



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leland Wilcox
Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: February 25, 2021

Approved

Date

02/26/21

SUBJECT: RATIFICATION OF THE DECLARATION SUSPENDING ENFORCEMENT OF CERTAIN PROVISIONS IN LAND USE PERMITS AND APPROVALS AND ZONING IN THE SAN JOSE MUNICIPAL CODE FOR VACCINATION CLINICS AND EVENTS

RECOMMENDATION

Adopt a resolution confirming and ratifying the Declaration of the Director of Emergency Services of the City of San José Suspending Enforcement of Certain Provisions in Land Use Permits and Approvals and Zoning Requirements in the San José Municipal Code issued February 8, 2020 (“Emergency Order”).

OUTCOME

Ratification of the Emergency Order will temporarily waive the requirements and restrictions in the Zoning Ordinance for temporary outdoor use of property to allow for vaccination clinics in compliance with the County of Santa Clara Health Officer’s Social Distancing Protocol. The temporary relaxation of rules will last until such time as it is terminated or modified by the City Council or the termination of the local state of emergency, whichever occurs first.

BACKGROUND

The City initiated its Pandemic Planning efforts on January 24, 2020 as news of an unknown virus originating from the City of Wuhan, China, now identified as SARS-COV-2 (COVID-19), was identified in the United States. The City’s Emergency Operation Center (EOC) was formally activated on March 6, 2020, and continues to carry out priorities outlined in the COVID-19 Response Roadmap. Although matters of public health and healthcare services are managed by the County and the State, the City has been called upon to support the County in areas related to COVID-19 testing at scale, supported isolation, and now with vaccinations.

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The City of San Jose stands ready to support the County with vaccination efforts including, but not limited to:

- Identifying feasible City owned/operated sites and properties that can be suitable vaccination sites;
- Identifying and coordinating with external partners who can offer locations/properties to the County for vaccination sites;
- Providing logistical support (including but not limited to traffic control, security, registration, and vaccine related operations), as necessary;
- Augmenting vaccination access in highly vulnerable/highly impacted areas of the City by directly operating a vaccination site.

The Emergency Order signed by the City Manager on February 8, 2021 further assists the County's vaccination efforts by suspending the Zoning Ordinance regulations and permit requirements for temporary outdoor use of property for vaccination clinics and events, subject to operational conditions.

ANALYSIS

The Zoning ordinance regulates the use of any land, building or structure in the City. The temporary or transitory nature of a use does not exempt it from this requirement. A permit is required for temporary outdoor use of property, and it is subject to the parameters contained in [Part 16 of Chapter 20.80 of the Zoning Ordinance](#). These requirements typically cover temporary events on private property such as festivals, fairs, and circuses. Shorter duration events are permitted through an Event Permit issued by the Office of Cultural Affairs (generally, this covers an event that does not exceed three consecutive days and occurs no more than twice every six months in residential zones, or does not exceed three consecutive days and does not occur more than five times within a four month period in commercial zones). Events that are held for longer durations and/or larger events that do not meet the size or operational requirements for an Event Permit require a Special Use Permit or Conditional Use Permit issued by the Director of Planning, Building and Code Enforcement (in the case of a Special Use Permit) or the Planning Commission (in the case of a Conditional Use Permit).

The purpose of the zoning ordinance permitting requirements is to ensure that temporary outdoor events occur safely and with minimal neighborhood impacts. The Event Permit is the simplest to obtain, but still takes typically 45 days to review and issue. Special and Conditional Use Permits typically take three months or more to approve, as they trigger a public hearing and environmental review under the California Environmental Quality Act (CEQA). Over the course of this pandemic response, it has been evidently clear that flexibility and speed is of the utmost importance to adapt to rapidly changing information, guidance, and developments in the pandemic healthcare response. Subjecting vaccination activities to the typical land use permitting process would cause unnecessary and unacceptable delays.

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Vaccination clinics and events are not expected to generate the same type of noise and activity as more typical temporary outdoor uses such as restaurant dining or a festival might. Unlike the typical temporary commercial outdoor uses, these events are subject to oversight by the County, and vaccinations must be administered and be overseen by a state-registered healthcare provider. Providers that are authorized to operate vaccination sites must meet all State and County training and planning requirements before they are certified to administer vaccinations. Vaccination site capacity will also depend on several factors including but not limited to, the community's need, provider's vaccine allocation, hours of operation, and availability of staff. The Emergency Order suspends the permitting requirements (other than for use of the public right of way), subject only to compliance with some good neighbor conditions. This will allow public health professionals running these events maximum flexibility, with only some baseline standards to minimize the most likely of potential conflicts. These operating conditions, contained in Exhibit A of the attached resolution, are summarized as follows:

- The event must be located on a property of reasonable size to safely accommodate ingress, egress, and parking.
- Permission must be obtained for use of the public right-of-way.
- Outdoor operations in close proximity to a residence must cease by 10 p.m.
- Temporary lighting may not shine or glare onto adjacent properties.
- Use of amplified sound must be limited as to not impact adjoining properties.
- The property owner and/or operator of the clinic must generally keep the property and its immediate surroundings in a clean and safe condition.

We do not anticipate prolonged periods of overcrowding and traffic impediments due social distancing requirements, room and parking capacity limits, and vaccination time allotments. If such an issue arises, the City will work with entities involved to help resolve the matter.

EVALUATION AND FOLLOW-UP

EOC staff will continue to work with the County on finding and facilitating vaccination locations within the City. Staff will return to City Council to implement any proposed changes to the exception to zoning requirements and operational conditions should the need arise.

CLIMATE SMART SAN JOSE

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

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PUBLIC OUTREACH

This memorandum will be posted on the City website for discussion at the March 2, 2021 City Council meeting.

COORDINATION

The Office of Emergency Management prepared this report in coordination with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

No costs are anticipated from the temporary suspension of zoning regulations and permitting for temporary outdoor vaccination clinics and events.

CEQA

Statutorily Exempt, CEQA Guidelines Section 15269, Emergency Projects Undertaken for Specific Actions Necessary to Prevent or Mitigate an Emergency.

/s/

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Emergency Operations Center Director
Office of the City Manager

/s/

Rosalynn Hughey
Director
Planning, Building and Code Enforcement

For questions, please contact Michael Brilliot, Deputy Director, at (408) 535-7831.