

public health metrics, cities and counties can be at varying phases of the statewide reopening process. In addition, as a general rule, the counties can be more restrictive but not less restrictive than the State.

ANALYSIS:

The COVID-19 [Shelter in Place](#) and subsequent multi-month closure of many of our local businesses is putting a huge financial strain on all industries. To survive this challenge, temporary emergency policies are needed to help local businesses remain adaptable and to reopen in innovative new ways. As Marin County begins to transition through the early stages of Phase 2 reopening, staff recommends creating flexibility with our existing permitting processes to help our local restaurants and retailers reopen based on both State and County Public Health guidance. Marin's Public Health Officer has indicated there is lower risk of COVID-19 transmission in outdoor spaces, which is one of the reasons why retail is being allowed curbside and outside (as of June 1, 2020), but not yet indoors.

In addition to being prepared for the reopening of retail outdoors, staff recommends being fully prepared to support our local restaurants in their first step toward re-opening outdoors as well. To this end, staff has prepared, and recommends adoption of, a policy resolution that would affirm the City's pressing need to support and assist our local businesses through existing City programs and would give the City Manager discretionary authority to modify those programs temporarily in necessary ways to provide that assistance. Staff proposes the following programs be implemented immediately, with the detailed procedures to be determined by the City Manager:

1. Implement an efficient way for businesses to obtain approval for temporary use of portions of City sidewalks and/or on-street parking spaces for outdoor dining and outdoor retail activities;
2. Implement an efficient process for authorizing evening street closure events up to two times per week at times and locations determined by the City Manager.

The City's Municipal Code already contains authority and procedures for allowing use of City streets and sidewalks for outdoor dining and other events; however, the current processes are not designed for implementation in circumstances such as we are now facing. For example:

- Restaurants may use areas of City sidewalks for outdoor dining upon approval of a formal license agreement and proof that the business carries liability insurance that protects the City (SRMC §14.17.110).
- Outdoor dining may be allowed on private property by grant of an Administrative Use Permit.
- Other types of short-term outdoor uses and events may be allowed on public or private property by grant of Department of Public Works-issued Encroachment Permit (SRMC Chapter 11.04) or a Community Development Department-issued Temporary Use Permit (SRMC §14.17.130).
- Temporary street closures for special events may be approved by resolution of the City Council upon a finding that it is necessary for the safety and protection of persons using that street during the event. By resolution, the City Council may authorize a staff member to make the required finding and approve the closure.

These existing regulations were not designed for quick or flexible application of the sort needed under the current emergency conditions. They require application fees for full cost-recovery, in-person applications, substantial staff and/or public review periods, and in some cases, review by City boards or the City Council.

Staff's recommendation therefore, is for the City Council to adopt a resolution granting the City Manager the discretion to modify the existing procedures and to reduce and/or waive fees, on a temporary basis during the COVID-19 emergency, to make it easier, faster, and less expensive for our local restaurants and retail stores to use the City's streets and sidewalks for their business operations, when they are permitted by the State and County Shelter in Place orders.

Staff has prepared the attached resolution authorizing the City Manager to develop and implement temporary programs and procedures, including fee waivers, for the use of City streets and sidewalks for outdoor dining and retail business activities, and to approve temporary evening street closures up to two times per week for events to support the re-opening of local businesses.

FISCAL IMPACT:

Fee relief for the aforementioned permits and licenses would decrease revenues depending upon the type of fee/permit needed (see below).

| Fee Type | Cost |
|---------------------------|-------------|
| Encroachment Fee | \$246 |
| Administrative Use Permit | \$398 |
| License Agreement | \$564 |
| Temporary Use Permit | \$1,420 |

However, providing these businesses the ability to re-open and serve the public will decrease the chances of the business closing permanently and will reduce unemployment while increasing sales and use tax and business license fee revenues to the City.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt Resolution
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt Resolution

ATTACHMENTS:

1. Resolution

RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL GRANTING
AUTHORITY TO THE CITY MANAGER TO IMPLEMENT TEMPORARY
CHANGES TO THE SAN RAFAEL MUNICIPAL CODE TO SUPPORT LOCAL
BUSINESSES IN REOPENING DURING THE COVID-19 EMERGENCY**

WHEREAS, Marin County and six other Bay Area jurisdictions have been under a Shelter in Place public health order due to COVID-19 since March 17, 2020 and multi-month closure of many of the County's local businesses is putting a huge financial strain on all industries; and

WHEREAS, Marin County has developed a reopening initiative called Marin Recovers, a collaborative initiative that brings public health officials, local businesses, and industry and local government leaders together to develop reopening guidelines and procedures to safely and gradually resume commercial and community operations throughout Marin County; and

WHEREAS, the core focus of the Marin Recovers effort includes: 1) Ensuring compliance with State and County public health orders, 2) Creating industry business reopening/operating guidance, 3) Collaborating with industry working groups, and 4) Ensuring support and resources for businesses to reopen; and

WHEREAS, in addition to the local Marin Recovers initiative, the State of California has also created the COVID-19 Resiliency Roadmap that illustrates the phases of reopening California commerce, and the Marin Recovers work tracks closely with the State regulatory phases and industry guidance; and

WHEREAS, maintaining a healthy and active local business community is of the utmost importance to the health, safety and welfare of the City of San Rafael's residents, workers, and visitors; and

WHEREAS, existing provisions of State law and the San Rafael Municipal Code (SRMC) regulate outdoor dining (SRMC Section 14.17.110); temporary uses (SRMC Section 14.17.130); encroachments onto the public streets and sidewalks (SRMC Chapter 11.04); and temporary street closures (Vehicle Code Section 21101(e)); and

WHEREAS, for the City's business community to survive the challenge presented by the COVID-19 pandemic and the resulting business closures, the City Council finds that temporary emergency modifications to existing policies and regulations are needed to help local businesses remain adaptable and to reopen in innovate new ways; and

WHEREAS, under the current emergency circumstances, the City Council finds that it is in the best interests of the public health, safety and welfare to permit the temporary use of the City's streets and sidewalks by City restaurants and retail businesses, with appropriate conditions to preserve the public safety and necessary public access to those resources, and finds that City

staff should be given broad discretion to modify existing City policies, procedures and regulations in order to effectively assist the City's local businesses in their reopening efforts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL HEREBY RESOLVES as follows:

1. The City Manager is authorized to take such steps and implement such policies and procedures as he determines, in his discretion, are required to streamline the approval of permits or other entitlements for the safe use of City sidewalks and on-street parking spaces for business activities of San Rafael restaurants and retail businesses.

2. The City Manager is authorized to make such streamlined processes available to San Rafael restaurants and retail businesses without application fees or with reduced application fees as he determines is appropriate.

3. The City Manager is authorized, without further City Council approval, to grant approvals to close all or portions of designated City streets up to two evenings per week, upon a finding as required by California Vehicle Code Section 21101(e) that the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

4. The authority granted to the City Manager by this Resolution shall be broadly interpreted to effectuate the City Council's intent to support and assist the re-opening of San Rafael's businesses and the general recovery of the City's economy.

5. The authority granted to the City Manager by this Resolution shall remain in effect until terminated by further action of the City Council.

I, Lindsay Lara City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on the 1st day of June, 2020 by the following vote:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

LINDSAY LARA, City Clerk