

**RESOLUTION NO. 4343**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO AUTHORIZING THE TOWN MANAGER TO ENTER INTO TEMPORARY OUTDOOR ACTIVITIES ENCROACHMENT AGREEMENTS FOR OUTDOOR DINING SEATING AND OUTDOOR USES FOR BUSINESSES AND TO CLOSE STREETS FOR OUTDOOR EVENTS AND TEMPORARILY SUSPENDING CERTAIN FEES**

**WHEREAS**, on March 16, 2020, the Director of Emergency Services issued a Proclamation of the Director of Emergency Services for the Town of San Anselmo Proclaiming the Existence of a Local Emergency Related to COVID-19 ("Emergency Proclamation"); and

**WHEREAS**, on March 19, 2020, the Town Council adopted Resolution No. 4332 ratifying the Emergency Proclamation; and

**WHEREAS**, on March 16, 2020, the Marin County Health Officer imposed an order directing residents to shelter in their place of residence beginning on March 17, 2020; and

**WHEREAS**, on March 19, 2020, California Governor Gavin Newsom issued Executive Order No. N-33-20 ordering all individuals in the State of California to stay at their place of residence except as needed to maintain continuity of operations for the federal critical infrastructure sectors and for certain businesses deemed "essential"; and

**WHEREAS**, on March 31, 2020, the Marin County Health Officer issued a new order superseding the March 16 County Order, which continued to require residents to shelter in place, but included among other provisions, an allowance for construction and outdoor businesses to resume; and

**WHEREAS**, on May 15, 2020, the Marin County Health Officer issued a new order superseding the March 31 County Order, which continues to mandate that residents shelter in place, but loosening some restrictions including those related to child care and recreational activities; and

**WHEREAS**, the State and County shelter-in-place orders have dramatically impacted local businesses that are not permitted to open and restaurants that are only allowed to provide food for take-out and delivery; and

**WHEREAS**, the State shelter-in-place order has slowly been modified based on the April 28, 2020 phased roadmap for relaxing restrictions; and

**WHEREAS**, in mid-May, 2020, the Governor and the State Department of Public Health issued guidance for the eventual reopening of restaurants and other businesses in counties that are found to meet state benchmarks related to the COVID-19 pandemic; and

**WHEREAS**, on June 1, 2020, Marin County announced that outdoor dining options are available to restaurants, bakeries, coffee shops, brewpubs, breweries, bars, pubs, craft distilleries and wineries that provided sit-down food service prior to the first sheltering order that was imposed on March 16; and

**WHEREAS**, on June 1, 2020, Marin County announced that retailers, with permission from the Town, may display merchandise curbside or create an outdoor retail location; and

**WHEREAS**, even as restaurants and other businesses are allowed to reopen, State and County health requirements will limit their capacity to provide services in their existing facilities due to social distancing requirements; and

**WHEREAS**, the Town has an important governmental interest in maintaining a strong business community, maintaining the jobs and revenue that local businesses provide, providing essential food by maximizing the number of people that can be fed, and also helping to protect the health, safety, and economic welfare of its residents and businesses while ensuring public safety through social distancing requirements; and

**WHEREAS**, as businesses are permitted to reopen pursuant to State and County orders, laws and/or guidance, the Town Council desires to provide assistance to local restaurants and businesses by encouraging the public to utilize their services in a manner that is consistent with social distancing requirements and protects the health and safety of the community; and

**WHEREAS**, the Town Council desires to allow staff to temporarily close portions of certain streets and public rights-of-way in San Anselmo to provide for expanded outdoor use by restaurants and businesses as needed; and

**WHEREAS**, it is the opinion of the Town Council that temporarily closing portions of streets is necessary for the safety and protection of persons who are to use those portions of the street during the temporary closing; and

**WHEREAS**, in the interest of public health and safety and to protect life and property due to the impacts of the COVID-19 emergency, it is necessary to issue and implement this Resolution.

**NOW THEREFORE**, the Town Council of the Town of San Anselmo does hereby resolve as follows:

**Section 1. Findings**

The Town Council finds that the aforementioned recitals are true and correct and are herein incorporated into this Resolution.

**Section 2. Environmental Impacts**

Adoption of this Resolution is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA"), because it relates to an emergency. (CEQA Guidelines §15269). In addition, the Resolution is exempt under CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that adoption of this Resolution may have a significant effect on the environment. Furthermore, adoption of this Resolution is exempt under CEQA

Guidelines section 15304(e), because the outdoor activities and temporary street closures authorized by herein involve minor public and private alterations to land.

### **Section 3. Temporary Closure of Portions of Streets.**

Pursuant to California Vehicle Code section 21101(e), the Town Council, in the interest of safety and to protect residents and the community, the Town Council hereby designates and authorizes the Town Manager to temporarily close portions of San Anselmo Avenue or other streets to provide for expanded temporary outdoor use by restaurants and businesses as necessary during the COVID-19 emergency.

The Town Council further authorizes the Town Manager or his designee to determine which streets or portions of streets may be temporarily closed, to establish a schedule for outdoor dining and business events, and to order the closure of streets or portions of streets as necessary as deemed necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

### **Section 4. Temporary Outdoor Activities Encroachment Agreement.**

To facilitate eligible businesses to temporarily operate in portions of the public right-of-way and other specified public property, the Town Council hereby amends the Town encroachment permit process as follows:

1. Sections 7-4.03 and 7-4.04 of the San Anselmo Municipal Code regarding encroachment permits shall not apply to businesses seeking to encroach into the public right-of-way for purposes of conducting business in compliance with State, County and Town social distancing requirements during the COVID-19 emergency.
2. Businesses seeking to encroach into the public right-of-way or into other specified public property for purposes of conducting business in compliance with State, County and Town social distancing requirements must enter into a Temporary Outdoor Activities Encroachment Agreement with the Town. The Agreement shall authorize the revocable and limited use of a portion of the public right-of-way or other public property, as specified in the Agreement, subject to compliance with operational and safety provisions provided by the Town Manager or his designee, applicable State and County health orders, applicable regulations of the Department of Alcohol and Beverage Control, and in compliance with the Americans Disability Act.
3. The Town Manager or his designee shall prepare a Temporary Outdoor Activities Encroachment Agreement form and the Agreement shall be subject to the approval of the Town Manager or his designee as to substance, and by the Town Attorney as to form and legal requirements. The term of the Agreement shall be no longer than 180 days but may be renewed for additional 180-day periods at the sole discretion of the

Town Manager or his designee. There shall be no application fee required for a Temporary Outdoor Activities Encroachment Agreement.

**Section 5. Section 7. Building Permit and Design Review**

Nothing in this Resolution relieves a business from the requirement to obtain a building permit for outdoor activities if a building permit would otherwise be required, nor does this Resolution relieve a business from complying with all provisions of the Building Code, including but not limited to, maximum occupancy requirements. For purposes of this Ordinance, unless required as a condition of approval for a Temporary COVID-19 Outdoor Activities Permit, design review requirements are suspended for modifications to businesses in the C-1, C-2, C-L and C-3 Districts if the changes are associated with activities permitted under the Permit.

**Section 7. State and County Permits**

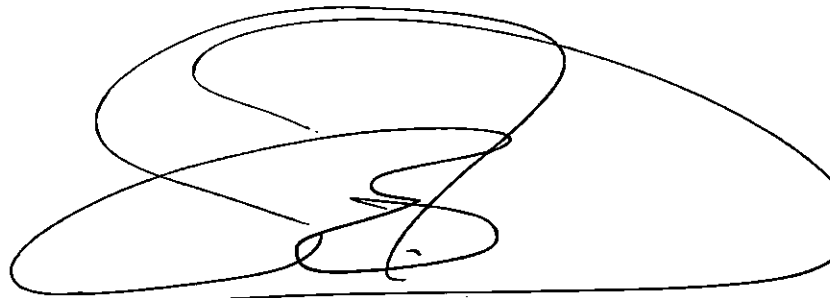
Nothing in this Resolution relieves a business from the requirement to obtain any and all State and County permits regarding the provision of alcohol, food and dining services.

**Section 6. Effective Period.**

The provisions of this Resolution shall be valid until rescinded by the Town Council.

The foregoing Resolution was adopted at the regular meeting of the San Anselmo Town Council held on June 9, 2020, by the following vote:

AYES:	Greene, Colbert, Fineman, Wright, Burdo
NOES:	None
ABSENT:	None
ABSTAIN:	None



Ford Greene, Mayor

ATTEST:

  
Carla Kacmar, Town Clerk