



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### SUBJECT

Adopt a Resolution Confirming a Local Emergency Order of the Director of Emergency Services Regarding Allowing Temporary Outdoor Dining Areas on Private Property in the City of Sunnyvale in Response to Public Health Concerns Because of the Novel Coronavirus (COVID-19)

#### DISCUSSION

On March 12, City Manager Kent Steffens declared a local health emergency pursuant to the authority granted to him as the Director of Emergency Services in Sunnyvale Municipal Code (SMC) Chapter 2.16 and applicable state law. The City Council ratified that proclamation on March 17 (Resolution No. 979-20), and extended the local emergency on April 7 and May 26 (Resolution Nos. 981-20 and 994-20). The Santa Clara County Department of Public Health issued its initial "shelter-in-place" order on March 16, with the effect of shuttering restaurants in the County with the exception of take-out service.

SMC Section 2.16 040(a) (6)(A) empowers the Director of Emergency Services "[t]o make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council."

Conditions have been evolving since the emergency was originally declared. In its June 5 order, the Santa Clara County Public Health Officer provided that restaurants may now offer outdoor dine-in options for patrons. In order to expedite such outdoor dine-in options, the Director of Emergency Services issued an emergency order on June 10 (Attachment 1) suspending any portion of the SMC prohibiting or impairing temporary outdoor dining, including but not limited to Chapter 19.61, Section 19.46.110, and Section 9.66.010. The purpose of suspending these sections of the SMC is to allow restaurants to use private parking lots to serve restaurant customers outside. The program also provides that the Director of Community Development or designee is authorized to develop operational guidelines in order to effectuate the program. Additionally, the City Manager/Director of Emergency Services' order states that all fees associated with the order shall be waived.

The Community Development Department streamlined the approval process for restaurants who wished to participate. CDD created a two-page checklist for business owners to submit to the City self-certifying compliance with County orders such as social distancing requirements and health and safety measures to protect customers and employees. Additionally, restaurants are required to comply with the Americans with Disabilities Act ("ADA"). The checklist also includes safety measures from the Public Works and Public Safety. To the extent that restaurants wish to serve alcohol in its expanded outdoor dining space, the restaurant is required to certify compliance with regulations from Alcoholic Beverage Control ("ABC").

Staff anticipates that the program will be in place until a subsequent order by the City Manager/Director of Emergency Services or City Council, or until the local emergency is declared over. Staff recommends that Council adopt the attached resolution ratifying the emergency order pursuant to California Government Code Section 8634 and SMC Section 2.16.040(a)(6)(A).

Council's adoption of the Resolution (Attachment 2) confirms and ratifies the actions taken by the Director of Emergency Services.

### **FISCAL IMPACT**

The City Manager/Director of Emergency Services has waived all fees associated with the outdoor dining approval process. It is anticipated that any costs associated with staff time to review self-certification requests can be absorbed by the Community Development Department.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, Sunnyvale Public Library and Department of Public Safety; and by making the agenda and report available at the Office of the City Clerk and on the City's website.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15320, 15378, and 15061(b)(3) as it is an organizational structure change and does not have the potential to result in either a direct or reasonable foreseeable indirect physical change in the environment.

### **RECOMMENDATION**

Adopt a Resolution Ratifying the City Manager/Director of Emergency Services' Order Regarding Temporary Outdoor Dining Areas on Private Property in the City of Sunnyvale.

Prepared by: Anais Martinez Aquino, Assistant City Attorney

Reviewed by: John Nagel, City Attorney

Reviewed by: Jaqui Guzmán, Deputy City Manager

Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. June 10, 2020 Local Emergency Order by the City of Sunnyvale City Manager/ Director of Emergency Services Regarding Temporary Outdoor Dining Areas on Private Property in the City of Sunnyvale
2. Draft Resolution