take effect immediately upon adoption.

Section 7. Environmental. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15061, subdivision (b)(3) (common sense exemption), 15301 (existing facilities) and 15303 (new construction or conversion of small structures).

Section 8. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions to be declared invalid or unconstitutional.

Section 9. Publication. Within 15 days of passage of this ordinance, the City Clerk shall cause the full text of the ordinance, a summary of the ordinance, or an advertisement of the ordinance to be published in a newspaper of general circulation, with the names of those City Councilmembers voting for and against the ordinance, in accordance with Government Code section 36933.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Rocklin held on October 26, 2021, by the following roll call vote:

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:
ABSTAIN:	Councilmembers:

Jill Gayaldo, Mayor

ATTEST:

Hope Ithurburn, City Clerk

Adopted:

Effective Date: