

NAPA COUNTY RESOLUTION NO. 2020-72

**A RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS
ESTABLISHING TEMPORARY MEASURES TO MAINTAIN SAFE AND HEALTHY
BUSINESS OPERATIONS DURING THE COVID-19 PANDEMIC**

WHEREAS, on March 4, 2020, the Governor of the State of California issued a proclamation of a state of emergency in California as a result of the COVID-19 pandemic; and

WHEREAS, pursuant to Health and Safety Code section 101080 and Napa County Code section 2.80.065, the Napa County Public Health Officer is authorized to proclaim the existence of a local health emergency when the County or any portion thereof is affected or likely to be affected by a public health threat as described in Health and Safety Code section 101075 et seq., subject to ratification by the Board of Supervisors within seven days; and

WHEREAS, on March 12, 2020, the Napa County Public Health Officer declared a local health emergency; and

WHEREAS, Government Code section 8630 and Napa County Code section 2.80.060(A)(2) authorize and empower the Napa County Executive Officer acting as the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the County is affected or likely to be affected by a public calamity and the Board is not in session, subject to confirmation by the Board within seven days; and

WHEREAS, on March 13, 2020, the County Executive Officer acting as the Director of Emergency Services issued a Proclamation of Local Emergency in Napa County; and

WHEREAS, on March 17, 2020, the Board adopted Resolution No. 2020-38, declaring the existence of a local health emergency and local emergency throughout all jurisdictions within Napa County due to the imminent and proximate threat of the potential introduction of COVID-19 into Napa County; and

WHEREAS, on March 18, 2020, the Napa County Public Health Officer issued a Shelter at Home Order, that went into effect on March 20, 2020 through April 7, 2020; and

WHEREAS, on April 2, 2020, the Napa County Public Health Officer issued a modified Shelter at Home Order for Napa County through April 30, 2020; and

WHEREAS, on April 22, 2020, the Napa County Public Health Officer issued a modified Shelter at Home Order for Napa County through May 7, 2020; and

WHEREAS, on May 7, 2020, the Napa County Public Health Officer issued a modified Shelter at Home Order for Napa County with an indefinite term; and

WHEREAS, many businesses within the unincorporated area of Napa County have been largely closed for two months, except for very limited curbside pick-up and delivery activities, and have not been able to provide on-site dining, tasting, retail, or marketing event services to their customers during this time, resulting in extensive and significant economic impacts; and

WHEREAS, on May 8, 2020, the Governor released a Resilience Roadmap, consisting of four stages for modifying the statewide order and gradually re-opening the economy; and

WHEREAS, Napa County is currently in the early phase of Stage 2 of the Resilience Roadmap – Lower Risk Workplaces, but may vary from the statewide order through the written attestation of the County Public Health Officer and a letter of support from the Board of Supervisors; and

WHEREAS, on May 14, 2020, the Board approved a letter in support of the attestation of the County Public Health Officer that Napa County has met all of the requirements of the State Variance procedures and may proceed to re-open under the full provisions of Stage 2; and

WHEREAS, businesses that operate under the provisions of Stage 2 must comply with all physical distancing requirements as detailed in both the County Public Health Officer Orders and the Governor’s Health Order; and

WHEREAS, those restaurants, wineries, and other businesses impacted by the physical distancing requirements imposed in response to the COVID-19 emergency are in immediate need of alternative temporary facilities in which to safely accommodate their approved dining, visitation, marketing events, and other legally established activities to maintain business operations, avoid greater economic loss, and allow employees to return to work; and

WHEREAS, while the County performs environmental health inspections for food facilities within the cities and town, the County’s land use authority is exercised solely within the unincorporated area, and any temporary business provisions allowed while the Governor’s Health Order is in effect will not apply to any business establishments within incorporated cities or towns; and

WHEREAS, Government Code section 66016 et seq., authorizes local agencies to levy fees or service charges for the filing, accepting, reviewing, approving, or issuing of an application, permit, or entitlement to use; and

WHEREAS, on May 21, 2019, the Board adopted Resolution No. 2019-70, which delegated limited authority to the Planning, Building, and Environmental Services (“PBES”) Director for waiving fees charged by Napa County to recover the costs of services provided by the PBES Department, in a manner provided by law; and

WHEREAS, Part III of the County Policy Manual, Part 110, Section 110.030 establishes Food Facility Fees charged by the PBES Department to conduct annual inspections of food preparation operations; and

WHEREAS, many of the food facilities listed in Section 110.030 have been closed for on-site dining over the past two months due to the restrictions contained in the County Public Health Officer Order and the Governor’s Health Order, and even after re-opening, food facilities will have limited on-site dining due to physical distancing requirements and will continue to be economically impacted; and

WHEREAS, because of the scope and magnitude of the economic impact caused by the physical distancing required to protect the public health and safety during the COVID-19 pandemic, the Board desires to establish and adopt an interim County policy providing flexibility for temporary on-site areas to assist business owners in maintaining their operations while the Governor’s Health Order is in place, and providing an exception to existing policy to create some economic relief to affected food vendors; and

WHEREAS, Article XI, section 7 of California’s Constitution provides that a “county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulation not in conflict with general laws.” Under this section, local governments, such as the County, have the broad authority under their police power to protect the public welfare in a field that the State has not explicitly, impliedly or substantively “occupied;” and

WHEREAS, the temporary modifications of business uses and operations allowed while the Governor’s Health Order is in effect will not be detrimental to the public health, safety and welfare; and

WHEREAS, in order to provide flexibility for businesses operating under the Governor’s Health Order, the PBES Director recommends amending County Policy Manual Part I, by adding a new Section 12C, entitled Maintaining Safe and Healthy Business Operations During Pandemic; and

WHEREAS, in order to provide economic relief to food vendors, the PBES Director recommends a partial waiver of food facility annual inspection fees.

NOW, THEREFORE, BE IT RESOLVED by the Napa County Board of Supervisors as follows:

1. The Board finds the foregoing recitals to be true and correct.
2. The Board finds this resolution and the amendment to the County Policy Manual are exempt from the California Environmental Quality Act under the exemptions set forth in the accompanying Agenda Report.

3. The Board hereby amends Part I: Section 12 of the County Policy Manual as set forth in Attachment “A,” attached hereto and incorporated by reference herein.
4. The Board hereby directs the Clerk of the Napa County Board of Supervisors to integrate Attachment “A” into Part I, Section 12C of the County Policy Manual.
5. The Board hereby directs any business owner desiring to participate in the temporary measures set forth in Attachment “A” to submit a completed “Notice of Intent to Participate” form attached as Exhibit “B” to the PBES Director certifying the owner’s intent to comply with all Health Orders issued by the County Public Health Officer and the provisions of the attached policy.
6. Notwithstanding the fees otherwise specified in Resolution No. 2019-70, the Board of Supervisors authorizes the PBES Director to reduce all appropriate food facility fees by 17% for the 2020-2021 Fiscal Year, to provide relief to restaurants and other food vendors during the COVID-19 emergency.
7. This resolution shall take effect immediately upon its adoption by the Board of Supervisors, and the County Clerk shall certify the vote adopting this resolution.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by

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the Board of Supervisors of Napa County, State of California, at a regular meeting of the Board held on the 19th day of May, 2020, by the following vote:

AYES: SUPERVISORS PEDROZA, GREGORY, WAGENKNECHT,
RAMOS and DILLON

NOES: SUPERVISORS NONE

ABSTAIN: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

NAPA COUNTY, a political subdivision of
the State of California

By: 
DIANE DILLON, Chair of the
Board of Supervisors

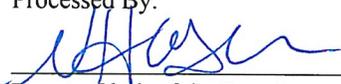
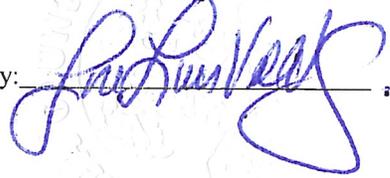
<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Laura J. Anderson (e-sign)</u> County Counsel</p> <p>Date: <u>May 15, 2020</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: May 19, 2020 Processed By: <u></u> Deputy Clerk of the Board</p>	<p>ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors</p> <p>By: <u></u></p>
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EXHIBIT A

PART I: SECTION 12C

MAINTAINING SAFE AND HEALTHY BUSINESS OPERATIONS DURING THE COVID-19 PANDEMIC

Policy

The Governor of the State of California requires businesses to ensure that all business activities are safely conducted with adequate physical distancing. Where permitted activities cannot be conducted safely entirely indoors, this policy allows individual businesses to conduct activities outdoors in temporary on-site areas, so long as the total legally entitled level of activity is not exceeded only while the Proclamation of Local Emergency remains in effect. This policy serves as direction from the Board of Supervisors regarding additional County actions to further the goals stated herein.

Proclamation of Local Emergency

The Board of Supervisors or Napa County Executive Officer/Director of Emergency Services may make a Proclamation of Local Emergency declaring a specific event as a disaster for the purpose of implementing the provisions of this policy.

CEQA

All temporary uses allowed under this interim policy must be located on a property where the existing primary use is legally entitled and uses occur in previously disturbed areas. The total number of customers, employees, events, and vendors shall not exceed existing legal entitlements. All temporary uses allowed under this policy shall strictly comply with all applicable standards herein.

Code Compliance

Following the Proclamation of Local Emergency, the Code Compliance Division will not take action on any activities within temporary on-site areas that are in compliance with the provisions of this policy and the requirements of their legal entitlement. Any violation of this policy may lead to enforcement by the Code Compliance Division.

Parking

If parking areas are used to provide temporary on-site areas, facilities may not offset the loss of spaces elsewhere on- or off-site. Owners are encouraged to promote ride sharing, shuttle services, and other forms of alternative transportation to reduce parking demand, if needed.

Temporary Structures

All tents and/or temporary structures shall meet the current requirements of the California Building Code, California Fire Code, Napa County Code, and all applicable county ordinances. All tents and/or temporary structures shall require permit approval by the PBES Department and County Fire. Temporary structure shall be sited within 150 feet of their approved fire access roadway, or shall meet the criteria of the California Fire Code to extend outside the prescribed 150 feet. The processing of permits for all temporary structures or tents allowed under this policy will be given priority over other pending applications.

Temporary On-Site Areas

Alternative temporary on-site areas may be allowed equivalent in size to existing, legally established areas to allow the business to accommodate physical distancing requirements. Legally established activities may be allowed in these temporary on-site areas only so long as the Proclamation of Local Emergency is in effect. Examples of alternative equivalent temporary on-site areas may include the following:

- i) Temporary relocation of a portion of a winery's tasting room or other winery related accessory uses, through tents, portable buildings, or to existing on-site structures, so long as all appropriate building and fire code requirements are met, and the temporary facilities do not serve a greater number of visitors or marketing events than allowed under the winery's approved Use Permit or the Winery Definition Ordinance.
- ii) Temporary on-site areas shall occur only in previously disturbed areas such as parking lots, crush pads, hardscape, decomposed granite, or other similar areas. Temporary on-site areas shall be a minimum of 500 feet from any off-site residence, unless a project specific mitigation measure imposes a greater distance. All temporary on-site areas shall comply with the California Disabled Persons Act, including path of travel. Outdoor areas must comply with applicable ABC regulations that allow outdoor tastings on the licensed premises. For wineries only, outdoor areas shall be located within the existing winery development area, and outside of any sensitive environmental areas as defined in the County Code.
- iii) The use of all temporary areas shall immediately cease upon expiration or termination of the Proclamation of Local Emergency. Within 30 days of expiration or termination of the Proclamation of Local Emergency, all temporary areas shall either be restored to their prior condition or the applicant shall promptly apply for a use permit modification to retain the use of these areas on a permanent basis. These temporary areas shall not be used unless and until a use permit modification has been approved.
- iv) For wineries only, the total number of existing, approved marketing events can be increased so long as the overall total number of legally entitled marketing guests is not exceeded. By way of example, if a winery is authorized to hold one 100 person

marketing event, it may instead hold 10 marketing events for 10 people each, or similar variation.

- v) For wineries only, tasting room hours of operation may be extended from 10:00 AM until 7:00 PM, through October 31, 2020.

Notice of Intent to Participate

Any business owner desiring to use temporary alternative on-site areas pursuant to this Policy shall provide notice to the PBES Director prior to the initiation of any activities within a temporary on-site area. A Notice of Intent to Participate shall be provided on a form approved by the PBES Director and shall indicate the owner's intent to comply with all health orders issued by the County Public Health Officer and the provisions of this Policy.

Viewshed

Any tents or temporary structures shall be exempt from the County Viewshed Ordinance (County Code Chapter 18.106). Owners are strongly encouraged to minimize the visual impact of any temporary tent and/or structure to the greatest extent feasible while the temporary on-site area is in use.

**NOTICE OF INTENT TO PARTICIPATE
IN TEMPORARY MEASURES FOR BUSINESSES
TO MAINTAIN SAFE AND HEALTHY BUSINESS OPERATIONS
DURING THE COVID-19 PANDEMIC**

Business Owner	Business Information
Name: _____	Name: _____
Mailing Address: _____	Address: _____
City: _____ State: _____ Zip: _____	City: _____ State: _____ Zip: _____
Phone: _____	Assessor's Parcel Number (s): _____
E-Mail Address: _____	Name of Business Contact & Position: _____ _____
	Phone: _____
	E-Mail Address: _____

Winery Visitation and Marketing Program Authorization

Please provide the Permit Number(s) that authorized your visitation and marketing entitlement in effect to date: (e.g., Small Winery Exemption, Use Permit, or Major Modification)

Permit Number(s):

_____ I have read and understand Napa County Board of Supervisors Resolution No. 2020- X as attached.

_____ I agree to comply with the standards and requirements contained in Napa County Board of Supervisors Resolution No. 2020-X.

_____ I agree to comply with all Health Orders issued by the County Public Health Officer.

My signature below constitutes notice of my intent to participate and comply with the temporary measures for businesses to maintain safe and healthy business operations during the COVID-19 pandemic

Business Owner's Signature and Date

Business Owner's Signature and Date

TO BE COMPLETED BY THE PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES DEPARTMENT:

Received by: _____ *Date:* _____