

**RESOLUTION NO. \_\_\_\_\_ (2021 SERIES)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, CONSOLIDATING AND ALIGNING PRIOR COUNCIL EMERGENCY ACTIONS WITH RECENTLY REVISED STATE ORDERS, AND CONTINUING CERTAIN PRIOR ACTIONS TO SUPPORT CONTINUED PROTECTIONS FOR PUBLIC HEALTH, SAFETY AND WELFARE, AS WELL AS ECONOMIC RECOVERY**

**WHEREAS**, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS**, on March 17, 2020, the City Council adopted Resolution 11099 proclaiming a local emergency and has thereafter affirmed and continued its proclamation of local emergency to extend through the duration of the declared State and/or County proclamations of emergency; and

**WHEREAS**, since March 2020, the State of California and both the City and County of San Luis Obispo have taken a series of actions to reduce the spread, and mitigate the impacts, of COVID-19, limiting harm and loss of life in our community; and

**WHEREAS**, as a result of the effective actions taken, as well as the successful and ongoing distribution of COVID-19 vaccines, California is turning a corner in its fight against COVID-19 and cases and hospitalization rates in San Luis Obispo are continuing a relatively low trend at present; and

**WHEREAS**, on June 11, 2021, the Governor of the State of California issued Executive Order N-07-21, which formally rescinded the Stay-at-Home Order (Executive Order N-33-20, issued on March 19, 2020), as well as the framework for a gradual, risk-based reopening of the economy (Executive Order N-60-20, issued on May 4, 2020); and

**WHEREAS**, in light of the current state of the COVID-19 pandemic in California, the State has rolled back certain provisions of the Governor's COVID-19-related Executive Orders; and

**WHEREAS**, certain provisions of those COVID-19 related Executive Orders have been deemed to remain necessary to continue to help California respond to, recover from, and mitigate the impacts of the COVID-19 pandemic, and the City intends to align and act in accordance with those continuing COVID-19 related Executive Orders to the extent applicable to the City's operations in order to maintain clarity and consistency for the public; and

**WHEREAS**, the City has, through its emergency and general police powers, implemented various programs to support the safe conduct of business and leisure activities in the City and to facilitate the economic recovery of the community and its residents from the impacts of COVID-19;

**WHEREAS**, the City Council finds that COVID-19 presents a continuing threat to the health and economic wellbeing of the residents of San Luis Obispo because the Country, State, City and County have not yet reached optimal vaccination rates to fully protect against community spread of COVID-19, variants are emerging in the State and the likelihood of spread remains a concern as we enter the Fall and Winter months; and the City Council further finds that continuation of certain of those programs enacted pursuant to its emergency authority remain important to advance the health, safety and welfare of San Luis Obispo, mitigate the continuing risks and effects of the COVID-19 pandemic, and support economic recovery.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of San Luis Obispo as follows:

**SECTION 1.** All recitals set forth above, and all recitals included in support of Federal, State, and County actions referenced herein, are adopted as though fully set forth herein as findings in support of this Resolution; and

**SECTION 2.** There is a continuing emergency related to the pandemic COVID-19 as declared by the Governor of the State of California via Executive Order N-08-21 and the City Council finds that a concurrent local emergency continues to exist in the City resulting from continuing low level case and hospitalization rates related to the pandemic of COVID- 19, and vaccination rates that are not at levels to achieve “herd immunity” to protect against the peril of increased spread related to emerging variants and the potential for a seasonal spike in the Fall and Winter, which, absent continuation of preventative measures, and in the absence of widespread vaccination, is still deemed to present an imminent threat beyond the control of normal protective service, personnel, equipment, and facilities of and within the City; and

**SECTION 3. Partial termination of Safety Enhancement Zone.** The Citywide Safety Enhancement Zone previously declared pursuant to Resolution 11106 (2020 Series) for all Municipal Code violations specified in Section 9.22.020B is hereby terminated and the penalty for such violations shall be as otherwise provided by the Municipal Code and related Administrative Guidelines; except that violations of any State or County Public Health or other State or County Order or directive related to the COVID-19 emergency, whether now existing or subsequently adopted, shall remain subject to immediate penalties not to exceed \$1,000 for the duration of the declared emergency, as expressly set forth by ordinance in Section 9.22.020B of the Municipal Code, and nothing herein shall be interpreted to suspend or otherwise affect enforcement or penalties consistent therewith.

**SECTION 4. Cannabis Business Operator Permit Extensions.** Due to the severe economic impacts of COVID-19 and its impacts on scheduling, inspection and construction of projects in the City, and in order to prevent situations where cannabis operators must restart the discretionary review process and further delay the opening of previously approved businesses due to the need to reapply for permits or request individual extensions, and to prevent unnecessary distraction of staff focus and resources away from continued support of COVID-19 recovery and continued public health and safety compliance measures to prevent the resurgence of COVID-19 within the City, the Council deems it in the best interest of public health and safety to suspend enforcement of Section 9.10.070 D of the Municipal Code and reaffirm and continue certain prior actions taken related to the continuing existence of a local emergency and economic recovery as set forth in Resolution 11231 (2020 Series), as follows:

- A. Extend the life of all currently issued commercial cannabis business operator permits by a fixed period of twelve months from the original expiration date. If any operator's permit currently issued is not activated and expires or is deemed abandoned at the conclusion of the extension period specified herein, the City shall open a subsequent application period for any retail storefront permits made available as the result of the expiration or abandonment, during which any previously permitted applicant may follow the established process to submit a new application, which shall be evaluated at the same time and in accordance with the same process for the applications of any new applicants who may submit applications during the open application period.

**SECTION 5. Continuation of OPEN SLO Pilot Program.** In order to support the continued safe re-opening of restaurants and other businesses in a manner that will facilitate ongoing outdoor alternatives while vaccination efforts continue, variants emerge and fall and winter approach, presenting an increased risk of resurgence of COVID-19 spread, the City Council hereby directs and authorizes the City Manager to continue the OPEN SLO program at least until the termination of the proclamation of local emergency and for such additional period of time, not to exceed one year from the termination of the proclamation of local emergency, as is necessary to accomplish a safe and orderly transition to preexisting regulations and/or the implementation of revised long term programs to support emergency resiliency and economic recovery. Temporary programs expressly authorized herein shall include the following six strategies that may be used independently or in combination, along with continued implementation of the Sidewalk Dining Ordinance, as outlined below:

- A. Six Strategies Identified in the OPEN SLO Pilot Program:
  - 1. Changes to traffic flow, including "Quick-build" improvements toward alignment with the Downtown Concept Plan.
  - 2. Short-term street closures, including short-term road closures in the Downtown and in other areas of the City to facilitate safely distanced pedestrian circulation, expanded outdoor dining, and customer queuing, pickup and waiting areas associated with permitted business activities.

3. Conversion of selected on-street parking spaces to outdoor dining space or other pedestrian uses (parklets), with consideration for at least one installation outside of the downtown; use of the parklet may include:
    - i. Public sidewalk. No improvements other than rail and aesthetic treatments, to create space for safely distanced pedestrian movement and customer queuing, pickup, and waiting areas associated with permitted business activities.
    - ii. Table and Chair. Utilized by one or more businesses under the City's "Table & Chair" permit process and designated for exclusive use of the business, which may include appropriate signage (meaning no more than 15 square feet per outdoor area).
    - iii. Sidewalk Café. Designated parklet for exclusive use by one business under the City's Sidewalk Café permit process.
  4. Temporary use of private and public parking lots for expansion of commercial uses. The City Manager is authorized to suspend current off-street parking in order to permit selected spaces in private parking lots to be converted to seating or expanded retail space. The City could also permit use of spaces in public parking lots through the Sidewalk Cafes Ordinance.
  5. Conversion of Mission Plaza at set days and times for community and economic recovery support uses, including tables and chairs for 'to-go' dining, space for outdoor retail booths, art and culture pop-ups, which may include the closure of the Broad Street 'dog-leg' and/or sections of Monterey Street.
  6. Pop-ups to encourage and support additional ideas for outdoor space such as:
    - i. Develop guidelines and allow use of parts of the sidewalk for signage, merchandise and queueing, where adequate sidewalk width exists consistent with disabled access requirements and public safety.
    - ii. Develop guidelines and allow for pavement painting and planter box projects initiated by neighborhoods to slow traffic, create painted bulb-outs or other pedestrian-friendly adaptations.
    - iii. Support 'traveling' arts and culture events where exhibits or exhibitions are allowed on public spaces for visitors to stroll by.
    - iv. Have designated staff available and a clear process to streamline review and approval of uses to ensure conformity with access and public health and safety regulations.
- B. Support Expansion of Sidewalk Dining in Support of Social Distancing through application of the existing Sidewalk Dining Ordinance. For purposes of the temporary program support and only for such period of time as such temporary program remains in effect, the following Sections of Chapter 5.50, Sidewalk Cafes, of the Municipal Code shall be interpreted and applied as follows:

**5.50.015: Permits Required.**

The encroachment permit process shall be used for the purpose of evaluating, establishing conditions applicable to, and approving all requests for revocable sidewalk cafés permits, and tables and chairs permits, while the temporary program is in place.

**5.50.020: Architectural review.**

The Community Development Director shall use discretion conferred by this section to process permit requests without a separate application for architectural review and without public notice as may be otherwise specified by section 5.50.035 or other City policy, unless required by state law.

**5.50.030: Fees.**

Fees associated with administrative approval of permits under this chapter for permits shall be suspended, while the temporary program is in place. Any program recommended for implementation that includes permanent or long-term use of public property shall include an appropriate fee schedule related to the use for recommendation for Council approval.

**5.50.045.C: Required Operational Standards (Parking).**

No additional parking will be required for permits approved under this chapter while the temporary program is in place

**5.50.045.G: (Umbrellas, Awnings, Festoon Lighting and Street Furniture)**

Community Development Director may allow great flexibility with respect to the design and appearance of outdoor furniture , barriers and Festoon Lighting, consistent with standards for the protection of public health and safety and subject to the approval of the City Engineer and/or Building Official.

**5.50.050.A: Terms and expiration.**

Sidewalk café permits approved while the temporary program is in place will not be approved for an unlimited term and shall specify an automatic expiration date, unless subsequently renewed

**5.50.060.A: Revocation or Suspension of Permit**

For the duration of the temporary program, the City retains the right to revoke or suspend the permit upon twenty-four hours' notice to the sidewalk café operator for any cause, regardless of conformance with the provisions of the Sidewalk Dining Ordinance.

**17.70.100.F.1: Lighting and Night Sky Preservation Exemptions**

Low-intensity outdoor or festoon lighting fixtures used for architectural decoration may be installed without Architectural Review, provided it shall not otherwise create a nuisance or hazard for passing motorists, pedestrians, cyclists or other modes of transportation, subject to the approval of the City Engineer and/or Building Official.

- C. Upon recommendation by the Community Development Director, the City Manager may authorize suspension of enforcement of certain regulations as set forth below to facilitate the operation of the temporary program, solely for the duration of the temporary program:
  - 1. Sign Regulations
    - a. Sections 15.40.200 (Exempt Signs), subsections H (Temporary Window Signs) and
    - b. L (Temporary Signs in Non-Residential zones).
    - c. Section 15.40.470 (Sign Standards by Sign Type), subsection I. [A-Frame (Sandwich Board) Signs].
    - d. For the time period specified above, any permitting requirements for the types of
    - e. Signs specified in this Resolution, as set forth in Section 15.40.500 of the Sign Regulations herein also may be suspended.
  - D. Parking Regulations (as to uses and activities on private properties only)
    - a. Section 17.72.020 A (Requirements by Type of Use)
    - b. Section 17.72.020 C (Parking Calculations), as applied to existing uses only, and only to expressly exclude any temporary use of space on private property for safe outdoor use purposes during the period of suspension from parking calculations requirements for the property.
  - E. No facility, structure or improvement may be erected, constructed or placed in the City Right of Way without the express written approval of the City Engineer and nothing herein is intended to or shall be interpreted to convey any vested right in or to the continued use or occupation of public or private property permitted, allowed or suffered by the City pursuant to the temporary program herein.
  - F. Continuing Enforcement of Conditions or Activities Posing a Threat to Public Health, Safety or Welfare; Continued Enforcement of Permit Requirements for Electrical, Plumbing, or Structural Components or Appurtenances and Encroachments into Public Right of Way. Nothing herein is intended to or shall be deemed to relieve any person from the obligation to obtain, or prohibit code enforcement for failure to obtain, any permits that would otherwise be required under state law, the San Luis Obispo Municipal Code, or building and safety codes adopted thereunder, including but not limited to:
    - 1. Permits otherwise required for electrical, plumbing, or structural work performed within the City.

2. Encroachment permits required for structures, uses and/or activities within the public right of way, which may be issued at no cost by the City to facilitate physical distancing and the reopening of businesses.
- G. Nothing herein is intended to or shall permit or allow the erection or placement of any permanent or temporary structure or improvement, on public or private property in violation of any state or federal accessibility law, including the Americans With Disabilities Act, or to prohibit or suspend code enforcement action deemed necessary by the Chief Building Official, the City Engineer or any other authorized enforcement official of the City, to remedy or abate: a dangerous condition or activity; any activity presenting an imminent threat of harm to the health, safety or welfare of the community; any violation of state or federal accessibility law; or any unauthorized activity on private property or in the public right of way.
- H. Notwithstanding any other City policy or procedure, the City Engineer shall be authorized to review and approve on behalf of the City any and all design and construction necessary as part of the temporary program herein and the City Manager shall be authorized to allow and accept on behalf of the City any and all donations of time, materials, labor, professional services and/or funds in support of the temporary program herein without further action of the City Council.

**SECTION 6. Extension of discretionary approvals and building permit applications.** Due to the severe economic impacts of COVID-19 and its impacts on scheduling, inspection and construction of projects in the City, and in order to prevent situations where developers or contractors need to restart the discretionary review process or delay previously approved construction projects due to the need to reapply for permits or request individual extensions, and to prevent unnecessary distraction of staff focus and resources away from continued support of COVID-19 recovery and continued public health and safety compliance measures to prevent the resurgence of COVID-19 within the City, the Council finds it in the best interest of public health and safety and hereby reaffirms and continues certain prior actions taken related to the continuing existence of a local emergency and economic recovery as set forth in Resolution 11232 (2021 Series), as follows:

- A. Toll the expiration of all discretionary approvals covered by Municipal Code Section 17.104.070 from the declaration of the pandemic emergency (beginning January 27, 2020) until the termination of local emergency proclamations.

- B. Automatically extend the life of all discretionary approvals existing as of the date of the termination of the local emergency and covered by Municipal Code Section 17.104.070 by an additional one and a half years (18 months) after the termination of the declared local emergency.
- C. Automatically extend the life of all active building permit applications by one year, as authorized by California Building Code Section 105.3.2.

## **SECTION 7. Continued Suspension of Safe Parking Requirements**

**Expansion.** A Pursuant to the City's authority under California Constitution Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations necessary for the protection of the City; the City of San Luis Obispo Charter; and Chapter 2.24 of the San Luis Obispo Municipal Code, the City Council hereby directs the extension of emergency measures as follows to support and facilitate the expansion of safe parking facilities for unhoused persons in order to minimize exposure to the elements and risks of transmission of COVID-19 and protect the public health, safety, welfare and economic security of the citizens of San Luis Obispo:

- A. **Requirements Suspended.** Any and all provisions of the San Luis Obispo Municipal Code, Chapter 17.86, and any and all provisions of any other currently applicable code provision or use permit, entitlement or contract issued to any current homeless or supportive services provider permitted by or contracted with the City of San Luis Obispo , are hereby suspended to the extent that such provisions would otherwise limit or prevent the expansion by such party of safe parking facilities within the City, until 180 days following the end of the declared City, County and State emergency declarations, or such other time as may be determined by order of the Emergency Services Director or City Council, subject to the requirements and restrictions set forth herein
- B. **Requirements for the temporary expansion of the 40 Prado Road Safe Parking Program (City Conditional Use Permit #USE-0413-2014).**
  - 1. The Community Development Director is hereby authorized, upon written request, to administratively allow for the temporary expansion of the existing permitted operation for Safe Parking located at 40 Prado Road at that location or at any other location authorized by the City Manager within the City of San Luis Obispo if the Community Development Director determines that the expansion is consistent with the purpose and intent of San Luis Obispo Municipal Code Section 17.86.230.
  - 2. If the operators of Safe Parking at 40 Prado Road wish to maintain the establishment or expansion of a Safe Parking location after the period authorized by this Resolution, any such operator shall submit the appropriate Planning Application to the Community Development Department for processing in accordance with otherwise applicable city regulations for issuance of a use permit or modification to an existing permit. Any limitations or new conditions of approval that result from the review process shall be implemented following approval of the permit modification.



**C. Requirements for the establishment of new Safe Parking locations.**

1. The Community Development Director is hereby authorized to immediately allow for the establishment and operation of new Safe Parking locations by the City and/or third party non-profit partner, upon submittal of a complete Planning Application for a Conditional Use Permit demonstrating compliance with the performance standards required by SLOMC Section 17.86.230.E.I as may be required to normally establish Safe Parking at the proposed location.
2. The Community Development Department will process the new application through the normal course of review for the permit application submitted. Upon approval of the Safe Parking permit, all conditions of approval shall be applied to the use. If a Conditional Use Permit is not approved within 120 days of the date of the application, then the Safe Parking use shall cease.

**D. Operations in violation.** In the event that the Safe Parking site is operated in violation of any requirement established for the temporary operation and such violation is not remedied as directed by the City, the Community Development Director may notify the operator in writing that the temporary operation authorization is terminated; and, upon receipt of said notice, the operator shall terminate operations and return the site to its original condition within 10 days of receipt of said notice.

**SECTION 8. Financial Management Authority.** The authority granted to the City Manager by Resolution No. 11117 (2020 Series) to use FY 2018-19 Unassigned Fund Balance above required reserve levels is hereby ended and practices shall be conducted in accordance with generally applicable financial policies upon adoption of the Resolution.

**SECTION 9.** All existing orders of the State Public Health Officer, the Governor, the San Luis Obispo County Emergency Services Director, Public Health Officer, and the County Board of Supervisors as currently in effect and as subsequently clarified, amended, modified or superseded by subsequent action of any of those parties are hereby expressly acknowledged and declared to be enforceable within the City of San Luis Obispo as if directly enacted by the City Council pursuant to San Luis Obispo Municipal Code Chapter 2.24 and shall be enforceable under Municipal Code 2.24.100 until such time as any such order(s) is terminated by the issuing authority.

**SECTION 10.** The City's proclamation of local emergency shall be deemed to continue to exist until it is terminated by the City Council of the City of San Luis Obispo pursuant to a resolution adopted by the City Council of the City San Luis Obispo or its Emergency Services Director but shall continue at least until such time as the State proclamation of emergency is terminated by the Governor.

**SECTION 11.** The City has been undertaking, and will continue through cessation of this emergency to undertake, necessary measures and incur necessary and extraordinary costs, which are directly related to the prevention of the spread of the COVID-19 Virus and are taken in furtherance of: the Secretary of Health and Human Services' determination that a public health emergency has existed since January 27, 2020; the Governor's Proclamation of a State of Emergency for the State of California on March 4, 2020; the President of the United States' Declaration of a National Emergency on March 13, 2020; the County of San Luis Obispo Emergency Services Director's Proclamation of Local Emergency and the County Public Health Director's Declaration of a Public Health Emergency on March 13, 2020; the City Council's Proclamation of Local Emergency on March 17, 2020 and subsequent proclamations of continuing local emergency and related orders, regulations and directives of each of those parties.

**SECTION 12.** During the existence of said local emergency, the powers, functions, and duties of the Emergency Services Director and the Emergency Organization of this City shall be those prescribed by state law, ordinances, and resolutions of this City and by the City of San Luis Obispo Emergency Operations Plan, notwithstanding otherwise applicable procedures, timelines or methods of action and the Emergency Services Director is expressly authorized to take any and all actions in furtherance of emergency powers to address the local emergency.

**SECTION 13.** This resolution supersedes all prior Council Emergency Resolutions and Emergency Services Proclamations related to the COVID-19 pandemic adopted by the City Council between March 16, 2021, and the date of this resolution.

**SECTION 14. Environmental Review.** As a result of the COVID-19 public health emergency, the City of San Luis Obispo proposes to continue a temporary program to use the right-of-way, sidewalks, and streets to help create continued opportunities for social distancing during the first few phases (stages) of reopening consistent with the State's Resilience Roadmap. The actions proposed were initiated and are proposed to continue under the City's emergency and general police powers to provide for residents the health and wellness benefits of being outdoors and to support businesses and customers with enough space to safely physically distance as the State and County move toward optimal vaccination rates, monitor the emergence of variants, and monitor transmission rates into the Fall and Winter months. The proposed project is exempt from environmental review pursuant to the California Environmental Quality Act as follows:

- A. The project is statutorily exempt under State CEQA Guidelines Section 15269 (Emergency Projects), because the temporary program includes specific actions that would allow for safe physical distancing and support continued progression through the pandemic consistent with the State's Resilience Roadmap and County and State Guidelines in order to mitigate the COVID-19 public health emergency and the potential for resurgence.
- B. The project is categorically exempt under State CEQA Guidelines Section 15301 (Existing Facilities) because the actions identified in the program are limited to the permitting, leasing, and minor alteration of existing public facilities, including existing streets, sidewalks, bicycle, and pedestrian trails, which would not result in the creation of additional automobile lanes. The program would

result in a negligible expansion of existing commercial uses and a negligible expansion of the public's use of City right-of-way, as the uses included in the temporary program would not vary from the current uses of commercial businesses, residential areas, or public access within the City's right-of-way.

**SECTION 15.** A copy of this Resolution shall be posted in the kiosk outside of City Hall of the City of San Luis Obispo and on the outside doors of the City Clerk's office and personnel of the City of San Luis Obispo shall endeavor to make copies of this order and regulation available to the news media.

Upon motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and on the following roll call vote:

AYES:

NOES:

ABSENT:

The foregoing resolution was adopted this \_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Mayor Heidi Harmon

ATTEST:

\_\_\_\_\_  
Teresa Purrington  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
J. Christine Dietrick  
City Attorney

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, on \_\_\_\_\_.

\_\_\_\_\_  
Teresa Purrington  
City Clerk

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