

RESOLUTION NO. 2020-117

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
CONFIRMING THE LOCAL EMERGENCY ORDER TEMPORARILY
EXPANDING OUTDOOR DINING SPACES (CEQA EXEMPT)**

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in California as a result of the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, the City Manager issued a proclamation that a local emergency exists in the City of Elk Grove; and

WHEREAS, on March 18, 2020, the Elk Grove City Council ratified the local state of emergency proclamation; and

WHEREAS, on March 19, 2020, the Governor issued Executive Order N-33-20 ordering all residents of California to stay at home, unless in the category of essential services; and

WHEREAS, on May 21, 2020, the City Manager, in his role as the local Director of Emergency Services, issued a Local Emergency Order (Local Order) providing businesses an opportunity to temporarily add or expand outdoor dining areas in response to social distancing requirements and in the interest of protecting life and property; and

WHEREAS, on May 22, 2020, the Sacramento County Health Officer revised the list of allowable activities allowing restaurants to resume dine-in operations with social distancing procedures in place; and

WHEREAS, on May 26, 2020, the Sacramento County Health Officer issued a revised health order reinforcing the direction that all individuals stay home as much as possible and continue with social distancing protocols, while also beginning to relax restrictions on lower-risk businesses; and

WHEREAS, rules and regulations issued by the City's Director of Emergency Services shall be confirmed by the City Council as early as practicable under the circumstances of the emergency.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Elk Grove hereby finds the confirmation of the City Order exempt from California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15061(b)(3) ("Common Sense" exemption) based upon the following findings:

Finding: Confirmation of the City Order is exempt from CEQA review pursuant to CEQA Guidelines section 15061(b)(3) ("Common Sense" exemption)

Evidence: The City Order allows temporary expanded seating opportunities for existing restaurants. The action is exempt from CEQA review pursuant to the principle that an action is exempt from CEQA review if it can be seen with certainty that the project would not result in a significant effect on the environment. CEQA Guidelines Section 15061(b)(3) ("Common Sense"

exemption). The City Order will be applicable to restaurants operating legally under the EGMC. Based on the regulations contained in the City Order, any new temporary seating will be located within improved portions of the public right-of-way, or improved portions of private property. As indoor seating capacity will be limited due to social distancing requirements, temporary outdoor seating is not expected expand total seating for any given restaurant beyond that which would be allowed under normal circumstances.

AND BE IT FURTHER RESOLVED that the City Council of the City of Elk Grove hereby confirms the City Order attached hereto as Exhibit A and incorporated herein by reference.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 10th day of June 2020



STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

LOCAL EMERGENCY ORDER

Pursuant to the Proclamation of a State of Emergency in California by Governor Gavin Newsom on March 4, 2020 as a result of the COVID-19 pandemic; the Governor's Executive Orders (including but not limited to N-33-20); the City Manager's Proclamation of a Local Emergency dated March 13, 2020, and subsequent ratification by the Elk Grove City Council on March 18, 2020; the Orders of the Sacramento County Health Officer dated March 19, 2020, April 7, 2020 and May 1, 2020; and Government Code Section 8634, I hereby issue the following Order:

1. Once sit-down dining is permitted by the Sacramento County Health Officer, certain City-owned public properties may be used temporarily for outdoor dining during the pendency of the local emergency, subject to the following requirements:
 - A. Restaurants desiring to use public property for outdoor dining shall submit an application, on forms approved by the Public Works Department, with photographs, drawing or depiction of the proposed location and layout, and such restaurants shall obtain a temporary, no-cost permit from the Public Works Department, which permit may be granted or denied in the City's discretion.
 - B. The City reserves the right to determine on a case-by-case basis the suitability and appropriateness of the public property requested by the restaurant for outdoor dining.
 - C. The use of City property shall not interfere with vehicular and pedestrian traffic, or access under the Americans with Disabilities Act.
 - D. No permanent item or structure shall be installed on City property.
 - E. Temporary fencing not exceeding three (3) feet tall shall be placed in a safe manner around the outdoor dining area.
 - F. Dining tables shall be placed in a manner that observes six-foot (6'-0") social distancing between groups of customers. Customers in the same household dining together are counted as one group and are exempt from this requirement while sitting at the same table(s).
 - G. A minimum four (4' 0") foot wide path of travel shall be provided and maintained along all pedestrian walkways from the public right-of-way and/or parking lot to all public building entrances. No outdoor use may obstruct this required pedestrian clearance in any manner, regardless of the width of the sidewalk.

- H. Unless hours of operation are expressly extended or restricted by the permit, hours of operation for outdoor uses shall coincide with the hours of operation for the corresponding business with which the outdoor use is granted.
 - I. All forms of speaker amplification associated with the outdoor dining provided under this order shall be prohibited.
 - J. Temporary signage may be utilized to designate the use of public property for outdoor dining.
 - K. Restaurants shall comply with all applicable State and County laws and regulations pertaining to outdoor dining (including but not limited to sale and consumption of alcoholic beverages) under this provision.
 - L. No real property right is provided, given, or otherwise conveyed to any person or entity using public property for outdoor dining purpose. Any such use permitted hereunder shall cease not later than termination of the City local emergency, and the permittee shall return public property to the condition existing at the time of permit issuance. The City reserves the right, in its sole discretion during the pendency of the City local emergency, to terminate or extend any use permit issued hereunder, with or without cause. Upon termination of any use permit granted hereunder, the permittee shall return City-owned public property to the condition existing at the time of permit issuance.
2. Once sit-down dining is permitted by the Sacramento County Health Officer, the requirement to obtain a Temporary Use Permit or Design Review approval for outdoor dining on private property is suspended during the pendency of the local emergency, subject to the following requirements:
- A. No permanent item or structure may be installed in association with outdoor seating provided under this order.
 - B. Dining tables shall be placed in a manner that observes six-foot (6'-0") social distancing between groups of customers. Customers in the same household dining together are counted as one group and are exempt from this requirement while sitting at the same table(s).
 - C. A minimum four (4' 0") foot wide path of travel shall be provided and maintained along all pedestrian walkways from the public right-of-way and/or parking lot to all public building entrances. No outdoor use may obstruct this required pedestrian clearance in any manner, regardless of the width of the sidewalk.

- D. Hours of operation for outdoor dining on private property uses shall coincide with the hours of operation for the corresponding business with which the outdoor use is granted
 - E. All forms of speaker amplification associated with the outdoor dining provided under this order shall be prohibited.
 - F. Temporary signage may be utilized to designate the use of private property for outdoor dining.
 - G. Restaurants shall comply with all applicable State and County laws and regulations pertaining to outdoor dining (including but not limited to sale and consumption of alcoholic beverages) under this provision.
3. The provisions in the Elk Grove Municipal Code limiting temporary signage such as, for example, A-frame, window signs or banner signs, for business advertisement and promotion are suspended during the pendency of the local emergency, provided that such signs do not block, impede or otherwise interfere with the public rights-of-way and the safe travel of vehicles and pedestrians, including access under the Americans with Disabilities Act.


Failure of any person to comply with this Order and any order issued by a law enforcement officer pursuant to this Order constitutes an imminent threat to public health.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the City of Elk Grove, its departments, officers, employees, or any other person.

If any provision of this Order to the application thereof to any person or circumstances is held to be invalid, the remainder of the Order, 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 Order are severable.

This Order shall be filed in the City Clerk's Office and given widespread publicity and notice as is reasonably practicable.

Dated: May 21, 2020

By: 

Jason Behrmann, City Manager/
Director of Emergency Services
City of Elk Grove

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2020-117**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on June 10, 2020 by the following vote:

AYES: COUNCILMEMBERS: *Ly, Detrick, Hume, Nguyen, Suen*

NOES: COUNCILMEMBERS: *None*

ABSTAIN: COUNCILMEMBERS: *None*

ABSENT: COUNCILMEMBERS: *None*


**Jason Lindgren, City Clerk
City of Elk Grove, California**