

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE DECLARATION ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES 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 UNTIL JUNE 30, 2023

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

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

WHEREAS, since the County Health Officer’s initial 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, but continue to recommend that indoor business activities be moved outside when possible to mitigate the spread of COVID-19; and

WHEREAS, 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 Street Business Declaration is amended to remain in effect through June 30, 2023, until terminated or modified by the City Council.
2. Except as amended herein, the remainder of the Street Business Declaration shall remain in full force and effect.

ADOPTED this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk