ORDINANCE NO. 2021-356

AN URGENCY ORDINANCE OF THE TOWN OF WINDSOR AMENDING TITLE III, CHAPTER 2 OF THE WINDSOR MUNICIPAL CODE TO CONTINUE TO ALLOW FOR THE TEMPORARY CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC STREETS, PARKING AREAS AND SIDEWALKS DURING SPECIFIED DAYS AND TIMES AS A RESULT OF THE ECONOMIC IMPACTS TO BUSINESSES RELATED TO COVID-19

WHEREAS, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease named "coronavirus disease 2019" ("COVID-19"); and

WHEREAS, COVID-19 is easily transmissible from person to person, and community spread of the diseases has occurred throughout the United States and California, including in Sonoma County; and

WHEREAS, on March 16, 2020, the Town Manager, in his capacity as Director of Emergency Services, proclaimed the existence of local emergency in the Town of Windsor; and

WHEREAS, on March 18, 2020, the Town Council adopted a resolution ratifying the declaration of local emergency; and

WHEREAS, on March 18, 2020, the Sonoma County Health Officer issued a county-wide shelter-in-place order directing all individuals living in the County to shelter at their place of residence, except that they may leave to provide or receive certain essential services or engage in certain essential activities and work for essential businesses and governmental services, and directing all businesses to cease non-essential operations at physical locations in the County in order to slow the spread of COVID-19 and preserve critical health care capacity across the region; and

WHEREAS, on March 19, 2020, the Governor of California issued Executive Order N-33-20 ordering all individuals within the State of California to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction; and

WHEREAS, on June 3, 2020, to help address some of the negative economic impacts related to COVID-19 on local businesses, the Town Council discussed the idea of using public streets, sidewalks and parking areas for outdoor dining for local restaurants and food/beverage-oriented businesses. At that meeting, the Council directed staff to draft an urgency ordinance to temporarily waive the strict application of Section 3-2-100 of the Windsor Municipal Code, which prohibits the consumption of alcoholic beverages on public streets, sidewalks and parking areas; and

WHEREAS, on June 5, 2020, the Sonoma County Health Officer issued a health order expanding the types of businesses that can re-open, including allowable operations for businesses

previously allowed to re-open with certain safety precautions. The new order includes dine-in restaurants and food facilities, such as brewpubs, breweries, bars, pubs, craft distilleries, wineries, and tasting rooms, only if meals are provided, including by contract with another vendor. Alcohol can only be served in the same transaction as a meal, and alcohol only retail sales may only occur after the meal; and

WHEREAS, on December 12, 2020 - Sonoma County adopted a stay-at-home order in response to an increase in COVID-19 cases. At that time, the Town instructed all outdoor dining and comer permit holders to remove tables and chairs from their parklets so as not to encourage public gatherings in those dining spaces; and

WHEREAS, on August 2, 2021, the Sonoma County Health Officer issued a health order requiring all individuals, regardless of vaccination status, to wear face coverings when indoors in public settings, with limited exceptions; and

WHEREAS, on October 21, 2021, the Sonoma County Health Officer issued a health order modifying the previous August 2, 2021 order such that face coverings continue to generally be required indoors in public settings, but no masks are required in certain small settings whether the host, employer, or organizer has verified that all individuals present are fully vaccinated; and

WHEREAS, in recent months the highly contagious Delta variant of COVID-19 has emerged, causing an increase in COVID-19 cases throughout the State and Sonoma County; and

WHEREAS, restaurants are still advised to follow health and safety guidelines to minimize the risk of spread of COVID-19, such as increased physical distance between tables, required use of face coverings by staff, frequent cleaning of high touch surfaces, suspended use of shared food items such as condiment bottles and reusable menus, and similar restrictions; and

WHEREAS, the guidelines for restaurants specifically recommend prioritizing outdoor seating and curbside pickup to minimize cross flow of customers in enclosed environments, and guidelines for other industries contain similar recommendations and requirements; and

WHEREAS, many businesses experienced substantial declines in business income as a result of business closures or the loss of hours, which threatens business's ability to pay rent, maintain payroll, and continue operating; and

WHEREAS, even though restrictions on indoor dinning have been lifted, a significant segment of the public is still hesitant to eat indoors, even if they are fully vaccinated; and

WHEREAS, vaccine hesitancy impacts the ability of Sonoma County to reach herd immunity; and

WHEREAS, over the last 18 months health restrictions regarding COVID-19 have changed numerous times, becoming stricter at times, and relaxing at other times; and

WHEREAS, it is possible that COVID-19 health orders could become stricter in the future, in response to changed circumstances, and indoor dining may be once again restricted; and

WHEREAS, businesses are an integral part of the economy and community of Windsor; and

WHEREAS, local businesses are a significant source of jobs, tax revenue and essential services for the community; and

WHEREAS, business closures and reductions in capacity over the last year negatively impact the local economy; and

WHEREAS, the Windsor Municipal Code prohibits the consumption of any alcoholic beverages at any time on any public highway, road, street, sidewalk, lane, alley or parking lot open for public use within the Town of Windsor; and

WHEREAS, to assist businesses that are experiencing, and will continue to experience, severe negative economic impacts due to the COVID-19 pandemic, the Town desires to temporarily waive the strict application of Section 3-2-100 of the Windsor Municipal Code to help facilitate a return to operations for those businesses that serve alcoholic beverages; and

WHEREAS, the Town Council previously adopted an urgency ordinance in June 2020 to temporarily waive the strict application of Section 3-2-100 of the Windsor Municipal Code, but that ordinance will expire on December 1, 2021, but the need for the ordinance continues to exists during a transition period as health restrictions are lifted and public behavior slowly returns to normal; and

WHEREAS, California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the public health, safety, and general welfare, of their citizens; and

WHEREAS, California Government Code Section 36937 authorizes the Town Council to introduce and adopt an ordinance it declares to be necessary as an urgency measure to preserve the public peace, health, and safety at one and the same meeting if passed by at least four-fifths affirmative votes; and

WHEREAS, COVID-19 and the public health orders designed to reduce the virus's spread have had a significant impact on the economy of the Town, requiring the closure of numerous business and severe restrictions on those that could remain open, and this Urgency Ordinance will facilitate the prompt reopening and expansion of services for those businesses that serve alcoholic beverages that have been impacted by COVID-19, consistent with anticipated public health orders, thereby minimizing negative economic impacts; and

WHEREAS, the Urgency Ordinance is designed to reduce and slow the transmission of COVID-19 by facilitating required social distancing between and among patrons and employees; and

WHEREAS, the Urgency Ordinance is designed to promote economic business stability and prevent business closures during the COVID-19 pandemic by allowing the temporary consumption of alcoholic beverages during specific days and times on designated public streets,

parking areas and sidewalks to enable business operations in a manner that complies with social distancing orders and protocols, thereby serving the public peace, health, safety, and public welfare; and

WHEREAS, the Town Council finds and determines that allowing the temporary consumption of alcoholic beverages during specific days and times on designated public streets, parking areas and sidewalks to facilitate business operations impacted by COVID-19 in compliance with applicable health orders is essential to support economic development, prevent layoffs, and maintain tax revenue in the Town and thereby serves the public peace, health, and safety; and

WHEREAS, an urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the avoidable closure of local businesses.

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Windsor does hereby ordain as follows.

SECTION 1. Recitals.

The above recitals are hereby incorporated by reference and declared to be true and correct.

SECTION 2. Amendments.

Title III, Chapter 2 of the Windsor Municipal Code entitled "Alcoholic Beverages" is hereby amended to read and provide as follows: (with additions underlined and deletions in ~~strikethrough~~):

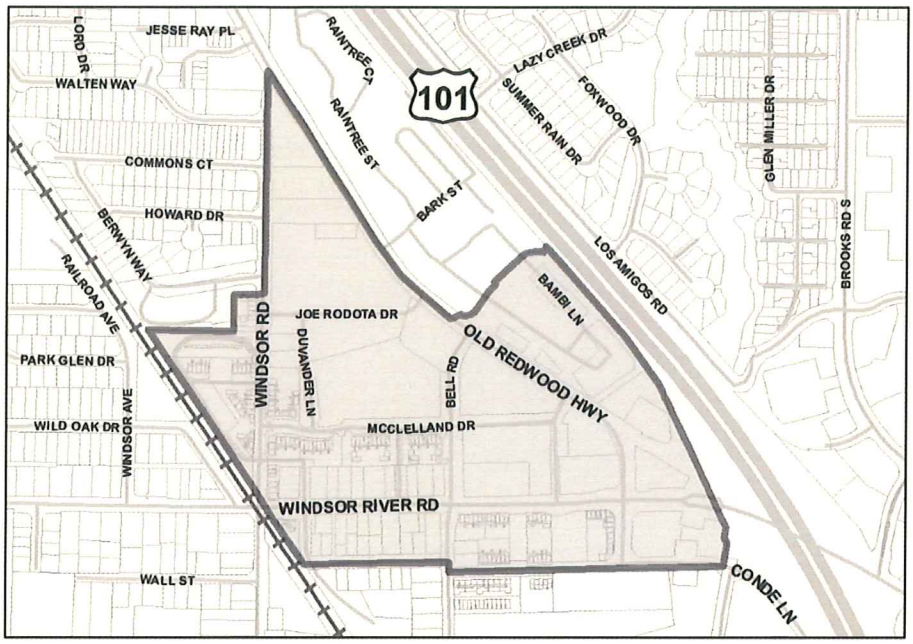
"3-2-100 - Consumption of Alcoholic Beverages on Public Streets or Public Places.

It shall be unlawful for any person to consume any beer, wine or other alcoholic beverages at any time on any public highway, road, street, sidewalk, lane, alley or parking lot open for public use within the Town of Windsor, with the following exception:

a. Notwithstanding the foregoing, the consumption of any beer, wine or other alcoholic beverages is allowed on any public sidewalk in the downtown Windsor area, as shown in Figure 3-2-1, between the hours of 8 a.m. and 10 p.m., to facilitate the prompt reopening of businesses that have been impacted by the economic downturn as a result of the spread of the respiratory disease named "coronavirus disease 2019" (COVID-19), subject to the following provision:

    1. Duration. This exception shall be in place ~~until December 1, 2021,~~ until December 31, 2022, unless otherwise amended by subsequent action of the Council.

Figure 3-2-1
Downtown Windsor Area



b. Consumption of any beer, wine or other alcoholic beverages is allowed on any public highway, road, street, lane, alley or parking lot open for public use within the downtown Windsor area, as shown in Figure 3-2-1, to facilitate the prompt reopening of businesses that have been impacted by the economic downturn as a result of the spread of COVID-19, subject to the following provisions:

1. Public right-of-way closure. Use of public highways, roads, streets, lanes, alleys or parking lots within the downtown Windsor area shall be closed to all vehicular traffic, with the exception of the parking of vehicles necessary for business operations, in order for the consumption of alcoholic beverages to occur thereon.

2. Operating hours. Days and times of the week for the consumption of any beer, wine or other alcoholic beverages on any public highways, roads, streets, lanes, alleys or parking lots within the downtown Windsor area shall be set by the Town and strictly enforced.

3. Health and safety guidelines. Businesses utilizing the designated areas on a public highway, road, street, lane, alley or parking lot open for public use within the downtown Windsor area shall be subject to the health and safety guidelines established by the Sonoma County Health Officer to minimize the risk of spread of COVID-19, as well as all other applicable health and safety regulations.

4. Duration. This exception shall be in place until December 31, 2022 ~~December 1, 2021~~, unless otherwise amended by subsequent action of the Council."

SECTION 3. Compliance with the California Environmental Quality Act.

The Council finds that the adoption and implementation of this ordinance is exempt from environmental review pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3), the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The proposed amendment is temporary and does not allow for or encourage any new land uses or more development than is already anticipated under the Town's 2040 General Plan and can be seen with certainty that there is no possibility that the amendments in question may have a significant effect on the environment.

SECTION 4. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 5. Effective Date.

The Ordinance shall be in effect immediately upon its adoption.

SECTION 6. Publication or Posting.

The Town Clerk of the Town of Windsor shall cause this ordinance to be published, or to be posted in at least three (3) public places in the Town of Windsor, in accordance with Section 36933 of the Government Code of the State of California.

PASSED, APPROVED, AND ADOPTED this 17th day of November 2021, by the following vote:

AYES:	**COUNCILMEMBERS FUDGE, LEMUS, VICE MAYOR REYNOZA AND MAYOR SALMON**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

SAM SALMON, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK