

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CONFIRMING AND RATIFYING THE DECLARATION ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES SUSPENDING THE ENFORCEMENT OF CERTAIN PROVISIONS IN LAND USE PERMITS AND APPROVALS AND ZONING AND ENCROACHMENT REQUIREMENTS IN THE SAN JOSE MUNICIPAL CODE

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 (City Manager or Designee) 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 an Order directing all individuals to continue to shelter in place and requiring essential businesses to implement a Social Distancing Protocol; and

WHEREAS, on May 18, 2020, the County Health Officer issued a further Order continuing the Social Distance Protocol but allowing retailers to open with curbside/outdoor pick up, supply chains for retail establishments to reopen and certain outdoor activities to resume; and

WHEREAS, on June 1, 2020, the County Health Officer issued a further Order effective June 5, 2020 continuing the Social Distance Protocol but allowing certain additional businesses to resume operations, including outdoor dining at restaurants, in-store shopping at retail and shopping centers and limited services that do not require customer contact, subject to limitations; and

WHEREAS, on July 2, 2020, the Health Officer of the County of Santa Clara issued a further Order effective on the later of (1) 12:01 a.m. on July 13, 2020 or (2) 12:01 am two days following approval by the State Department of Public Health of a “variance” under the State’s “Resilience Roadmap” as described at covid19.ca.gov, which updated the Social Distance Protocol and allowed certain additional businesses to resume operations, subject to limitations; and

WHEREAS, on July 13, 2020, the California State Public Health Officer issued an order that, amongst other things: (1) required a number of businesses statewide to immediately cease indoor operations, (2) required certain additional businesses in Santa Clara County to cease indoor operations effective July 15, 2020, and (3) allowed businesses to modify operations to provide outdoor services; 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, Title 13 of the San José Municipal Code prohibits encroachments or special events in the public right-of-way or other public property without first obtaining a permit from the City through specified application processes; and

WHEREAS, to ensure compliance with the Social Distancing Protocol, businesses need additional outdoor areas to serve customers and allow customers to queue while waiting to enter the business premises; and

WHEREAS, on July 22, 2020, in order to facilitate compliance with the Social Distancing Protocol, the Director of Emergency Services issued a Declaration suspending enforcement of certain provisions in land use permits and approvals and zoning and encroachment requirements in the San José Municipal Code in order to allow specified businesses to provide seating and conduct permitted business activities within areas of the public street adjacent to their business premises that the City has closed to vehicular and bicycle traffic; and

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

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

1. The Declaration of the Director of Emergency Services issued July 22, 2020 suspending enforcement of certain provisions in land use permits and approvals and zoning and encroachment requirements in the San José Municipal Code, subject to the conditions and limitations contained in Exhibit A thereto, is hereby ratified and confirmed.
2. The Declaration shall remain in effect through December 31, 2020, until terminated or modified by the City Council or upon the termination of the Proclamation of Local Emergency, whichever occurs first.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk