

**BEFORE THE CITY COUNCIL OF THE CITY OF SONORA**

**ORDINANCE NO. 868**

**IN THE MATTER OF ADOPTING AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONORA AUTHORIZING THE OUTDOOR OPERATION OF A QUALIFYING BUSINESS (RESTAURANTS, WINERIES, AND BREWERIES) PURSUANT TO A SPECIAL TEMPORARY OUTDOOR OPERATIONS PERMIT AND GRANTING THE CITY ADMINISTRATOR TEMPORARY LAND USE AUTHORITY TO IMPLEMENT THE OUTDOOR OPERATIONS PERMIT**

**WHEREAS**, in response to the COVID-19 pandemic and global health crisis, the President of the United States, the Governor of the State of California (the "Governor"), the County of Tuolumne (the "County"), and the City of Sonora (the "City"), have each proclaimed a state of emergency; and

**WHEREAS**, on March 19, 2020, the Governor issued Executive Order N-33-20 (the "Executive Order"), ordering all State of California (the "State") residents to shelter at home or at their place of residence, except as needed to ensure continuity of operations in essential critical infrastructure sectors and additional sectors as directed by the State Public Health Officer. Subsequently, the State Public Health Officer issued an "Essential List of Critical Infrastructure Workers," which clarifies and implements the Executive Order; and

**WHEREAS**, to prevent the spread of COVID-19, the County Health Officer has issued orders, the most recent of which directs County residents, including City residents, to shelter at home, except as needed to provide or receive essential services, until rescinded; and

**WHEREAS**, on April 6, 2020, the City adopted Ordinance No 866 requiring all residents to shelter in place in accordance with the Executive Order and the County Health Officer's Order and providing a mechanism for City enforcement; and

**WHEREAS**, as the result of the Executive Order and the County Health Officer's Order, businesses that serve food or beverages were prohibited from serving food or beverages onsite; and

**WHEREAS**, on May 4, 2020, the Governor announced that the State will move to a "Stage 2" modification of the Executive Order, allowing for businesses identified as having a lower risk of COVID-19 transmission to reopen in accordance with State guidelines ("Stage 2"); and

**WHEREAS**, on May 7, 2020, the State issued guidelines that businesses that reopen due to Stage 2 must follow; and

**WHEREAS**, Government Code section 8634 authorizes, during a local emergency, the City Council, or officials designated thereby, to promulgate orders and regulations necessary to provide for the protection of life and property; and

**WHEREAS**, the City, pursuant to the police powers delegated to it by the State Constitution, has the authority to enact laws that promote the public health, safety, and general welfare of its residents; and

**WHEREAS**, pursuant to California Government Code section 36937 the City may adopt an urgency ordinance if it is for the immediate preservation of the public peace, health or safety.

**NOW, THEREFORE**, the City Council of the City of Sonora does hereby ordain as follows:

### **SECTION 1. PROSPECTIVE ORDINANCE.**

THIS ORDINANCE IS PROSPECTIVE ONLY. Nothing in this ordinance shall authorize a particular restaurant, winery, or brewery, and the City shall not issue a special temporary operations permit to a particular restaurant, winery, or brewery, unless and until that restaurant, winery, or brewery is authorized to operate under State and County Orders. All restaurants, wineries, and breweries must be in full compliance with all State and County Orders regarding reopening. A restaurant, winery, or brewery must be able to present proof of compliance with the applicable State and County Orders upon request by the enforcement official as authorized under Section 7 herein.

### **SECTION 2. DEFINITIONS.**

For purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them:

“City Administrator” means the City Administrator, or his or her designee.

“County Orders” means any order or guidance issued by the Tuolumne County Board of Supervisors or the Tuolumne County Health Officer.

“Qualifying business” means any restaurant, winery, or brewery, which will operate exclusively outdoors, and in compliance with State and County Orders.

“Social distancing” means maintaining at least a six (6) feet separation from all persons, except for family members or those in the same household or living unit, or providing a comparable level of protection against exposure to respiratory droplets or secretions through the use of personal protective equipment or other physical or administrative controls.

“Special temporary operations permit” means a permit issued by the City and obtained by a restaurant, winery, or brewery, pursuant to Section 5 of this ordinance, to serve food or beverages outdoors.

“State Orders” means any order or guidance issued by an official of the State of California. “State Orders” shall include the statewide reopening guidance issued by the State of California, including but not limited to State’s “Statewide Industry Guidance to Reduce Risk” or County variance guidelines as may change from time to time.

**SECTION 3. COMPLIANCE WITH STATE AND COUNTY ORDERS REQUIRED.**

All restaurants, wineries, breweries, and other business establishments that serve food or beverages onsite shall comply with all applicable State and County Orders.

**SECTION 4. A SPECIAL TEMPORARY OUTDOOR OPERATIONS PERMIT REQUIRED FOR OUTDOOR DINING.**

- A. A restaurant, winery, or brewery serving food or beverages onsite and outdoors within the City shall obtain a special temporary outdoor operations permit prior to operation.
- B. Any restaurant, winery, or brewery operating onsite and outdoors pursuant to a special temporary outdoor operations permit must comply with all State and County Orders.

**SECTION 5. APPLICATION FOR SPECIAL TEMPORARY OUTDOOR OPERATIONS PERMIT.**

- A. A restaurant, winery, or brewery may apply for a special temporary outdoor operations permit by submitting an application to the City Administrator, on a form approved by the City Administrator. The application shall be accompanied by any additional information required by the City Administrator.
- B. Any restaurant, winery, or brewery applying for a special temporary outdoor operations permit may, in connection with its application for a temporary outdoor operations permit, request a street closure or a reduction or a modification to the business parking space requirement to allow the serving of food or beverages outdoors.
- C. The City Administrator shall consider any application submitted for a special temporary outdoor operations permit. In the City Administrator’s discretion, the application for a special temporary outdoor operations permit may be approved or denied. The City Administrator may approve an application for a special temporary outdoor operations permit only if the operation of the restaurant, winery, or brewery will be in compliance with the reopening protocol of the State of California and the County of Tuolumne and the public health and safety of the City will not be threatened.
- D. If the application for a special temporary outdoor operations permit is approved, the City Administrator shall issue a temporary outdoor operations permit. The City Administrator may issue a temporary outdoor operations permit on any terms the City Administrator deems

necessary to ensure compliance with all State Orders and County Orders and to protect the public health and safety of the City.

E. The temporary outdoor operations permit issued pursuant to this ordinance is non-transferable. Only the restaurant, winery, or brewery for which the temporary outdoor operations permit was issued shall be permitted to operate outdoors.

F. The City Administrator may revoke a temporary outdoor operations permit issued pursuant to this ordinance at any time and for any reason.

G. A temporary outdoor operations permit shall not affect the terms, conditions, or validity of a Qualifying Business' conditional use permit.

#### **SECTION 6. TEMPORARY STREET, SIDEWALK AND PARKING CLOSURES.**

The City Council grants the City Administrator temporary land use authority to implement the necessary rules and regulations for special temporary outdoor operations permits granted to qualifying businesses. The City Administrator is authorized to implement traffic control measures on neighborhood streets and arterial roadways to include enforcement of advisory speeds, road closures, and to reduce traffic to ensure safety for residents practicing social and physical distancing. The City Administrator may authorize the temporary closure of streets, alleys, sidewalks, or parking lots as necessary for qualifying businesses to operate, subject to applicable federal and state laws and regulations concerning accessibility and traffic control measures.

#### **SECTION 7. ENFORCEMENT.**

A violation of this ordinance or a special temporary outdoor operations permit constitutes an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to Chapter 14.01, Property Maintenance Code of the City of Sonora Municipal Code as amended by Ordinance No. 854.

#### **SECTION 8. TERM.**

This ordinance remains in full force and effect until the Governor ends the state of emergency in response to the COVID-19 outbreak or until this ordinance is rescinded by the City Council, whichever occurs first.

#### **SECTION 9. SEVERABILITY.**

If any section, subdivision, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof and shall continue to be in full force and effect.

**SECTION 10. URGENCY FINDING.**

The City hereby finds, determines and declares that this ordinance is necessary to the immediate preservation of the public peace, health or safety, because there is an urgent need to slow COVID-19 transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. Therefore, the City further finds, determines and declares that this ordinance takes effect immediately upon adoption pursuant to the authority conferred upon the City Council by California Government Code section 36937.

**SECTION 11. PASSED AND ADOPTED.**

The foregoing Ordinance was introduced, adopted, approved, ordered, and published in full by a four-fifths vote at a meeting of the City Council of the City of Sonora held on the 14<sup>th</sup> day of May, 2020, and said Ordinance was thereupon adopted by the following roll call vote:

AYES: Garaventa, Hawkins, Plummer, Such, Williams

NOES:

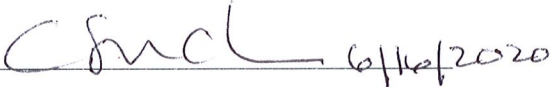
EXCUSED:

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Signed and approved this 14th day of May, 2020.

ATTEST:

APPROVED:

  
\_\_\_\_\_ 6/14/2020

Colette Such  
City Clerk Pro Tem

  
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Jim Garaventa  
Mayor