

**ORDINANCE NO. 846**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON REGARDING THE OUTDOOR OPERATIONS OF A QUALIFYING BUSINESS (RESTAURANTS, BARBER SHOPS, BEAUTY SALONS AND THE LIKE) PURSUANT TO A SPECIAL TEMPORARY OUTDOOR OPERATIONS PERMIT AND GRANTING THE CITY MANAGER OR HIS/HER DESIGNEE TEMPORARY LAND USE AUTHORITY TO IMPLEMENT THE OUTDOOR OPERATION PERMIT**

**WHEREAS**, on March 4, 2020, the Governor of the State of California (the "Governor"), declared a state of emergency in the State of California (the "State") due to the number of confirmed cases of the novel Coronavirus ("COVID-19") in the State; and

**WHEREAS**, on March 13, 2020, the President of the United States declared a national emergency due to COVID-19; and

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

**WHEREAS**, on April 7, 2020, the City Council of the City of Patterson ("City Council") adopted Urgency Ordinance 843, ordering all individuals currently living within the City of Patterson ("City") to shelter at their place of residence for the immediate preservation of the public peace, health, and safety due to COVID-19; 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**, due to a rise in COVID-19 transmission rates in 17 California counties, including Stanislaus County, Governor Gavin Newsom and the California Department of Public Health as of July 1, 2020, instructed and mandated that an array of businesses including restaurants, beauty salons, barber shops and the like, close all indoor operation to mitigate the spread of the virus essentially rolling back the Stage 2 opening; and

**WHEREAS**, subsequent to the above referenced July 1, 2020 mandate, Governor

Gavin Newsom has declared that restaurants, beauty salons, barber shops and the like, may serve customers in an outdoor setting/arrangement; 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 PATTERSON DOES ORDAIN AS FOLLOWS:**

**SECTION 1. ORDINANCE COMPLIANCE.**

This ordinance does not in any way, shape or form preempt the need for a qualifying business to procure and maintain a business license in good standing with the City of Patterson. In this same regard, entering into or procuring a temporary outdoor operations permit does not preclude and/or preempt the requirements for the qualifying business to comply with all applicable city, state and county requirements, codes and orders pursuant to 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 Manager” means the City Manager, or his or her designee.

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

“Qualifying business” means any restaurant, beauty salon, barber shop, and other similar business authorized by State and County orders to operate exclusively outdoors. All qualifying businesses shall comply with State and County orders.

“Social distancing” means maintaining at least a six (6) feet separation from all person, 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 qualifying business, pursuant to Section 5 of this ordinance, to serve food and beverages

and to conduct personal services 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, the 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 qualifying businesses issued a special temporary outdoor operations permit shall comply with all applicable State and County Orders.

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

Qualifying businesses must obtain a special temporary outdoor operations permit in order to serve food and beverages onsite and outdoors or perform personal care services onsite and outdoors.

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

- A. A qualifying business may apply for a special temporary outdoor operations permit by submitting an application to the City Manager, on a form approved by the City Manager. The application shall be accompanied by any additional information required by the City Manager.
- B. Any qualifying business applying for a special temporary outdoor operations permit may, in connection with its application for a temporary outdoor operations permit, request a reduction or a modification to the business parking space requirement to allow the serving of food and beverages outdoors or the conducting of activity commonly associated with beauty salons and barber shops outdoors.
- C. The City Manager shall consider any application submitted for a special temporary outdoor operations permit. In the City Manager’s discretion, the application for a special temporary outdoor operations permit may be approved or denied. The City Manager may approve an application for a special temporary outdoor operation permit only if the operation of the restaurant, beauty salon, barber shop and the like will be in compliance with all State and County Orders and the public health and safety of the City will not be threatened. The applicant may in connection with the application for a special temporary outdoor operations permit, request to reduce the walkways and path of travel whether public or private to accommodate seating and tables and the like providing the path of travel remains in compliance with the Americans with Disabilities Act (ADA).
- D. If the application for a special temporary outdoor operations permit is approved, the City Manager shall issue a temporary outdoor operations permit. The City Manager may issue a temporary outdoor operations permit on any terms the City Manager 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 qualifying business for which the temporary outdoor operations permit

was issued shall be permitted to operate outdoors.

F. The City Manager 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' existing land use entitlement.

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

The City Council grants the City Manager temporary land use authority to implement the necessary rules and regulations for special temporary outdoor operations permits granted to qualifying businesses. The City Manager 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 Manager 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 Patterson's Municipal Code is unlawful and constitutes a public nuisance (Code Section 1.32.015). When this code is in violation, the City may collect damages pursuant to California Government Code Section 38773.7, seek remedies under applicable state or federal statute, and pursue remedies provided in this code. (Ord. 751 (part), 2014).

#### **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. EFFECTIVE DATE.**

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.

The foregoing Ordinance was introduced, adopted, approved, and ordered published in full by a four-fifths vote at a meeting of the City Council of the City of Patterson held on the 18<sup>th</sup> day of August, 2020, and said Ordinance was thereupon adopted by the following roll call vote:

AYES:  
NOES:  
EXCUSED:

ATTEST:	APPROVED:
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Maricela L. Vela City Clerk	Deborah M. Novelli Mayor