



## Legislation Text

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**File #:** 20-600, **Version:** 1

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RESOLUTION of the City of San Leandro City Council 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)

**WHEREAS**, on March 16, 2020, the City Council of the City of San Leandro (“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 Leandro Municipal Code Section 3-4-130(a), the Director of Emergency Services is 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 16, 2020 the Health Officer of Alameda County issued an Order directing all individuals to shelter in place and requiring essential businesses to implement Social Distancing Protocols (‘Shelter in Place Order’); and

**WHEREAS**, the Health Officer of the County of Alameda has issued revised Shelter In Place Orders on March 31, 2020, and May 18, 2020, and June 5, 2020, extending restrictions on activities and requiring individuals to shelter at home, allowing for certain specified activities, and requiring that all businesses and organizations allowed to operate develop and comply with a Site Specific Protection Plan; and

**WHEREAS**, on June 18, 2020 the Health Officer of Alameda County revised the June 5, 2020 Order, effective June 19, 2020, 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; and

**WHEREAS**, on October 21, 2020 the Health Officer of Alameda County revised the June 5, 2020 Order, effective October 23, 2020, to allow indoor restaurant dining as well as other specified activities, with indoor dining limited to 25% capacity or 100 people, whichever is less; and

**WHEREAS**, on November 17, 2020 the Health Officer of 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;

**WHEREAS**, 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, through at least January 4, 2021; and

**WHEREAS**, provisions in land use permits and planning approvals issued by the City and/or provisions in the San Leandro Zoning Code prohibit the use of adjacent outdoor private property for the purposes of conducting business activities without the City's authorization; and

**WHEREAS**, Title 5 of the San Leandro Municipal Code prohibits encroachments into the public right-of-way or other public property without first obtaining an encroachment permit from the City through specified application processes; and

**WHEREAS**, to ensure compliance with the Alameda County Department of Public Health 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 Leandro Zoning Code and Municipal Code; and

**WHEREAS**, on July 23, 2020, an Amendment No. 1 was made to the Declaration 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, such amendment 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; and

**WHEREAS**, such Amendment No. 1 was made administratively by the Director of Emergency Services, pursuant to his determination that such changes were only clarifying and administrative in nature and were in keeping with the intent of the original Declaration; and

**WHEREAS**, the City of San Leandro, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserve quality of life; and

**WHEREAS**, in adopting the Emergency Declaration, the Director of Emergency Services took action pursuant to his authority under Government Code Section 8634 and San Leandro Municipal Code Section 3-4-130(a); and

**WHEREAS**, public safety and the public interest are deemed to be in peril and speed of implementation is of the essence.

**NOW, THEREFORE THE CITY OF SAN LEANDRO CITY COUNCIL RESOLVES** that the

above recitals are true and correct and made a part of this resolution.

**BE IT FURTHER RESOLVED** by the City Council that it is hereby proclaimed and ordered that the amendment 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, issued by the Director of Emergency Services including all Exhibits, is hereby confirmed.

**BE IT FURTHER RESOLVED** by the City Council that this Declaration shall be in effect until the end of the local state of emergency

**BE IT FURTHER RESOLVED by the City Council that:**

1. The Declaration of the Director of Emergency Services of the City of San Leandro establishes appropriate regulations to address the suspension of enforcement of certain provisions in land use permits, approvals and zoning requirements, and encroachment requirements while balancing public safety.

2. The Declaration of the Director of Emergency Services of the City of San Leandro will not be detrimental to the public interest, health, safety, or welfare of the City.

3. The Declaration of the Director of Emergency Services of the City of San Leandro conforms with the relevant and applicable provisions of the California Government Code and the San Leandro Municipal Code authorizing the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property.

4. During the existence of the declared local emergency, the powers, functions, and duties of the City Manager, acting as the Director of Emergency Services, and the emergency organization of this City shall be those prescribed by State law and by ordinances and resolutions of the City of San Leandro.

**PASSED, APPROVED, AND ADOPTED** this 4<sup>th</sup> Day of January 2021 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Mayor

ATTEST:

City Clerk