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Agenda Items: ID#20-001236 (4-A)

Date: 9/24/2020

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CITY OF FRESNO
CITY CLERK'S OFFICE

FRESNO CITY COUNCIL



Additional Information

Agenda Related Item(s) – ID#20-001236 (4-A)

Item(s)

BILL (for introduction and adoption) - An Emergency Ordinance amending Section 2-515 of the Fresno Municipal Code relating to Outdoor Dining during the COVID-19 Emergency (Requires 5 affirmative votes)

Contents: Staff Report and Revised Ordinance.

Supplemental Information:

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The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

REPORT TO THE CITY COUNCIL

September 24, 2020

FROM: ESMERALDA Z. SORIA, Council District 1
City Council Offices

SUBJECT

..Title

BILL (for introduction and adoption) - An Emergency Ordinance amending Section 2-515 of the Fresno Municipal Code relating to Outdoor Dining during the COVID-19 Emergency (Requires 5 affirmative votes)

..Body

RECOMMENDATION

Recommends the City Council adopt Ordinance to establish use of outdoor entertainment with parklets

EXECUTIVE SUMMARY

Due the world-wide pandemic, State and Local Emergency Orders have been declared which required closures of Non-Essential Business. Recent orders have allowed some businesses to reopen with limited operational space in order to provide for Social Distancing as recommended by the Center for Disease Control and Prevention (CDC). This limitation has prevented many business owners from creating sufficient revenue to remain open.

To promote continued re-opening of restaurants and the return of the economic vitality of Fresno and provide safe expanded areas for customers on June 11, 2020 Council appropriated funding to establish city wide parklets to provide safe designated areas within parking lots or streets for expanded service area.

BACKGROUND

The 2020 COVID19 Pandemic has greatly impacted the health and economics of our nation. The City of Fresno desires to promote economic vitality while observing required health guidelines.

Restaurants opened under the new CDC Health Guidelines and are operating in outdoor space only and will likely only be limited to partial occupancy when the emergency order rolls back. As a result, restaurants are not able to return to pre-pandemic staffing levels. This is causing financial hardship for the business and limits the number of jobs available for rehiring laid off staffing.

The parklets placed in strategic areas such are providing temporary outdoor dining area space while providing for CDC recommended social distances, barriers for designated safe dining area and allowing restaurants to rehire staff.

Since approval of the parklets program, 10 businesses have been awarded grants and 5 businesses are pending awards. With these expanded spaces business owners would like for these spaces to provide positive dining experience by including outdoor entertainment. This action would allow outdoor entertainment, which does not disrupt neighboring businesses or residences on Thursdays, Fridays, Saturdays, Sundays and holidays. The live music would be limited to a maximum two piece band and all entertainment must comply with the music standards outlined in FMC section 15-2744.

Attachment: Ordinance

BILL NO. _____

ORDINANCE NO. _____

AN EMERGENCY ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, AMENDING SECTION 2-515 OF THE
FRESNO MUNICIPAL CODE, RELATING TO OUTDOOR
DINING DURING THE COVID-19 EMERGENCY

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2-515 of the Fresno Municipal Code is amended to read:

SECTION 2-515. OUTDOOR DINING DURING COVID-19 EMERGENCY.

Notwithstanding the provisions of FMC 15-2744, for so long as restaurants are prohibited from operating at full capacity due to an emergency order related to the COVID-19 pandemic, the following shall apply:

(a) Outdoor dining is permitted in common areas of shopping centers and parking lots, with permission of the property owner, and on City property, with permission of the City Manager. Outdoor dining may include consumption of alcohol so long as it is combined with consumption of food, all in compliance with California Alcoholic Beverage Control requirements.

(b) Proper social distancing shall be maintained with dining areas demarcated with tape or barriers. Excess seating shall be removed when feasible, or blocked off if the seating or tables are permanently affixed. For parking lots, every other parking stall may be used, and those stalls between stalls used for tables shall remain vacant, but no disabled

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: _____

Ordinance No.

person parking stalls may be used. Businesses shall also follow any additional State and County requirements in effect at the time.

(c) All employees must wear masks and wash hands frequently.

(d) This section is subject to further regulations issued by the City Manager, with approval by the Police Chief and City Attorney.

(e) Facilities that establish temporary outdoor dining facilities pursuant to the requirements of this ordinance, shall not be in violation of FMC sections 15-2744, 15-2403-B, 15-2407, 15-2408, 15-2409, 15-2411, or 15-2414 until this ordinance expires, is repealed, or is otherwise rendered ineffective. Temporary outdoor dining facilities established pursuant to this ordinance shall not be deemed a nuisance under FMC Section 15-6304, and shall not be subject to enforcement pursuant to Chapter 15, Article 63 of the Fresno Municipal Code until this ordinance expires, is repealed, or is otherwise rendered ineffective.

(f) ~~This section shall expire and be repealed one year from the effective date unless extended by the City Council.~~ [So long as not prohibited by state orders and to the extent that compliance may be achieved with state guidance, facilities that establish temporary outdoor dining facilities pursuant to the requirements of this ordinance, shall be permitted to provide limited outdoor entertainment, which does not disrupt neighboring businesses or residences, in accordance with the following limitations:

(1) A facility providing outdoor entertainment shall not increase capacity beyond the facility's normal seating capacity.

(2) Entertainment may only be provided on Thursdays, Fridays, Saturdays, Sundays, and holidays.

(3) Live music shall be limited to a maximum two-piece band.

(4) Entertainment shall comply with the music standards as set forth in FMC section 15-2744.

(g) This section shall expire and be repealed one year from the effective date unless extended by the City Council.]

SECTION 2. This Ordinance is necessary for the immediate preservation of the public health, peace, property, and safety. Pursuant to Sections 603 and 610 of the Charter of the City of Fresno, this Ordinance shall take effect immediately upon passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2020.

AYES :
NOES :
ABSENT :
ABSTAIN :

YVONNE SPENCE, CRM MMC
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Tracy N. Parvanian Date
Senior Deputy City Attorney