DECLARATION OF THE DIRECTOR OF
EMERGENCY SERVICES OF THE CITY OF
SAN JOSE SUSPENDING ENFORCEMENT
OF CERTAIN PROVISIONS IN LAND USE
PERMITS AND APPROVALS AND ZONING
IN THE SAN JOSE MUNICIPAL CODE AND
WAIVING COMPENSATION FOR BUSINESS
USE OF PUBLIC PARKING LOTS

WHEREAS, on March 10, 2020, the City Council of the City of San José ("City") ratified
the Director of Emergency Service’s Proclamation of Local Emergency due to the
outbreak of a novel coronavirus in the City; and

WHEREAS, pursuant to California Government Code Section 8634 and San José
Municipal Code Section 8.08.250, I am empowered upon the proclamation of a local
emergency to make and issue rules and regulations on matters reasonably related to the
protection of life and property as affected by such emergency; and

WHEREAS, on March 31, 2020, the Health Officer of Santa Clara County issued an Order
directing all individuals to continue to shelter in place and requiring essential business to
implement Social Distancing Protocols; and

WHEREAS, on May 18, 2020, the Health Officer of the County of Santa Clara issued a
further Order continuing the Social Distance Protocol but allowing retailers to open with
curbside/outdoor pick up, supply chains for retail establishments to reopen, and certain
outdoor activities to resume; and

WHEREAS, on June 1, 2020, the Health Officer of the County of Santa Clara issued a
further Order effective June 5, 2020 continuing the Social Distance Protocol but allowing
certain additional businesses to resume operations, including outdoor dining at
restaurants, in-store shopping at retail and shopping centers and limited services that do
not require customer contact, subject to limitations; and

WHEREAS, on July 2, 2020, the Health Officer of the County of Santa Clara issued a
further Order effective on the later of (1) 12:01 a.m. on July 13, 2020 or (2) 12:01 am two
days following approval by the State Department of Public Health of a “variance” under
the State’s "Resilience Roadmap" as described at covid19.ca.gov, which updated the
Social Distance Protocol and allowed certain additional businesses to resume operations,
subject to limitations; and

WHEREAS, on July 13, 2020, the California State Public Health Officer issued an order
that, amongst other things: (1) required a number of businesses statewide to immediately
cease indoor operations, (2) required certain additional businesses in Santa Clara County

1
to cease indoor operations effective July 15, 2020, and (3) allowed businesses to modify operations to provide outdoor services; and

WHEREAS, provisions in land use permits and planning approvals issued by the City and/or provisions in the San José Zoning Code prohibit the use of outdoor property to conduct business activities without first obtaining the City’s authorization through specified application processes; and

WHEREAS, Chapter 4.04 of the San José Municipal Code authorizes the City Manager to execute leases, licenses and other agreements for the use of City-owned real property for which the City receives fair compensation; and

WHEREAS, to ensure compliance with the County Social Distancing Protocol, businesses need additional outdoor areas to serve customers and allow customers to queue while waiting to enter the business premises; and

WHEREAS, under conditions of the emergency and in the interest of public health and safety, it is deemed necessary to suspend enforcement of certain provisions in land use permits and planning approvals issued by the City and certain provisions in the San José Municipal Code; and

WHEREAS, life and property are deemed to be in peril and speed is of the essence.

NOW, THEREFORE, BE IT RESOLVED, I, David Sykes, as Director of Emergency Services, declare that the City shall waive the requirement that the City receive compensation for leases, licenses or other agreements that allow businesses to use City-owned public parking lots, not including any property that has been dedicated, or offered for dedication, to the public. The City also shall suspend enforcement of provisions contained in land use permits or other planning approvals and the provisions of the San José Municipal Code, including, without limitation, those contained in Title 20, that conflict with any business’ use of public parking lots pursuant to a lease, license or other agreement executed pursuant to this regulation. This regulation shall apply only to businesses operating from a building within the City; mobile businesses of any type are not covered by this regulation. Except as expressly exempted herein, businesses shall continue to comply with all other requirements in their approved land use permits or other planning approvals and applicable City, County, State and Federal laws, orders and regulations, including, without limitation, Orders from the County of Santa Clara Health Officer, the California Retail Food Code, the California Alcoholic Beverage Control Act and regulations and notices issued by the Department of Alcoholic Beverage Control (ABC), the San José Fire Code, the San José Building Code and the Americans with Disabilities Act (ADA); and
BE IT FURTHER RESOLVED that this regulation shall become effective as of 5 p.m. on July 31, 2020 and remain in effect until December 31, 2020, such time as it is terminated or modified by the City Council or the termination of the local state of emergency, whichever occurs first; and

BE IT FURTHER RESOLVED, any violation of this regulation shall be subject to enforcement and penalty as provided under San José Municipal Code Section 8.08.260.

7/31/20 _______________________
Date

D. Sykes
Director of Emergency Services