



Legislation Text

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Resolution amending the proclamation of a local health emergency (adopted pursuant to Resolution No. 35-2020) to approve an Outdoor Dining Pilot Program in the City of South San Francisco to enhance restaurant and business recovery during COVID-19.

WHEREAS, Section 8630, Article 14, of the California Emergency Services Act empowers the City Council to proclaim the existence or threatened existence of a local emergency when the City of South San Francisco ("City") is affected or likely to be affected by a public calamity; and

WHEREAS, Chapter 2.72 of the South San Francisco Municipal Code ("SSFMC") similarly authorizes the City Manager, serving as the Director of Emergency Services to declare and proclaim, or to request the City Council to declare and proclaim, the existence or threatened existence of a "local emergency"; and

WHEREAS, the City of South San Francisco proclaimed a local State of Emergency related to the Novel Coronavirus (COVID-19) on March 11, 2020 via Resolution No. 35-2020 (the "Emergency Proclamation"); and

WHEREAS, on March 16, 2020, seven health officers within six Bay Area counties, including San Mateo County ("County"), took a unified step to slow the spread of COVID-19 and preserve critical health care capacity across the region by issuing a legal order directing their respective residents to shelter at home and limiting activity, travel and business functions to only the most essential needs for three weeks, beginning March 17, 2020; and

WHEREAS, on March 19, 2020, Governor Gavin Newsom issued a statewide order ordering all individuals living in the State of California ("State") to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors; and

WHEREAS, on May 13, 2020, the City Council amended and updated the Emergency Proclamation via Resolution No. 57-2020; and

WHEREAS, the County and six other Bay Area jurisdictions have been under a Shelter in Place public health order due to COVID-19 since March 17, 2020 and multi-month closure of many of the County's local businesses is putting a huge financial strain on all industries; and

WHEREAS, on June 17, 2020, the San Mateo County Health Officer and the County Health Department announced revised orders to align with State Health Orders allowing for the continued re-opening of businesses, provided that gatherings are not to exceed 50 people, allow for social bubbles, adherence to social distancing requirements, face covering requirements, and requirements for businesses to implement a social distancing protocol and written health and safety plans; and

WHEREAS, in conjunction with the revised County Health Orders, nearly all cities in San Mateo County have implemented an outdoor dining program; and

WHEREAS, the City has an important governmental interest in maintaining a healthy, active, and thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, to protect the health and safety of the City, while fostering economic wellbeing of the City's citizens and businesses, the City wishes to assist both essential and non-essential businesses in remaining open, or re-opening when lawfully permitted to do so; and

WHEREAS, to achieve this purpose, the City wishes to implement an Outdoor Dining Pilot Program (the "Program"), which would allow interested restaurants and businesses within the Downtown zoning districts to, with review and approval by the City, utilize public right-of-way space, including adjacent parking spaces, for an expanded dining area; and

WHEREAS, the Program would require participating restaurants and businesses to adhere to specific performance standards and checklists, attached hereto and incorporated herein as Exhibits A and B; and

WHEREAS, for the City's business community to survive the challenge presented by the COVID-19 pandemic and the resulting business closures, the City Council finds that temporary emergency modifications to existing policies and regulations are needed to help implement the Program; and

WHEREAS, under the current emergency circumstances, the City Council finds that it is in the best interests of the public health, safety and welfare to permit the temporary use of the Downtown Area public right-of-way space by restaurants and businesses, with appropriate conditions to preserve the public safety and necessary public access to those resources, and finds that City staff should be given broad discretion to modify existing City policies, procedures and regulations in order to effectively assist the City's local businesses in their reopening efforts; and

WHEREAS, except as amended herein, the City Council desires to continue to enforce the other provisions of the Emergency Proclamation as previously approved and amended.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of South San Francisco that:

1. The above recitals are true and correct and incorporated herein by this reference.
2. The Outdoor Dining Pilot Program is hereby approved and the City Manager is authorized to implement the Program, including the temporary authority to allow the utilization of, or to approve use and occupancy of, the public right-of-way by businesses, eating and drinking establishments, and retailers, consistent with the provisions of this Emergency Proclamation. Any authorization granted pursuant to the authority provided herein shall be consistent with the requirements set forth in any applicable shelter in place order applicable within San Mateo County.
3. A Program budget of \$35,000 is hereby approved for its implementation, such as to fund the cost of installing protective barriers and signage, and associated labor costs.
4. The following temporary changes are made to the South San Francisco Municipal Code ("SSFMC") to

facilitate the implementation of the Outdoor Dining Pilot Program within the Downtown Districts as defined in SSFMC Title 20, Chapters 20.020 and 20.100:

- a. Notwithstanding applicable regulations of Title 13, Chapter 13.04 relating to Encroachment Permits, the City's Encroachment Permit application fees may be waived for all applications that further purposes of the Outdoor Dining Pilot Program. The "Encroachment Permit Application - COVID-19 Addendum", attached hereto as Exhibit C and incorporated herein is hereby adopted for use for all applications submitted to the City pursuant to this resolution.
- b. Notwithstanding Section 20.350.030, the City Council hereby temporarily suspends regulations pertaining to outdoor and sidewalk seating to the extent necessary to further purposes of the Outdoor Dining Pilot Program.
- c. Notwithstanding applicable regulations of Title 11, Chapters 11.40 and Title 20, Chapter 20.330, the City Council hereby temporarily suspends the application of on-site parking requirements, including any parking requirements related to the computation of spaces per ratio of gross floor area or customer seating area, for Eating and Drinking Establishments, Food and Beverage Retail Sales, and Retail Sales in the Downtown Districts, to the extent necessary to further purposes of the Outdoor Dining Pilot Program. The City Manager is hereby authorized to impose conditions of approval upon any proposal to temporarily repurpose or convert existing parking spaces to accommodate outdoor dining, Food and Beverage Retail Sales, and Retail Sales in the Downtown Districts, to the extent necessary to implement the Outdoor Dining Pilot Program.
- d. Notwithstanding Sections 20.440.007 and 11.56.020, the City Council hereby declares that the Parking Place Commission's parking authority for the Downtown District/Downtown Parking District is temporarily suspended with regard to any public parking reasonably determined by the City Manager to be necessary to effectuate the Outdoor Dining Pilot Program, including the Parking Place Commission's authority to review and approve parking rates, time limits, and hours of operation, and that authority is temporarily vested with the City Manager to the extent required for the purposes of the Program.
- e. Notwithstanding Sections 20.360.006, subsection (p), and 20.360.009, the City Council hereby temporarily suspends regulations and permit requirements applicable to temporary signs as applicable to Eating and Drinking Establishments, Food and Beverage Retail Sales, and Retail Sales in the Downtown Districts, to the extent necessary to further purposes of the Outdoor Dining Pilot Program. The City Manager is temporarily vested with the authority to regulate these signs, review and approve signage plans, set installation and display requirements, and approve proposals to erect temporary commercial signs and window signs, consistent with other applicable provisions of the South San Francisco Municipal Code.
- f. Notwithstanding Sections 10.40.030 and 10.40.040, to the extent necessary to effectuate the Outdoor Dining Pilot Program, the City Council hereby temporarily suspends regulations pertaining to alcohol consumption in public places and in parking lots as applicable to Eating and Drinking Establishments, Food and Beverage Retail Sales, and Retail Sales in the Downtown Districts, and the City Manager is temporary authorized to permit outdoor consumption of alcohol as part of the Outdoor Dining Pilot Program.

- g. The City Manager is temporarily vested with the authority to approve temporary and/or intermittent street closures as part of the Outdoor Dining Pilot Program, subject to any and all conditions and/or limitations deemed necessary by the City Manager to facilitate safe and orderly closure of such roadways and to protect public health and safety.
5. In addition to the specific authorizations granted above, the City Manager is temporarily vested with the authority to suspend, waive or modify all other City of South San Francisco regulations and/or policies to the extent that: (1) such regulations or policies would otherwise prohibit businesses from engaging in their business activities outdoor or curbside in the Downtown Districts; (2) is necessary to further the purpose of the Outdoor Dining Pilot Program; and (3) such suspension, waiver or modification does not result in an increase in general intensity of use beyond what is otherwise allowed, as applicable.
6. In exercising the temporary authority pursuant to this resolution to allow the utilization of, or to approve use and occupancy of, the public right-of-way, the City Manager shall also require businesses, eating and drinking establishments and retailers to comply with applicable building code standards and the City's insurance and indemnification requirements.
7. The authority temporarily vested in the City Manager pursuant to this resolution may be delegated by the City Manager to his designee through written delegation of authority signed by the City Manager.
8. Nothing in this resolution shall relieve a business from any the following:
- a. The requirement to comply with the Outdoor Dining Pilot Program standards and checklists set forth in Exhibits A and B.
 - b. Any obligations or laws requiring consent of adjacent property owners for use of private property. Businesses seeking to operate outdoors shall obtain consent of any private property owners whose property will be used for outdoor operations.
 - c. The requirement to obtain a building permit for outdoor activities if a building permit would otherwise be required, and compliance with all provisions of the Building Code, including but not limited to, maximum occupancy requirements.
 - d. The requirement to undergo design review for exterior alterations if such design review is otherwise required, except that temporary installations, including but not limited to tents, fencing, barriers, enclosures, and platforms and ramps, may be authorized by the City Manager to facilitate proposed outdoor activities consistent with the provisions of this resolution.
 - e. The requirement to obtain any and all County and State permits regarding the provision of food and dining services, including alcoholic beverages, including but not limited to the COVID-19 Temporary Catering Authorization required by the State Department of Alcohol Beverage Control.
9. All temporary suspension of regulations and requirements of the South San Francisco Municipal Code and temporary delegation of authority provided for in this resolution shall remain in effect for the duration of the Emergency Proclamation, as adopted by Resolution No. 35-2020, and shall expire upon the termination of the Emergency Proclamation by the City Council.

10. Except as specifically amended herein, Resolution No. 35-2020, as previously amended and updated, shall remain in full force and effect.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon its adoption.

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