

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE DECLARATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES ON JUNE 4, 2020, AND JULY 22, 2020, TO EXTEND THEIR DURATIONS UNTIL JANUARY 31, 2022 AND JUNE 30, 2022, RESPECTIVELY

WHEREAS, on March 10, 2020, the City Council of the City of San José (“City”) ratified the Director of Emergency Service’s Proclamation of Local Emergency due to the outbreak of a novel coronavirus in the City; and

WHEREAS, Government Code Section 8634 and Section 8.08.250 of Chapter 8.08 of Title 8 of the San José Municipal Code empower the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; and

WHEREAS, Section 8.08.250 of the San José Municipal Code requires such rules and regulations made and issued by the Director of Emergency Services to be confirmed by the City Council at the earliest practicable time; and

WHEREAS, on March 31, 2020, the Health Officer of the County of Santa Clara (“County Health Officer”) issued a public health order directing all individuals to continue to shelter in place and requiring essential businesses to implement a Social Distancing Protocol; and

WHEREAS, provisions in land use permits and planning approvals issued by the City and/or provisions in the San José Zoning Code prohibit the use of adjacent outdoor areas for the purposes of conducting business activities without first obtaining the City’s authorization through specified application processes; and

WHEREAS, various provisions in the San José Municipal Code regulate and/or prohibit certain outdoor business activities; and

WHEREAS, on June 4, 2020, in order to facilitate compliance with the Social Distancing Protocol, the Director of Emergency Services issued a declaration (“Private Property and Sidewalk Declaration”) suspending enforcement of certain provisions in land use permits and approvals and zoning and encroachment requirements in the San José Municipal Code to allow many businesses without existing permits for outdoor operations or seating to expand their operations outside in privately-owned outdoor areas, such as parking lots, and use public sidewalks for temporary seating; and

WHEREAS, on June 9, 2020, the City Council adopted Resolution No. 79558, which ratified and confirmed the Private Property and Sidewalk Declaration; and

WHEREAS, on July 22, 2020, in order to facilitate compliance with the Social Distancing Protocol, the Director of Emergency Services issued a declaration (“Street Business Declaration”) suspending enforcement of certain provisions in land use permits and approvals and zoning and encroachment requirements in the San José Municipal Code to allow certain specified businesses without existing permits to expand their operations into the public street abutting a business’ property that has been repurposed for seating and business use by separating the area from vehicular and bicycle traffic with physical barriers installed by the City; and

WHEREAS, on August 4, 2020, the City Council adopted Resolution No. 79660, which ratified and confirmed the Street Business Declaration, and adopted Resolution No. 79661, which amended the Private Property and Sidewalk Declaration to allow businesses to utilize sidewalk areas located in front of neighboring businesses with the neighboring property’s consent; and

WHEREAS, on September 1, 2020, the City Council adopted Resolution No. 79704, which amended the Private Property and Sidewalk Declaration to expand the list of permissible businesses that may operate outdoors in these areas; and

WHEREAS, on December 8, 2020, the City Council adopted Resolution No. 79823, which amended the Private Property and Sidewalk Declaration to allow the Chief of Police to immediately suspend a business' outdoor operations on private property where there is an imminent threat to public health, safety or welfare; and

WHEREAS, on March 30, 2021, the City Council adopted Resolution No. 79947, which extended until December 31, 2021, the terms of the Private Property and Sidewalk Declaration and Street Business Declaration; and

WHEREAS, since the County Health Officer's March 31, 2020 public health order, the California State Public Health Officer and County Health Officer have issued a number of revised and additional public health orders and guidance that have relaxed requirements for indoor gatherings and rescinded the Social Distancing Protocol for many businesses, but continue to recommend that indoor activities be moved outside when possible to mitigate the spread of COVID-19; and

WHEREAS, the current state of emergency caused by the COVID-19 pandemic will continue for the foreseeable future and local businesses will continue to need additional outdoor space to serve customers in order to carry out the public health recommendation to move activities outdoors when possible;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Private Property and Sidewalk Declaration is amended to extend the term only of Exhibit A thereto through January 31, 2022, or until terminated or modified by the City Council, whichever occurs first.
2. The Street Business Declaration is amended to remain in effect through June 30, 2022, until terminated or modified by the City Council or upon the termination of the City's Proclamation of Local Emergency, whichever occurs first.
3. Except as amended herein, the remainders of the Private Property and Sidewalk Declaration and Street Business Declaration shall remain in full force and effect.

ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk