

DRAFT 5/4/23_____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO ADD CHAPTER 10.66 (PEDESTRIAN MALL ON SOUTH MURPHY AVENUE) TO TITLE 10 (VEHICLES AND TRAFFIC) OF THE SUNNYVALE MUNICIPAL CODE ESTABLISHING A PEDESTRIAN MALL ON SOUTH MURPHY AVENUE AND TO AMEND VARIOUS SECTIONS OF CHAPTER 10.56 (BICYCLES) OF THE SUNNYVALE MUNICIPAL CODE RELATED TO BICYCLES ON PEDESTRIAN MALLS

WHEREAS, in response to the COVID-19 pandemic, the City of Sunnyvale temporarily closed one segment of South Murphy Avenue, between West Evelyn Avenue and East Washington Avenue (i.e., the 100 block of South Murphy Avenue) to vehicular traffic to facilitate outdoor dining and pedestrian zones; 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 Sunnyvale Municipal Code Chapter 9.45 and California Vehicle Code Section 21101(e), which 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, after the issuance of Special Events Permit No. 2023-06-01, the City Council adopted Resolution No. 1075-21 and its amendments, which directed the City Manager to temporarily close the 100 block of South Murphy Avenue to vehicular traffic; and

WHEREAS, on February 7, 2023, the City Council adopted Resolution No. 1172-23, again directing the City Manager to extend the temporary closure of the 100 block of South Murphy Avenue; and

WHEREAS, pursuant to Resolution No. 1172-23, the temporary closure of the 100 block of South Murphy Avenue to vehicular traffic was to remain in effect through December 31, 2023; and

WHEREAS, the City wishes to retain these pedestrian zones beyond the end of the COVID-19 pandemic; and

WHEREAS, the Pedestrian Mall Law of 1960 (California Streets and Highways Code Section 11000 et seq.) authorizes municipalities to close streets to vehicular traffic and to establish pedestrian malls; and

WHEREAS, the City Council wishes to establish a pedestrian mall on South Murphy Avenue, pursuant to the Pedestrian Mall Law of 1960; and

WHEREAS, on February 7, 2023, the City Council adopted Resolution No. 1171-23 declaring its intention to establish a pedestrian mall on the 100 block of South Murphy Avenue, and setting a public hearing on the establishment of such pedestrian mall on May 16, 2023; and

WHEREAS, on August 11, 2020, the City Council certified an Environmental Impact Report (EIR) (State Clearinghouse #2018052020) for the Downtown Specific Plan (DSP) Amendments and six Specific Development Projects (2020 DSP EIR), which provided a program-level review of the 2020 DSP Amendments, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15146(b), and project-level review of six development projects, pursuant to CEQA Guidelines Section 15146(a); and

WHEREAS, CEQA Guidelines Section 15164(a) provides that an agency “shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred”; and

WHEREAS, with respect to the establishment of the pedestrian mall on the 100 block of South Murphy Avenue, none of the triggers set forth in CEQA Guidelines Section 15162 have occurred that would require preparation of a subsequent EIR; and

WHEREAS, pursuant to CEQA Guidelines Section 15164, the City prepared an addendum to the 2020 DSP EIR (Addendum); and

WHEREAS, a public hearing on the establishment of the pedestrian malls was held on May 16, 2023 in accordance with Streets and Highways Code Section 11301 et seq.; and

WHEREAS, at the public hearing on May 16, 2023, opportunity to present evidence, both written and/or oral, pertaining to the establishment of the pedestrian mall was provided, and all interested persons desiring to comment on the establishment of the pedestrian mall were heard; and

WHEREAS, the City did not receive written objections to the establishment of the pedestrian mall from the owners of land abutting on the proposed pedestrian mall representing a majority of the frontage on the proposed pedestrian mall pursuant to Streets and Highways Code Section 11306; and

WHEREAS, the City did not receive any written claims for damages by reason of the establishment of the proposed pedestrian malls pursuant to Streets and Highways Code Section 11304; and

WHEREAS, at the conclusion of the public hearing on May 16, 2023, the City Council adopted a resolution to proceed with establishing a pedestrian mall in accordance with Streets and Highways Code Section 11311; and

WHEREAS, the City Council now wishes to enact an ordinance, in accordance with Streets and Highways Code Section 11600, to establish the pedestrian mall on the 100 block of

South Murphy Avenue;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 10.56 AMENDED. Sections 10.56.010 (Definitions.), 10.56.140 (Riding on sidewalks and overhead pedestrian crossings—Prohibited.), and 10.56.170 (Stunt riding prohibited.) of Chapter 10.56 (BICYCLES) of Title 10 (VEHICLES AND TRAFFIC) of the Sunnyvale Municipal Code are hereby amended to read as follows:

10.56.010. Definitions.

For the purpose of this chapter, the word “bicycle” shall have the same meaning as that term is defined in the Vehicle Code Section 231 as the same exists or may be amended hereafter. A “bicyclist” is a person riding a bicycle. References to the “chief of public safety” means the chief or the chief’s designee. The word “pedestrian mall” shall have the same meaning as that term is defined in Chapter 10.66 of this code as the same exists or may be amended hereafter.

10.56.140. Riding on sidewalks, pedestrian malls and overhead pedestrian crossings—Prohibited.

(a) [Text unchanged.]

(b) [Text unchanged.]

(c) It is unlawful for any person to ride or operate a bicycle, motor driven cycle or motor scooter upon any pedestrian mall, except in the portion designated as a bike path. Notwithstanding the provisions of subsections (a) and (b), children under the age of thirteen years or persons sixty-two years of age or older may ride and operate their bicycles in single file upon any sidewalk, except sidewalks adjacent to schools, store buildings or other buildings used for commercial purposes, subject to their exercising due care and giving any pedestrian the right-of-way. Any individual regardless of age may ride a bicycle on a sidewalk if riding upon the adjacent street would place the cyclist in an unsafe situation.

(d) [Text unchanged.]

10.56.170. Stunt riding prohibited.

It is unlawful for any person riding or operating a bicycle to perform or attempt to perform any acrobatic or stunt riding upon any public sidewalk, pedestrian mall, pedestrian facility, or bicycle facility that is not part of a street or highway. Stunt riding shall be defined as activity falling within Vehicle Code Sections 21203, 21204, 21205 and 23103. This section is not meant to prohibit stunt riding as part of officially sanctioned events, or places clearly posting stunt riding as appropriate.

SECTION 2. Chapter 10.66 ADDED. Chapter 10.66 (PEDESTRIAN MALL ON

SOUTH MURPHY AVENUE) is hereby added to Title 10 (VEHICLES AND TRAFFIC) of the Sunnyvale City Code and reads as follows:

Chapter 10.66. PEDESTRIAN MALL ON SOUTH MURPHY AVENUE.

10.66.010. Definitions.

The following words and phrases and their derivations when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them.

(1) “Intersecting street” means any street which meets or crosses a pedestrian mall at a mall intersection but includes only those portions thereof on either side of a mall intersection which lie between the mall intersection and the first intersection of the intersecting street with a public street or highway open to vehicular traffic. If any portion of a pedestrian mall terminates on a street at a place thereon other than a place of intersection with a public street or highway open to vehicular traffic, intersecting street also includes that portion of any street which lies between such place of termination and the first intersection of such “street” with a public street or highway open to vehicular traffic.

(2) “Mall intersection” means any intersection of a street constituting a part of a pedestrian mall with a different street, which intersection is itself part of the “pedestrian mall

(3) “Motor vehicle” means any vehicle that is self-propelled, except a self-propelled or motorized wheelchair, tricycle or quadricycle if used or operated by a person who, by reason of a physical disability, is otherwise unable to move about as a pedestrian.

(4) “Motor vehicle traffic” means motor vehicles, either singly or together, while using any street for purposes of travel.

(5) “Pedestrian mall” means one or more streets, or portions thereof, on which vehicular traffic is restricted in whole or in part and which is to be used exclusively or primarily for pedestrian travel.

(6) “Street” means any way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.

(7) “Vehicle” means any device by which a person or property may be propelled, moved or drawn upon a street, except a device moved exclusively by human power.

10.66.020. Establishment of pedestrian mall on South Murphy Avenue.

A pedestrian mall is established on South Murphy Avenue, the boundaries of which are set forth in Chapter 10.66.040 (Pedestrian mall boundaries). There are no intersecting streets in this portion of South Murphy Avenue.

10.66.030. Pedestrian mall boundaries.

The boundaries of the pedestrian mall established herein are as follows:

(a) South Murphy Avenue between West Evelyn Avenue and East Washington Avenue (i.e., the 100 block of South Murphy Avenue).

10.66.040. Prohibition of vehicular traffic on pedestrian mall and exceptions.

All motor vehicle traffic is prohibited within the pedestrian mall boundaries at all times. However, the following vehicles shall be allowed access to the pedestrian mall on South Murphy Avenue at all hours:

(a) Emergency vehicles, including, but not limited to, police vehicles, fire vehicles and ambulances.

(b) Public utility vehicles, including street sweepers; any vehicle owned or operated by an agency or company providing essential utility services to property, such as electricity, telephone, water, sewer, cable, internet and gas; and any vehicle, as authorized by the public works director or designee, for purposes of performing city services on a pedestrian mall.

(c) Garbage and recycling trucks as necessary for the collection of waste or refuse.

Additionally, the following vehicles may be permitted access to the pedestrian mall on South Murphy Avenue by appointment only:

(a) Private maintenance vehicles, including grease trap cleaners and other maintenance vehicles for large equipment drop-offs, as authorized by the public works director or designee.

(b) Other commercial vehicles, as authorized by the public works director or designee, for purposes of performing work or services on the pedestrian mall, which include, but not limited to, work or services related to special events on the pedestrian mall.

10.66.050. Regulations for the use of the pedestrian mall.

Regulations for the use of the pedestrian mall on South Murphy Avenue shall be as set forth in Council Policy 1.1.10, or as it may be renumbered or amended, entitled Use of the Public Street and Sidewalk on the 100 Block of South Murphy Avenue, which is adopted herein by this reference.

SECTION 3. Compliance with CEQA. The adoption and implementation of this ordinance complies with the provisions of the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15164(a) which provides that an agency “shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.” The Addendum to the 2020 DSP EIR was presented and considered by the City

Council during a public hearing on May 16, 2023. The City Council found that the Addendum was prepared for the establishment of the pedestrian mall on the 100 block of South Murphy Avenue in compliance with the requirements of CEQA and CEQA Guidelines, and is adequate for the City's use as the lead agency under CEQA. The City Council finds none of the conditions described in CEQA Guidelines Section 15162 or 15163 regarding the preparation of a subsequent or supplemental EIR, respectively, has occurred and, accordingly, under CEQA Guidelines Section 15164 an addendum is required. The City Council incorporates by this reference the findings and mitigation measures contained in the 2020 DSP EIR and Addendum as to the environmental effects of the establishment of the Pedestrian Mall, together with the additional findings contained in this ordinance. The Council hereby directs the Planning Division to file a Notice of Determination regarding the establishment of the pedestrian mall on South Murphy Avenue within five business days of adoption of this ordinance.

SECTION 4. Constitutionality; Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. Effective Date. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. Posting and Publication. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

DAVID CARNAHAN
City Clerk

LARRY KLEIN
Mayor

Date of Attestation: _____

(SEAL)

APPROVED AS TO FORM:

JOHN A. NAGEL
City Attorney