



Legislation Details (With Text)

**File #:** 20-599      **Version:** 1      **Name:** Amnd. Declaration Temp. Outdoor Facilities Program End Date - SR

**Type:** Staff Report      **Status:** Filed

**In control:** City Council

**On agenda:** 1/4/2021      **Final action:** 1/4/2021

**Enactment date:**      **Enactment #:**

**Title:** Staff Report for a City of San Leandro City Council Resolution Confirming Amendment No. 2 to the Declaration of the Director of Emergency Services of the City of San Leandro Suspending Enforcement of Certain Provisions in Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San Leandro Municipal Code Related to the COVID-19 Relief Temporary Outdoor Facilities Program (Amendment No 2 removes reference to the December 31, 2020 end date)

**Sponsors:** Tom Liao

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
1/4/2021	1	City Council	Received and Filed	Pass

Staff Report for a City of San Leandro City Council Resolution Confirming Amendment No. 2 to the Declaration of the Director of Emergency Services of the City of San Leandro Suspending Enforcement of Certain Provisions in Land Use Permits and Approvals and Zoning and Encroachment Requirements in the San Leandro Municipal Code Related to the COVID-19 Relief Temporary Outdoor Facilities Program (Amendment No 2 removes reference to the December 31, 2020 end date)

**SUMMARY AND RECOMMENDATIONS**

Staff recommends that the City of San Leandro City Council confirm Amendment No. 2 to the Declaration of the Director of Emergency Services, amending the timeframe of the temporarily suspended enforcement of certain provisions in Land Use permits and approvals and Zoning and Encroachment requirements in the San Leandro Municipal Code Related to the COVID-19 Relief Temporary Outdoor Facilities Program, which will continue through the local state of emergency.

**BACKGROUND AND ANALYSIS**

Shelter in Place Order

On March 16, 2020, the City Council of the City of San Leandro ratified a Proclamation of Local Emergency in response to an outbreak of respiratory disease caused by a novel coronavirus, called COVID- 19. Under the local state of emergency, the City Manager, acting as Director of Emergency Services, may make and issue rules and regulations on matters reasonably related to the protection of life and property.

Also, on March 16, 2020, the Health Officer of Alameda County issued a Shelter In Place Order (Order) directing all individuals to shelter in place, restricting business activities, and requiring essential businesses to implement Social Distancing Protocols. Under the Order, many businesses, including specialty retail, restaurants, personal services, and health and fitness were required to be closed, or limited to pick up service only, in order to protect employees and customers and limit the spread of the COVID-19 virus. The Orders' restrictions devastated local businesses, particularly small service, food, and other direct customer serving businesses.

On June 18, 2020, the Health Officer of Alameda County revised the Order, to allow outdoor museums, outdoor restaurant dining, religious services, indoor/outdoor retail, and outdoor fitness classes to reopen, subject to continuance of Social Distancing Protocol and compliance with a Site Specific Protection Plan.

### Temporary Outdoor Facilities Program

In support of the newly permitted outdoor operations, on June 17, 2020, the Director of Emergency Services issued a Declaration suspending enforcement of certain provisions in land use permits and approval and zoning and encroachment requirements in the San Leandro Municipal Code in order to establish the COVID-19 Relief Temporary Outdoor Facilities Program ('Program'). The Declaration suspends enforcement of provisions in the San Leandro Zoning and Municipal Codes, which prohibit the use of adjacent outdoor public and private property for the purposes of conducting business activities without the City's authorization through an Outdoor Facilities Permit and/or Encroachment Permit.

The COVID-19 Relief Temporary Outdoor Facilities Program is a streamlined, no-cost outdoor facilities process to assist impacted businesses operate outdoors and in conformance with safety regulations. In order to provide outdoor facilities, businesses register with the City of San Leandro, certify that they will comply with applicable safety requirements, and provide business insurance information. Submittal of detailed site plans and materials details will not be required. Recognizing the needs and limitations of businesses and the temporary nature of the outdoor activities, efforts were made to keep the program as simple and low-cost as possible. Over 35 businesses have begun outdoor operations under this program.

On July 23, a first Amendment was made to the Declaration which clarified the uses that were permitted to operate outdoors under the Program, to include Hair Salons and Barbershops, and Bars, subject to applicable requirements, review and approval by the City of San Leandro, Alameda County Fire Department, California Department of Alcoholic Beverage Control, and other applicable agencies. This amendment was made administratively by the Director of Emergency Services, pursuant to his determination that such changes were clarifying in nature and were in keeping with the intent of the original Declaration.

### Continuance of Outdoor Facilities Program

While restaurants and other business types were permitted to resume limited indoor operations during the fall of 2020, business and customer's preference for outdoor operations continued. Even as certain businesses have been permitted to reopen, small businesses continue to suffer from reduced customer traffic due to work from home arrangements and customer reluctance to person-to-person contact. With reduced sales, increased costs of operations due to setting up outdoor facilities

and required personal protective equipment, and the cost of ongoing and past rent, businesses continue to have significant financial challenges in operating during the pandemic.

Following an increase in COVID-19 cases, on November 17, 2020 Alameda County issued a new Shelter in Place Order, aligning the activities permitted to operate with those that are permitted to operate within the Purple colored tier under the State of California's Blueprint for a Safer Economy, with restaurants, gyms and fitness centers, religious services and several other business types no longer permitted to operate indoors.

Additionally, on December 6, 2020, Alameda County enacted the State's Regional Stay at Home Order, which restricts indoor and outdoor activities of various business types utilizing the Outdoor Facilities Program, including restaurants, hair salons/barbers, and personal services. The Stay at Home Order is effective through at least January 7, 2021 and it is hoped that outdoor dining and other uses will again be permitted in the Spring of 2021.

In recognition of the frequently changing regulations impacting businesses and the continuing local emergency, which contribute to the need for businesses to operate outdoors once they are again permitted to do so, on December 15, 2020, a second amendment was made to the Declaration stating that this regulation shall remain in effect until the termination of the local state of emergency - rather than the earlier of December 31, 2020 or the termination of the local state of emergency.

The Director of Emergency Services recommends that the City Council confirm Amendment No. 2 to the Declaration in conformance with emergency procedures.

## **Legal Analysis**

The Declaration and Amendments No. 1 and 2 have been reviewed and approved by the City Attorney.

## **Fiscal Impacts**

Program setup and administration is free of charge to businesses as part of the City's COVID-19 relief efforts and will not generate revenue. The cost of administering the program will be absorbed by existing departmental budgets.

## **ATTACHMENT(S)**

### **Attachment(s) to Related Legislative File**

- Declaration
- Amendment No. 1
- Amendment No. 2

**PREPARED BY:** Katie Bowman, Economic Development Manager