

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE RATIFYING AND CONTINUING (1) THE PROCLAMATION OF EXISTENCE OF A LOCAL EMERGENCY ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES, AND (2) THE DECLARATION OF THE DIRECTOR OF EMERGENCY SERVICES IMPOSING A CURFEW

WHEREAS, Section 8.08.210 of Chapter 8.08 of Title 8 of the San José Municipal Code empowers the Director of the Emergency Services (City Manager or Designee) to proclaim the existence or threatened existence of a local emergency if the Council of the City of San José (“City”) is not in session, and requires that the City Council shall take action to ratify the proclamation within seven (7) days thereafter, or the proclamation shall have no further force or effect; and

WHEREAS, pursuant to California Government Code Section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster; and

WHEREAS, the purpose of a local emergency proclamation is to provide extraordinary police powers, immunity for emergency actions, authorize issuance of orders and regulations, and activate pre-established emergency provisions; and

WHEREAS, a local emergency proclamation is a prerequisite for requesting state or federal assistance; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen within the City, based on the following:

1. On May 25, 2020, George Floyd tragically died in Minneapolis, Minnesota, shortly following his arrest in which an officer of the Minneapolis Police Department kneeled on his neck to detain him during the arrest, and then did not respond to Mr. Floyd's requests for help when he stated that he could not breathe;
2. On May 29, 2020 and May 30, 2020, there were peaceful protests in the City of San José; however, additional civil unrest, including looting and rioting, in the downtown area of San José resulted in arrests, injuries, fires, and significant property damage; and
3. The San José Police Department anticipates looting and rioting to continue and to expand beyond the downtown area of San José.

WHEREAS, the City Council does hereby find that the above described conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency in the City; and

WHEREAS, on May 31, 2020, the Director of Emergency Services issued a proclamation declaring the existence of a local emergency within the City; and

WHEREAS, on May 31, 2020, the Director of Emergency Services issued a declaration imposing a nightly curfew in effect starting at 8:30 p.m. and ending at 5:00 a.m. on the following day, during which no person shall be upon the public street, avenue, alley, park, or other public place or unimproved public realty within the limits of the City of San José, with limited exceptions; and

WHEREAS, the associated emergency conditions are on-going and the emergency should not be terminated at this time; and

WHEREAS, California Government Code, Title 2, Division 1, Chapter 7.5 - California Disaster Assistance Act (CDAA) allows that with the Proclamation of a Local Emergency the City may seek financial assistance and may request reimbursement of the significant expenses incurred during response, if approved by the Director of the California Office of Emergency Services or Concurrence or Governor's Proclamation;

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

1. The Proclamation of Existence of a Local Emergency, as issued by the Director of Emergency Services on May 31, 2020, is hereby ratified and confirmed.
2. The Declaration of the Director of Emergency Services of the City of San José Imposing a Curfew dated May 31, 2020 is hereby ratified and confirmed.
3. The City Council has reviewed the need for continuing the declaration of local emergency and finds based on substantial evidence that the public interest and necessity require the continuance of the proclamation of local emergency related to the civil unrest following the death of George Floyd.
4. Said local emergency shall be deemed to continue to exist until terminated by the City Council of the City of San José.
5. The Director of the Office of Emergency Services is hereby directed to report to the City Council within sixty (60) days on the need for further continuing the local emergency.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk