

DRAFT 08/01/2022 394

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE DIRECTING THE CITY MANAGER TO EXTEND TEMPORARY OUTDOOR DINING AREAS ON PRIVATE PROPERTY AND THE CLOSURE OF THE 100 BLOCK OF SOUTH MURPHY AVENUE THROUGH THE EARLIER OF EITHER JUNE 30, 2023, OR UNTIL THE CITY'S EMERGENCY PROCLAMATION IS LIFTED**

WHEREAS, on March 12, 2020, pursuant to Chapter 2.16 of the Sunnyvale Municipal Code ("SMC"), the City Manager as the Director of Emergency Services declared the existence of a local emergency and the City Council ratified the same on March 17, 2020, by adopting Resolution No. 979-20 and extended the Director of Emergency Services' proclamation approximately every 60 days in accordance with Government Code section 8630 (Emergency Services Act); and

WHEREAS, on October 26, 2021, the City Council again extended the Director of Emergency Services' declaration of a local emergency in Resolution No. 1088-21; and

WHEREAS, in the case of restaurants, indoor dining has had a direct effect on the safety of restaurant employees and members of the public, while outdoor dining programs have allowed business activities in outdoor areas and provided critical assistance to allow businesses to reopen, remain open, and expand outdoor operations to help facilitate economic recovery during the local emergency; and

WHEREAS, on June 10, 2020, the Director of Emergency Services also adopted a Local Emergency Order and Regulations for Temporary Outdoor Dining on Private Property that suspended provisions in the Sunnyvale Municipal Code including but not limited to SMC Chapters 19.61, which provides additional permit requirements for outdoor dining, including but not limited to the provisions relating to miscellaneous plan permits; SMC Chapter 19.46.110, which provides regulations related to parking requirements for restaurants with outdoor seating; and SMC Chapter 9.66.010 which relates to consumption of alcohol from private property viewable from the public right of way; and

WHEREAS, on June 1, 2020, City staff issued Special Events Permit No. 2020-06-01 to allow the closure of the 100 block of South Murphy Avenue in accordance with SMC Chapter 9.45 and Vehicle Code section 21101(e), that allowed restaurants to expand their outdoor dining footprint into the right-of-way with the issuance of a Miscellaneous Plan Permit issued by the Planning Division; and

WHEREAS, when the State retired the Blueprint for a Safer Economy on June 15, 2021, Governor Newsom encouraged cities to continue with outdoor dining programs through the end of the State's Emergency Order; and

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WHEREAS, on June 23, 2021, staff temporarily extended the Special Events Permit to allow the closure of the 100 block of South Murphy Avenue until July 31, 2021, or until otherwise extended by the City Council; and

WHEREAS, on July 27, 2021, the City Council adopted Resolution No. 1075-21 directing the City Manager to temporarily allow outdoor dining on private parking lots and close the 100 block of South Murphy Avenue until December 31, 2021; and

WHEREAS, on December 7, 2021, the City Council amended Resolution No. 1075-21 directing the City Manager to allow outdoor dining on private parking lots and temporarily close the 100 Block of South Murphy Avenue until September 30, 2022; and

WHEREAS, as a result of the continued consequences of the coronavirus disease (COVID-19) pandemic, effective July 15, 2022, the United States Secretary of Health and Human Services renewed the public health emergency declaration that a public health emergency exists nationwide and has existed since January 27, 2020; and

WHEREAS, new variants of COVID-19 have arisen quickly and may continue to arise quickly, and the consequences they pose to the public health is unknown; and

WHEREAS, a major wave of potential COVID-19 infections during this fall and winter is possible given waning immunity from vaccines and infections, loosened restrictions and the rise of variants better able to escape immune protections; and

WHEREAS, many Sunnyvale restaurants have participated in both the self-certification program to allow temporary outdoor dining on private property as well as the expanded outdoor dining program on the 100 block of South Murphy Avenue; and

WHEREAS, many businesses have requested that the City's outdoor dining program be extended through 2022 and into 2023, and staff and businesses see a continued demand for outdoor dining activity as people have expressed that they feel more comfortable outdoors.

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

1. The City Council hereby directs the City Manager to extend temporary outdoor dining areas on private property and authorizes the regulations in the Local Emergency Order dated June 10, 2020, to remain in full force and effect through the earlier of either June 30, 2023, or until the City's emergency proclamation is lifted.

2. The City Council hereby directs the City Manager to extend the closure of Murphy Avenue through the earlier of either June 30, 2023, or until the City's emergency is lifted, through the issuance of a Special Events Permit in accordance with Sunnyvale Municipal Code Chapter 9.45 and Vehicle Code section 21101(e).

3. This Resolution shall take effect immediately upon adoption.

Adopted by the City Council at a regular meeting held on \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:  
RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
DAVID CARNAHAN  
City Clerk  
(SEAL)

\_\_\_\_\_  
LARRY KLEIN  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
JOHN A. NAGEL  
City Attorney