

ORDINANCE NO. 2020-345

AN URGENCY ORDINANCE OF THE TOWN OF WINDSOR AMENDING TITLE III, CHAPTER 2 OF THE WINDSOR MUNICIPAL CODE TO ALLOW FOR THE TEMPORARY CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC STREETS, PARKING AREAS AND SIDEWALKS IN THE DOWNTOWN AREA DURING SPECIFIED DAYS AND TIMES AS A RESULT OF THE ECONOMIC IMPACTS TO BUSINESSES RELATED TO COVID-19

WHEREAS, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease named “coronavirus disease 2019” (COVID-19); and

WHEREAS, COVID-19 is easily transmissible from person to person, and community spread of the diseases has occurred throughout the United States and California, including in Sonoma County; and

WHEREAS, on January 31, 2020, the Secretary of the United States Department of Health and Human Services declared a public health emergency for the entire United States to aid the nation’s healthcare community in responding to COVID-19; and

WHEREAS, on March 2, 2020, the Sonoma County Health Officer declared a Local Health Emergency and the County of Sonoma Director of Emergency Services proclaimed a Local Emergency; and

WHEREAS, on March 4, 2020, the Governor of California proclaimed a state of emergency regarding COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national state of emergency in response to the spread of COVID-19 within the United States; and

WHEREAS, on March 14, 2020, Sonoma County Health officials reported the first confirmed case of community spread of COVID-19; and

WHEREAS, on March 16, 2020, the Town Manager, in his capacity as Director of Emergency Services, proclaimed the existence of local emergency in the Town of Windsor; and

WHEREAS, on March 18, 2020, the Town Council adopted a resolution ratifying the declaration of local emergency; and

WHEREAS, on March 18, 2020, the Sonoma County Health Officer issued a county-wide shelter-in-place order directing all individuals living in the County to shelter at their place of residence, except that they may leave to provide or receive certain essential services or engage in

certain essential activities and work for essential businesses and governmental services, and directing all businesses to cease non-essential operations at physical locations in the County in order to slow the spread of COVID-19 and preserve critical health care capacity across the region; and

WHEREAS, on March 19, 2020, the Governor of California issued Executive Order N-33-20 ordering all individuals within the State of California to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction; and

WHEREAS, the Sonoma County Health Officer has issued multiple orders extending the shelter in place order; and

WHEREAS, the State Public Health Officer has articulated a four-stage framework to allow for gradually resuming various activities while continuing to preserve public health; and

WHEREAS, On May 4, 2020, the Governor of California issued Executive Order N-60-20 ordering all individuals within the State of California to comply with the State Public Health Officer's framework unless stricter local regulations exist; and

WHEREAS, on May 22, 2020 the Sonoma County Health Officer issued a health order allowing certain businesses to partially resume operations with certain safety precautions, including outdoor operations of restaurants, food facilities, breweries, bars, pubs, craft distilleries, wineries, and tasting rooms if they offer sit-down meals; and

WHEREAS, on June 3, 2020, to help address some of the negative economic impacts related to COVID-19 on local businesses, the Town Council discussed the idea of using public streets, sidewalks and parking areas for outdoor dining for local restaurants and food/beverage-oriented businesses. At that meeting, the Council directed staff to draft an urgency ordinance to temporarily waive the strict application of Section 3-2-100 of the Windsor Municipal Code, which prohibits the consumption of alcoholic beverages on public streets, sidewalks and parking areas; and

WHEREAS, on June 5, 2020, the Sonoma County Health Officer issued a health order expanding the types of businesses that can re-open, including allowable operations for businesses previously allowed to re-open with certain safety precautions. The new order includes dine-in restaurants and food facilities, such as brewpubs, breweries, bars, pubs, craft distilleries, wineries, and tasting rooms, only if meals are provided, including by contract with another vendor. Alcohol can only be served in the same transaction as a meal, and alcohol only retail sales may only occur after the meal; and

WHEREAS, businesses allowed to reopen will be subject to health and safety guidelines to minimize the risk of spread of COVID-19, such as increased physical distance between tables, required use of face coverings by staff, frequent cleaning of high touch surfaces, suspended use of shared food items such as condiment bottles and reusable menus, and similar restrictions; and

WHEREAS, the State Department of Public Health’s guidelines for restaurants specifically recommend prioritizing outdoor seating and curbside pickup to minimize cross flow of customers in enclosed environments, and guidelines for other industries contain similar recommendations and requirements; and

WHEREAS, during this time of shelter in place and other social distancing, many businesses are experiencing substantial declines in business income as a result of business closures or the loss of hours, which threatens businesses ability to pay rent, maintain payroll, and continue operating; and

WHEREAS, many businesses may face layoffs or permanent closure as a result of the pandemic; and

WHEREAS, even as certain shelter in place restrictions begin to ease, many local businesses will continue to be affected by social distancing requirements; and

WHEREAS, businesses are an integral part of the economy and community of Windsor; and

WHEREAS, local businesses are a significant source of jobs, tax revenue and essential services for the community; and

WHEREAS, business closures will negatively impact the local economy by laying off employees and ceasing to provide services to residents of the Town, will negatively impact local health by reducing the number of commercial spaces available to provide essential services while maintaining social distancing, and will decrease tax revenues available to the Town to respond to COVID-19 and other public health and safety concerns; and

WHEREAS, the Windsor Municipal Code prohibits the consumption of any alcoholic beverages at any time on any public highway, road, street, sidewalk, lane, alley or parking lot open for public use within the Town of Windsor; and

WHEREAS, to assist businesses that are experiencing, and will continue to experience, severe negative economic impacts due to the COVID-19 pandemic, the Town desires to temporarily waive the strict application of Section 3-2-100 of the Windsor Municipal Code to help facilitate a return to operations for those businesses that serve alcoholic beverages; and

WHEREAS, California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the public health, safety, and general welfare, of their citizens; and

WHEREAS, California Government Code Section 36937 authorizes the Town Council to introduce and adopt an ordinance it declares to be necessary as an urgency measure to preserve the public peace, health, and safety at one and the same meeting if passed by at least four-fifths affirmative votes; and

WHEREAS, COVID-19 and the public health orders designed to reduce the virus’s spread have had a significant impact on the economy of the Town, requiring the closure of numerous business and severe restrictions on those that could remain open, and this Urgency Ordinance will facilitate the prompt reopening and expansion of services for those businesses that serve alcoholic beverages that have been impacted by COVID-19, consistent with anticipated public health orders, thereby minimizing negative economic impacts; and

WHEREAS, the Urgency Ordinance is designed to reduce and slow the transmission of COVID-19 by facilitating required social distancing between and among patrons and employees; and

WHEREAS, the Urgency Ordinance is designed to promote economic business stability and prevent business closures during the COVID-19 pandemic by allowing the temporary consumption of alcoholic beverages during specific days and times on designated public streets, parking areas and sidewalks to enable business operations in a manner that complies with social distancing orders and protocols, thereby serving the public peace, health, safety, and public welfare; and

WHEREAS, the Town Council finds and determines that allowing the temporary consumption of alcoholic beverages during specific days and times on designated public streets, parking areas and sidewalks to facilitate business operations impacted by COVID-19 in compliance with applicable health orders is essential to support economic development, prevent layoffs, and maintain tax revenue in the Town and thereby serves the public peace, health, and safety; and

WHEREAS, an urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the avoidable closure of local businesses.

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Windsor does hereby ordain as follows.

SECTION 1. Recitals.

The above recitals are hereby incorporated by reference and declared to be true and correct.

SECTION 2. Amendments.

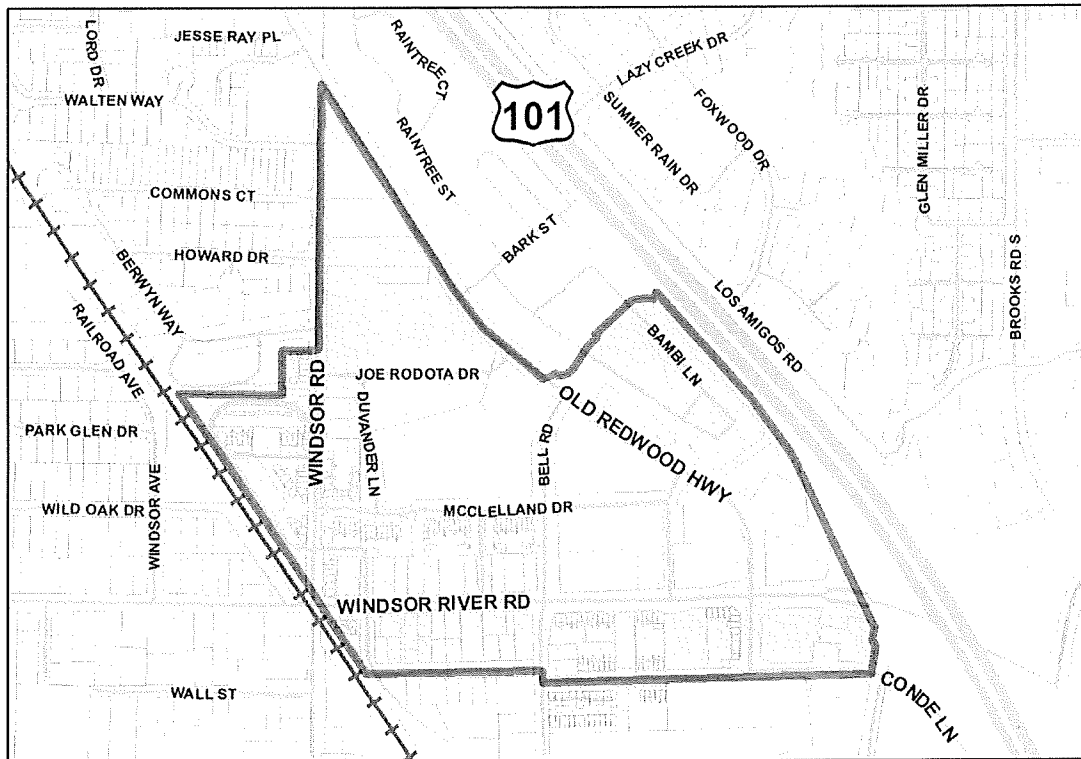
Title III, Chapter 2 of the Windsor Municipal Code entitled “Alcoholic Beverages” is hereby amended to read and provide as follows:

“3-2-100 - Consumption of Alcoholic Beverages on Public Streets or Public Places.

It shall be unlawful for any person to consume any beer, wine or other alcoholic beverages at any time on any public highway, road, street, sidewalk, lane, alley or parking lot open for public use within the Town of Windsor, with the following exception:

- a. Notwithstanding the foregoing, the consumption of any beer, wine or other alcoholic beverages is allowed on any public sidewalk in the downtown Windsor area, as shown in Figure 3-2-1, between the hours of 8 a.m. and 10 p.m., to facilitate the prompt reopening of businesses that have been impacted by the economic downturn as a result of the spread of the respiratory disease named “coronavirus disease 2019” (COVID-19), subject to the following provision:
 1. Duration. This exception shall be in place for a period of one year from the effective date of the ordinance (June 17, 2020), until June 17, 2021, unless otherwise amended by subsequent action of the Council.

**Figure 3-2-1
Downtown Windsor Area**



- b. Consumption of any beer, wine or other alcoholic beverages is allowed on any public highway, road, street, lane, alley or parking lot open for public use within the downtown Windsor area, as shown in Figure 3-2-1, to facilitate the prompt reopening of businesses that have been impacted by the economic downturn as a result of the spread of COVID-19, subject to the following provisions:
 1. Public right-of-way closure. Use of public highways, roads, streets, lanes, alleys or parking lots within the downtown Windsor area shall be closed to all vehicular traffic, with the exception of the parking of vehicles necessary for business operations, in order for the consumption of alcoholic beverages to occur thereon.

2. Operating hours. Days and times of the week for the consumption of any beer, wine or other alcoholic beverages on any public highways, roads, streets, lanes, alleys or parking lots within the downtown Windsor area shall be set by the Town and strictly enforced.
3. Health and safety guidelines. Businesses utilizing the designated areas on a public highway, road, street, lane, alley or parking lot open for public use within the downtown Windsor area shall be subject to the health and safety guidelines established by the Sonoma County Health Officer to minimize the risk of spread of COVID-19, as well as all other applicable health and safety regulations.
4. Duration. This exception shall be in place for a period of one year from the effective date of the ordinance (June 17, 2020), until June 17, 2021, unless otherwise amended by subsequent action of the Council.”

SECTION 3. Compliance with the California Environmental Quality Act.

The Council finds that the adoption and implementation of this ordinance is exempt from environmental review pursuant to the California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3), the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The proposed amendment is temporary and does not allow for or encourage any new land uses or more development than is already anticipated under the Town’s 2040 General Plan and can be seen with certainty that there is no possibility that the amendments in question may have a significant effect on the environment.

SECTION 4. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 5. Effective Date.

The Ordinance shall be in effect immediately upon its adoption.

SECTION 6. Publication or Posting.

The Town Clerk of the Town of Windsor shall cause this ordinance to be published, or to be posted in at least three (3) public places in the Town of Windsor, in accordance with Section 36933 of the Government Code of the State of California.

PASSED, APPROVED AND ADOPTED this 17th day of June 2020, by the following vote:

AYES: COUNCILMEMBERS FUDGE, OKREPKE, SALMON,
VICE MAYOR LEMUS AND MAYOR FOPPOLI
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE


DOMINIC FOPPOLI, MAYOR

ATTEST:


MARIA DE LA O, TOWN CLERK