

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, JUNE 26, 2020, JULY 22, 2020, JULY 31, 2020, AND
AUGUST 5, 2020, TO EXTEND THEIR DURATIONS UNTIL
SEPTEMBER 30, 2021**

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, the California State Public Health Officer and County Health Officer subsequently have issued a number of revised and additional public health orders and guidance that have expanded the number of businesses that may operate and activities

that may resume, but continue to require social distancing and reduced capacities for indoor operations; 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 June 26, 2020, in order to facilitate compliance with the Social Distancing Protocol, the Director of Emergency Services issued a declaration ("Parklet 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 food service and retail businesses without existing parklet permits to expand their operations into vehicle parking spaces in the public street that are 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 June 30, 2020, the City Council adopted Resolution No. 79653, which ratified and confirmed the Parklet 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 July 31, 2020, in order to facilitate compliance with the Social Distancing Protocol, the Director of Emergency Services issued a declaration (“Parking Lot Declaration”) suspending enforcement of certain provisions in land use permits and approvals and zoning requirements in the San José Municipal Code and waiving the requirement that the City receive compensation for leases, licenses or other agreements that allow businesses to use City-owned public parking lots for outdoor operations; 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 August 5, 2020, in order to facilitate compliance with the Social Distancing Protocol, the Director of Emergency Services issued a declaration (“Parks and Plazas Declaration”) suspending enforcement of certain provisions in land use permits and approvals and zoning and special use permit requirements in the San José Municipal Code to allow businesses to use City parks and plazas for outdoor operations; and

WHEREAS, on August 11, 2020, the City Council adopted Resolution No. 79674, which ratified and confirmed the Parking Lot Declaration and Parks and Plazas Declaration; and

WHEREAS, on September 1, 2020, the City Council adopted Resolution No. 79704, which amended the Private Property and Sidewalk Declaration and the Parklet 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, 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 and comply with the Social Distancing Protocol;

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

1. The Private Property and Sidewalk Declaration, Parklet Declaration, Street Business Declaration, Parking Lot Declaration and Parks and Plazas Declaration each are amended to remain in effect through September 30, 2021, until terminated or modified by the City Council or upon the termination of the Proclamation of Local Emergency, whichever occurs first.
2. Except as amended herein, the remainders of the Private Property and Sidewalk Declaration, Parklet Declaration, Street Business Declaration, Parking Lot Declaration and Parks and Plazas Declaration shall remain in full force and effect.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk