



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: June 4, 2020

Approved

Date

6/5/20

**SUBJECT: RATIFICATION OF THE DECLARATION TO ALTER
ENFORCEMENT OF CONSTRUCTION HOURS ORDINANCE IN THE
SAN JOSE MUNICIPAL CODE**

RECOMMENDATION

Adopt a Resolution of the Council of the City of San José confirming and ratifying the Declaration issued by the Director of Emergency Services altering enforcement of the construction hours ordinance in the San Jose Municipal Code.

OUTCOME

Construction hours provided in San José Municipal Code Section 20.100.450 shall only be enforced on any construction activity on a site located with 500 feet of a residential unit before 6:00 a.m. and after 8:00 p.m., Mondays through Saturdays, or at any time on Sundays unless different hours are otherwise expressly allowed in a development permit or other planning approval. This expansion of construction hours is only available for project sites with an approved development permit or other planning approval that includes at least 50,000 square feet of development or at least 50 residential units.

BACKGROUND

On March 10, 2020, the City Council ratified the Director of Emergency Service's Proclamation of Local Emergency due to the outbreak of novel coronavirus (COVID-19) in San Jose. In the event of a proclamation of local emergency, California Government Code Section 8634 and San José Municipal Code Section 8.08.250 empower the Director of Emergency Services (hereafter, "the Director") to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, provided that such rules and regulations are ratified at the earliest practicable time by the City Council.

On May 21, 2020, pursuant to the powers outlined above, the Director issued a declaration altering enforcement of San José Municipal Code Section 20.100.450 so that enforcement only occurs before 6:00 a.m. and after 8:00 p.m., Mondays through Saturdays, or at any time on Sundays. The updated hours of enforcement are only applicable to construction activity on a project site with an approved development permit or other planning approval that includes at least 50,000 square feet of development or at least 50 residential units. Projects shall continue to comply with all other requirements in the approved development permits or other planning approvals. The purpose of this item is to bring forward that declaration for ratification by the City Council.

ANALYSIS

According to the San José Municipal Code Section 20.100.450 construction activity is limited on projects sites from the hours of 7:00 a.m. to 7:00 p.m. Mondays through Fridays. This section only applies to construction projects within 500 feet of a residential use that have received an approved development permit or other planning approval.

In response to the COVID-19 pandemic, on March 17, 2020 the Health Officer of Santa Clara County issued an Order directing all individuals to shelter in place. The March 17, 2020 allowed for construction activity to only a limited amount of project types including construction for affordable housing, healthcare operations directly related to COVID-19, essential infrastructure, and other similar development categories.

On April 29, 2020, the Health Officer of the County of Santa Clara issued a further Order continuing the Social Distance Protocols but allowing the resumption of construction activity provided the sites followed safety protocols outlined in Appendix B of the order. Many of the safety protocols limit operational worker efficiency to reduce the spread of COVID-19 including:

- Stagger stop- and start-times for shift schedules to reduce the quantity of workers at the jobsite at any one time to the extent feasible.
- Stagger trade-specific work to minimize the quantity of workers at the jobsite at any one time.
- Strictly control “choke points” and “high-risk areas” where workers are unable to maintain minimum six-foot social distancing and prohibit or limit use to ensure that minimum six-foot distancing can easily be maintained between workers.
- Establish clearing and decontamination protocols prior to entry and exit of the jobsite and post the protocols at entrances and exists of jobsites.
- Establish adequate time in the workday to allow for proper cleaning and decontamination including prior to starting at or leaving the jobsite for the day.

To help facilitate these safety protocols, the Director of Emergency Services has altered the enforcement of the construction hour ordinance to allow the start of construction activity one

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hour earlier and to end one hour later from Mondays through Fridays and to expand these same hours to Saturdays. The expanded construction hours will provide construction employees additional time to safely enter and exit their stations while maintaining social distance. These extended hours will also allow for sufficient time for decontaminating workstations.

CONCLUSION

By ratifying the Director's declaration, the City Council will continue to alter the enforcement of the Section 20.100.450 to allow construction activity between 6:00 a.m. and 8:00 p.m. Mondays through Saturdays.

EVALUATION AND FOLLOW-UP

Alteration of enforcement of the Construct Hours Ordinance will remain in effect until it is terminated by either the Director of Emergency Services, the City Council, or the termination of the local state of emergency, whichever comes first.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 9, 2020 Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Manager's Office and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

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CEQA

Statutorily Exempt, Section 15269, Emergency Projects Undertaken for specific actions necessary to prevent or mitigate an emergency.

/s/

ROSALYNN HUGHEY

Director, Planning, Building and Code
Enforcement

For questions, please contact Alex Powell, Chief of Staff, at (408) 535-1258.