

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA SUSPENDING ENFORCEMENT OF SPECIFIC CITY CODE REQUIREMENTS RELATED TO PERMITTING FOR OUTDOOR DINING DURING THE LOCAL EMERGENCY RELATED TO COVID-19, AND DIRECTING THE CITY MANAGER TO USE HER AUTHORITY AS DIRECTOR OF EMERGENCY SERVICES UNDER SCCC § 2.140.060(f)(1) TO MAKE AND ISSUE RULES AND REGULATIONS ON MATTERS REASONABLY RELATED TO THE PROTECTION OF LIFE AND PROPERTY AS AFFECTED BY THE EMERGENCY FOR THE OPERATION OF OUTDOOR RESTURANT DINING.

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, in response to the very serious public health threat posed by the COVID-19 pandemic, on March 11, 2020, , the City Manager of the City of Santa Clara issued a Proclamation of a Local Emergency in the City of Santa Clara, pursuant to her authority as Director of Emergency Services under SCCC § 2.140.060;

WHEREAS, the Santa Clara County Health Officer has issued a series of “Shelter In Place” Orders (“SIPOs”), the most recent of which is dated May 18, 2020, temporarily prohibiting the conduct of non-essential services, including a prohibition on on-site dining at restaurants and other food service establishments;

WHEREAS, the May 18 SIPO also directs all persons within the County of Santa Clara to strictly comply with social distancing requirements, including but not limited to maintaining at least a 6-foot distance from individuals who are not a part of the same household or living unit;

WHEREAS, at such time as the County Health Officer issues an updated SIPO that allows for the resumption of on-site dining, it is anticipated that it will be necessary for such establishments to allow patrons to continue to maintain the strict social distancing requirements between patrons and implement other measures to protect the health and safety of those patrons;

WHEREAS, the City Manager is authorized to use her authority as Director of Emergency Services under SCCC § 2.140.060(f)(1) to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the Emergency;

WHEREAS, the City Council has prosecutorial discretion over the requirements of the Santa Clara City Code, and has the ability to direct staff to suspend enforcement of specific provisions on a temporary basis, such as during the local Emergency;

WHEREAS, City Charter Section 400 directs the City Council to exercise all powers necessary and appropriate to protect the general welfare;

WHEREAS, pursuant to this authority, the Council now seeks to direct the City Manager to exercise her authority as Director of Emergency Services to mitigate the very severe public health threat posed by COVID-19 while complying with the County SIPO's strict social distancing requirements, by issuing rules and regulations to authorize expanded outdoor dining at City restaurants when they are permitted to reopen by the County Health Officer;

WHEREAS, the City Council further seeks to suspend the enforcement of specific SCCC provisions during the Local Emergency to facilitate safe social distancing with the anticipated reopening of restaurants when authorized by the County Health Officer; and

WHEREAS, at a public hearing on June 9, 2020 members of the public were provided with an opportunity to provide public testimony on this Resolution.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and are made a part hereof.

Section 2. The City Council hereby directs the City Manager to use her authority as Director of Emergency Services under SCCC § 2.140.060(f)(1) to make and issue rules and regulations

on matters reasonably related to the protection of life and property as affected by the emergency for the expanded operation of outdoor restaurant dining, as presented at the public hearing on June 9, 2020.

Section 3. The City Council hereby directs City staff to temporarily suspend the enforcement of the requirement for Architectural Review approval for outdoor seating, per Code Section 18.34.030(a)(6), and for the requirement for a Use Permit for outdoor seating, per Code Section 18.34.040(c), in commercial districts provided the business owner has obtained an Outdoor Dining Permit.

Section 4. The City Council hereby directs staff to temporarily permit outdoor seating at restaurants and food service businesses with an Outdoor Dining permit in the OG General Office, PD Planned Development and PD-MC Planned Development-Master Community Districts, notwithstanding SCCC Sections 18.32.040, 18.54.030, and 18.56.040. The City Council further directs staff to temporarily permit outdoor seating at restaurants and food service businesses in the ML Light Industrial and MH Heavy Industrial Districts with an Outdoor Dining permit, if such restaurants or food service businesses are operating pursuant to an approved Use Permit, notwithstanding SCCC Sections 18.48.030 and 18.50.030.

Section 5. The City Council hereby directs staff to temporarily suspend enforcement of the provisions of the parking regulations applicable to restaurants in Section 18.74.020 (r) of the Zoning Ordinance, provided that at least half of the parking spaces on the subject site remain available for use by vehicles.

Section 6. The City Manager or the designee and all other proper officers and officials of the City are hereby authorized and directed to make modifications to those rules and regulations as necessary to respond to changing conditions and to otherwise execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to affect the purposes of this Resolution.

Section 7. This Resolution shall remain in effect until such time as the Director of Emergency Services or the City Council issue a proclamation declaring the Local Emergency to be concluded, or until repealed by the Council, whichever comes first. The granting of the temporary benefits contained in this resolution is intended only to facilitate the protection of the public health during the Local Emergency and is not intended to confer a new land use entitlement or property right.

Any permits issued pursuant to this resolution shall be revocable at any time without advance notice.

Section 8. This Resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF _____, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None