

ORDINANCE NO. 775

AN URGENCY ORDINANCE OF THE CITY OF CARPINTERIA AMENDING ORDINANCE NO. 744, AS AMENDED BY ORDINANCE NOS. 746, 749, 754, 761, and 767, TO EXTEND THE TEMPORARY COVID-19 OUTDOOR BUSINESS PERMIT PROGRAM TO ALLOW BUSINESSES TO OPERATE IN THE CITY RIGHT-OF-WAY AND OTHER PRIVATELY-OWNED OUTDOOR SPACES TO ENCOURAGE SOCIAL DISTANCING AND ECONOMIC RECOVERY FROM THE COVID-19 PANDEMIC AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

WHEREAS, during the COVID-19 pandemic, federal, state and local governments, including the City of Carpinteria (“City”), declared states of emergency and undertook emergency actions in an effort to minimize the spread of the novel virus;

WHEREAS, such actions included stay at home orders, face-covering requirements, and implementing measures to promote social distancing, such as by prohibiting or limiting non-essential gatherings;

WHEREAS, on March 17, 2020, the California Department of Public Health (“CDPH”) and the Santa Barbara County Public Health Department directed all bars, nightclubs, pubs, breweries, and wineries to close immediately as well as restaurants and other food facilities offering onsite dining to immediately transition to only offering delivery or take-out service as part of the public health effort to slow the spread of the COVID-19 virus; and

WHEREAS, many businesses citywide were either not permitted to remain open or required to severely restrict activities, causing significant adverse financial impacts to businesses, vendors, staffers, the negative effects of which still affect consumer spending and tourism in the City of Carpinteria;

WHEREAS, on May 26, 2020, following gradual re-openings permitted at the State and County levels, the City Council adopted urgency Ordinance No. 744, enacting the Temporary COVID-19 Outdoor Business Permit Program to allow business to operate in the City’s right-of-way and in other privately-owned outdoor spaces to encourage social distancing and economic activity during the COVID-19 pandemic; and

WHEREAS, the California Legislature enacted Assembly Bill 61 (2021), which authorized local agencies to provide relief from parking restrictions for expanded outdoor dining areas to mitigate COVID-19 pandemic restrictions on dining through July 1, 2024; and

WHEREAS, the California Legislature enacted Assembly Bill 1217 (2023), which extends the provisions of Assembly Bill 61 (2021), including the relief from parking restrictions for expanded outdoor dining areas, through July 1, 2026; and

WHEREAS, on May 10, 2021, November 22, 2021, April 25, 2022, November 14, 2022 and June 12, 2023, the City Council respectively approved and adopted Ordinance Nos. 746, 749, 754, 761 and 767 amending Ordinance No. 744 to extend the Temporary COVID-19 Outdoor Business Permit Program, which is currently set to

expire at 11:59 pm on December 31, 2023;

WHEREAS, despite the conclusion of the federal and California states of emergency in February and May 2023, the City retains authority under its police powers, Government Code Section 65907 and Vehicle Code Section 22507 to continue implementation of the Temporary COVID-19 Outdoor Business Permit Program to promote economic development and encourage ongoing health and safety measures to protect the public from the still prevalent virus and its variants; and

WHEREAS, the continuation of City's Temporary COVID-19 Outdoor Business Permit Program remains necessary for the economic recovery of businesses still reeling from the negative impacts resulting from the COVID-19 pandemic that extend beyond the COVID-19 States of Emergency; and

WHEREAS, local businesses report that the ability to use outdoor spaces in the public right-of-way or in private parking areas has been a lifeline and many customers continue to prefer outdoor accommodations; and

WHEREAS, allowing continued utilization of outdoor spaces for business operations and providing flexibility in the continuance of temporary use permits enhances economic vitality and recovery, and augments the City's tax base; and

WHEREAS, various strains of COVID-19 continue to evolve and circulate and remain a threat to certain vulnerable groups, such as the immunocompromised and elderly individuals; and

WHEREAS, most children under the age of 12 have not been vaccinated against the COVID-19 virus;¹ and

WHEREAS, the City Council has initiated the development of a proposed permanent permit program to allow for parklet outdoor seating areas in the City right-of-way; and

WHEREAS, on October 9, 2023, the City Council: (a) adopted Resolution No. 6174 to amend the Downtown "T" Encroachment Guidelines, adding parklets as a permissible encroachment and certain standards for compliant parklets in City right-of-way, (b) authorized the establishment of a modular parklet lease program, and (c) directed staff to prepare an ordinance to extend the Temporary COVID-19 Outdoor Business Permit Program to continue parklet use on privately-owned property and in City right-of-way; and

WHEREAS, the City Council herein authorizes continued parklet use as established in the Temporary COVID-19 Outdoor Business Permit Program to allow continuity for businesses operating in outdoor areas while affording the City additional

¹ See American Academy of Pediatrics, Summary of data publicly reported by the Centers for Disease Control and Prevention (5/3/23) <https://www.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-vaccination-trends/> (accessed on Nov. 9, 2023).

time to develop, consider, and implement the Downtown "T" Encroachment Guidelines for parklets in City right-of-way and a permanent parklet program for privately-owned property, thereby achieving the dual public health and safety and economic goals of the City following the COVID-19 pandemic.

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

Section 1. Incorporation of Recitals. All the recitals set forth above are true, correct, and valid, and are hereby incorporated and adopted as findings of the City Council as though fully set forth herein.

Section 2. Findings. The Council hereby finds, determines and declares that this Urgency Ordinance adoption pursuant to Government Code Section 36937 is necessary because:

A. Commercial activity and businesses are essential to a vibrant and healthy community, and this Temporary COVID-19 Outdoor Business Permit Program provides flexibility to local businesses to re-open and remain open while protecting the peace, health, safety, and welfare of members of the public during and following the COVID-19 pandemic; and

B. The pandemic's effects on local economies and consumer preferences are longer lasting than initially anticipated; and

C. Without the amendment and extension of the Urgency Ordinance, there is an increased risk of a substantial impact to local businesses, causing further disruption by delaying local economic recovery, and endangering the lives or property of inhabitants of the City; and

D. The Downtown "T" Encroachment Permit Program was established to allow local businesses within the Downtown "T" to apply for a permit to conduct certain business operations within the City right-of-way, which provides a framework for the portion of the Temporary COVID-19 Outdoor Business Permit Program applicable to the City right-of-way and other privately-owned property, but requires certain modifications to streamline the implementation of permits with all due speed during and following the COVID-19 pandemic; and

E. Carpinteria Municipal Code Chapter 14.64 establishes a temporary use permit to allow businesses to engage in temporary uses on privately-owned property that provides a framework for the Temporary COVID-19 Outdoor Business Permit Program applicable to privately-owned property, but requires certain modifications to streamline the approval and implementation of permits with all due speed during and following the COVID-19 pandemic; and

F. The City Council recognizes the Temporary COVID-19 Outdoor Business Permit Program continues to require that certain temporary exceptions to the

requirements of Carpinteria Municipal Code Chapter 12.02, the Downtown "T" Encroachment Permit Program, and Carpinteria Municipal Code Chapter 14.64 may be necessary, as determined by the City Manager through additional rules and regulations; and

G. The City Council has initiated the process to establish a permanent parklet program and associated regulations and desires continuity between the existing Temporary COVID-19 Outdoor Business Permit Program and the permanent program; and

H. For the immediate preservation of the public peace, health, safety, and welfare the Council finds that it is necessary to adopt this Urgency Ordinance amending Ordinance No. 744, as amended by Ordinance Nos. 746, 749, 754, 761, and 767 that established the Temporary COVID-19 Outdoor Business Permit Program, for all of the reasons set forth in the recitals above, which and are incorporated herein by reference.

Section 3. Urgency Need. Based on the foregoing recitals and findings, all of which are deemed true and correct, this Urgency Ordinance is needed for the immediate preservation of the public peace, health, safety and welfare. This Urgency Ordinance shall take effect immediately upon adoption in accordance with Government Code Section 36937.

Section 4. Amendment. This Urgency Ordinance hereby amends and supersedes Section 11 of Ordinance No. 744, as it has been amended, to read as follows:

"Section 11. Effective Date and Termination. This Urgency Ordinance shall become effective immediately and shall remain in effect until the earlier of 11:59 pm on June 30, 2024, or termination by the City Council."

Section 5. Scope. Except as expressly amended and superseded by this Urgency Ordinance, all other sections, subsections, sentences, clauses, phrases or words of Ordinance No. 744, as amended, remain in full force and effect.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this Urgency Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Urgency Ordinance or amended Ordinance No. 744.

Section 7. Effective Date. This Urgency Ordinance shall become effective immediately.

Section 8. Environmental Determination. The City Council finds that the adoption and implementation of this urgency Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") under CEQA Guidelines Section

15061(b)(3) in that the City Council finds there is no possibility that the implementation of this Ordinance may have significant effects on the environment. The urgency Ordinance would amend Ordinance No. 744, that established a Temporary COVID-19 Outdoor Business Permit Program, similar to existing permit processes, which is solely an administrative process resulting in no change to the environment.

SECTION 9. Publication. The City Clerk is directed to cause this urgency Ordinance to be published in the manner required by law.

PASSED, APPROVED AND ADOPTED on December 11, 2023 by the following vote:

AYES: COUNCILMEMBER(S): Lee, Nomura, Solorzano, Alarcon, Clark

NOES: COUNCILMEMBER(S): None

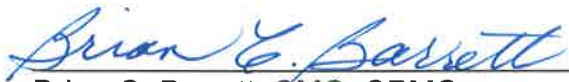
ABSENT: COUNCILMEMBER(S): None

ABSTAIN: COUNCILMEMBER(S): None



Mayor, City of Carpinteria

ATTEST:



Brian C. Barrett, CMC, CPMC
City Clerk, City of Carpinteria




I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held on December 11, 2023.



Brian C. Barrett, CMC, CPMC
City Clerk, City of Carpinteria

APPROVED AS TO FORM:



Jena S. Acos, on behalf of Brownstein
Hyatt Farber Schreck, LLP acting as
City Attorney of the City of Carpinteria

