

RESOLUTION 2020-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ENCINITAS SUSPENDING THE RESTRICTIONS ON OFF-SITE SALE AND DELIVERY OF ALCOHOL BY ABC LICENSED RESTAURANTS

WHEREAS, in response to the COVID 19 pandemic the Governor of California has declared a state of emergency;

WHEREAS, on March 18, 2020, the City of Encinitas ("City") City Council ratified the Emergency Director's proclamation of the existence of a local emergency in response to the COVID 19 pandemic;

WHEREAS, on March 19, 2020, Governor Gavin Newsom issued an Executive Order (N-33-20) for all non-essential workers to stay-at-home (shelter-in-place), for individuals to practice "social distancing" of at least six feet from other individuals, for individuals to avoid congregating in groups of 10 or more, and generally for individuals to avoid contact with others in order to protect the health and well-being of all Californians and to slow the spread of COVID-19;

WHEREAS, pursuant to the Constitution of the State of California, Article XX, Section 22, and in furtherance of the Governor's emergency declarations and orders regarding the spread of the COVID-19 virus the Department of Alcoholic Beverages ("ABC") has, through a series of Notices of Regulatory Relief (collectively "ABC Notices"), temporarily suspended enforcement of certain legal prohibitions relating to the off-site sale of alcohol by ABC licensed restaurants;

WHEREAS, the ABC Notices provide that bona fide eating places (i.e. restaurants) selling beer, wine and pre-mixed drinks or cocktails for consumption on the premises pursuant to an ABC license, may do so for off premises when sold in conjunction with meals prepared for pick-up or delivery;

WHEREAS, the ABC Notices also eliminate the requirement that the sale of alcohol be conducted on-site and allows accepting payments at the point of delivery;

WHEREAS, the ABC Notices do not exempt licensees from local ordinances, zoning restrictions or conditional use permits which the ABC has no jurisdiction or control;

WHEREAS, the City's permit restrictions for restaurants do not allow for off-site sale or delivery of alcohol;

WHEREAS, the City Council hereby finds that it is in the public interest to support the local restaurant industry during this state of emergency and suspend the local permit restrictions which prevent off-site sale and delivery of alcohol; and

WHEREAS, the City Council hereby finds that the suspension of the local permit restrictions which prevent off-site sale and delivery of alcohol, exercised on a temporary basis, will not jeopardize the public health, welfare or safety.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of the City of Encinitas, State of California, as follows:

1. That the City Council finds and determines the foregoing recitals to be true and correct.
2. That the City Council hereby suspends local permit restrictions on ABC licensed restaurants which prevent off-site sale and delivery of alcohol, subject to the following conditions:

- a. The sale of alcoholic beverages for off-site consumption shall only be made to patrons who purchase meals as defined in Section 23038 of the Business and Professions Code.
 - b. All alcohol delivery persons shall be an employee of the restaurant who is 21 years of age or older.
 - c. Drivers delivering alcohol to said patrons shall document that the customer is 21 years of age. No individual under 21 years of age, or without proper identification, shall be served or sold alcohol.
 - d. All alcohol purchases shall be limited to 50 percent of the total purchase sale of the order, excluding tax, tip and delivery fees.
 - e. Restaurants shall comply with the conditions contained within the ABC's Notice of Regulatory Relief.
3. That this suspension shall last until the local emergency is terminated or the withdrawal of ABC Notice of Regulatory Relief, whichever occurs sooner.

PASSED, APPROVED AND ADOPTED this 6th day of May, 2020 by the City Council of the City of Encinitas, State of California.

Catherine S. Blakespear, Mayor

ATTEST:

Kathy Hollywood, City Clerk

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney

CERTIFICATION: I, Kathy Hollywood, City Clerk of the City of Encinitas, California, do hereby certify under penalty of perjury that the foregoing Resolution was duly adopted at a regular meeting of the City Council on the 6th day of May, 2020 by the following vote:

AYES: Blakespear, Hinze, Hubbard, Kranz and Mosca
NOES: None
ABSENT: None
ABSTAIN: None