

## RESOLUTION 2021-002

### RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS APPROVING TEMPORARY OUTDOOR PUBLIC SPACE EXPANSION AND TEMPORARY MODIFICATIONS TO SPECIFIC PROVISIONS RELATED TO BUSINESS PERMITS, PROCESSES, PROVISIONS, AND ACTIVITIES DURING THE COVID-19 PANDEMIC TO OFFER ECONOMIC RELIEF, RECOVERY, AND OPPORTUNITIES FOR COMMUNITY AND ECONOMIC VITALITY

**WHEREAS**, pursuant to the Town's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the Town Council has the authority to enact and enforce ordinances and regulations for the public peace, morals, and welfare of the Town and its residents; and

**WHEREAS**, pursuant to California Government Code Section 8680.9, a local emergency is a condition of extreme peril to persons or property proclaimed as such by the governing body of the local agency affected by a natural or manmade disaster; and

**WHEREAS**, California Government Code Section 8634 states that "During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property..."; and

**WHEREAS**, the purpose of a local emergency proclamation is to provide extraordinary powers to issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, obtain vital supplies, and require emergency services of employees; and

**WHEREAS**, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19, ("COVID-19"); and

**WHEREAS**, on January 30, 2020, the World Health Organization declared the Covid-19 outbreak a Public Health Emergency of International Concern; and

**WHEREAS**, on January 30, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency; and

**WHEREAS**, on January 31, 2020, the first case of COVID-19 was confirmed in Santa Clara County ("County"); and

ATTACHMENT 2

**WHEREAS**, on February 10, 2020, the Santa Clara County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19; and

**WHEREAS**, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 an International Pandemic; and **WHEREAS**, on March 12, 2020, the Town Manager of Los Gatos acting in the capacity of Town of Director of Emergency Services, issued a Proclamation of Local Emergency; and

**WHEREAS**, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

**WHEREAS**, on March 16, 2020, the Santa Clara County Department of Public Health directed all individuals in the County to Shelter in Place and mandated requirements, including but not limited to, social distancing, staying home if sick, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

**WHEREAS**, on March 17, 2020, the Town Council of the Town of Los Gatos ratified the Proclamation of Local Emergency; and

**WHEREAS**, the pandemic and necessary federal, state and local public health orders requiring social distancing to prevent spread of COVID- 19 have had and will continue to have devastating economic impacts on the local community, including residents, businesses, employees and Town operations; and

**WHEREAS**, the longer the emergency order is in place, the more difficult it will be for small retail and restaurant operators to return and reopen their businesses; and

**WHEREAS**, although the Town continues to be in an emergency response phase, an emergency management principle has been established that recovery planning must begin as early as possible to strengthen community resilience while shortening the economic recovery timeline; and

**WHEREAS**, some of the actions that the Town has taken during this state of emergency to support local business are: eviction protections; suspension of rent for Town owned Facilities; a website with COVID 19 and business resources; and assistance for restaurants and food retailers by allowing sales of alcohol via delivery and takeout, providing flexibility for restaurants to sell groceries, and allowing curbside pickup; and

**WHEREAS**, due to the severe economic impacts of COVID- 19 and its economic impacts on the community and the Town organization, the Council deems it necessary to take additional action to suspend enforcement of certain provisions of the Town of Los Gatos Town Code and provide temporary process streamlining measures to facilitate the retention and attraction of Los Gatos businesses during the COVID-19 pandemic, reduce economic impacts, foster recovery, encourage economic vitality, and reduce commercial vacancies; and specified below to support social distancing requirements, effective public communication related to rapidly transitioning business re-opening status, and economic viability of businesses in adhering to permitted opening and social distancing requirements; and

**WHEREAS**, the below measures are intended to provide economic relief to businesses that are experiencing economic uncertainty while complying with State and County Orders. Accordingly, the Town will facilitate a temporary “ pilot” program, which will include the development and implementation of a plan to use the right- of-way, sidewalks and streets to help maintain social distancing during the first few phases ( stages) of reopening consistent with the State’s Resilience Roadmap and continued economic support of businesses for uses such as walking space, outdoor dining, and pick- up/delivery areas. The program would provide for residents to receive the health and wellness benefits of being outdoors and support businesses with enough space to safely physically distance; and

**WHEREAS**, the program is established for the purpose of supporting and facilitating the recovery of business and economic activity in the Town by expanding the spaces available for the safe conduct of such activities for Town businesses and their customers and patrons to create more physical distance for pedestrians and business patrons to maintain physical distancing; and nothing herein is intended to nor shall be deemed to create open gathering places or public fora unrelated to the intended business support and recovery purpose; and

**WHEREAS**, Over the years, the Town’s conservative budgeting practices have resulted in healthy reserves and frequent annual budgetary surplus with a balanced Operating Budget for Fiscal Year 2020-2021 with no reductions to service, despite significant revenue and other economic impacts from sheltering-in-place. Those reserves and surpluses are now paying the Town huge dividends during the COVID 19 crisis; and

**WHEREAS**, on May 26, 2020, the Town Council reallocated \$1,900,000 in prior surpluses reserved for downtown streetscape revitalization toward COVID-19 economic stimulus recovery efforts. This is one of the single largest economic recovery packages ever proposed in the Town’s history; and

**WHEREAS**, time is of the essence to quickly implement a program to allow for safe physical distancing consistent with the State’s Resilience Roadmap and County Guidelines in order to address both public health and economic impacts of COVID- 19, as residents have been primarily indoors since the initiation of the State and County Orders, this will be a dynamic temporary program, receiving input from the Town Council, and shall be subject to administrative modification by the Town, as authorized herein, as necessary in response to emerging issues or concerns of public, health, safety or convenience; and

**NOW, THEREFORE, BE IT PROCLAIMED AND RESOLVED** by the Town Council of the Town of Los Gatos that:

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, after considering all such findings and current local circumstances the Council hereby declares the continuing existence of a local emergency related to the continued threat of COVID- 19 as it relates to public health and economic impacts; and

SECTION 2. In order to support the re-opening of restaurants and other businesses in accordance with the State Executive Order N-60-20, the Town Council hereby directs and authorizes the Town Manager to implement the following strategies that may be used independently or in combination. as outlined below:

1. As identified by the Town generally along N. Santa Cruz Avenue (south of Highway 9/Los Gatos-Saratoga Road) and Main Street, private businesses in the C-2 Zone are permitted to utilize public street parking spaces in proximity to their business for expanded dining and alcohol service, retail, or business use space to facilitate safely distanced pedestrian circulation, expanded outdoor dining and alcohol service, and customer queuing, pickup and waiting areas associated with permitted business activities and pursuant to the terms agreed upon in an Economic Recovery Agreement between the business and the Town;
2. Suspend parking requirements in private commercial lots to allow some parking spaces to be utilized for restaurant seating or business activities given sufficient parking remains available for customer use, and to allow for such to facilitate safely distanced pedestrian circulation, expanded outdoor dining and alcohol service, customer queuing, and pickup and waiting areas associated with permitted business activities and pursuant to the terms of agreed upon in an Economic Recovery agreement between the business and the Town;
3. Allow pop-up patios, parklets, and other areas to encourage and support additional ideas for outdoor space such as use of parts of the sidewalk for signage, merchandise

and queueing, where adequate sidewalk width exists consistent with disabled access requirements and public safety; and

4. Current Los Gatos businesses may relocate, expand, or open an additional business location without obtaining a new Conditional Use Permit provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit or Conditional Use Permit modification consistent with the existing Town Code;
5. The requirement for personal service businesses to obtain a Conditional Use Permit in the C-2 zone is suspended provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit consistent with the existing Town Code;
6. The requirement for up to a total of five (5) markets, bars and/or other miscellaneous commercial businesses to obtain a Conditional Use Permit in the C-2 zone is suspended provided the business enters into an Economic Recovery agreement with the Town, documenting that any change of ownership is subject to a new Conditional Use Permit consistent with the existing Town Code;
7. The cot for a new Conditional Use Permit is reduced by 50% with the Town paying the balance of the fees;
8. Alcohol consumption is permitted with meals in Town parks, temporary pop-up parks, temporary patio dining, and parklets; and
9. The expiration date for all building permits and planning entitlements shall be extended by two years.

SECTION 4. Environmental Review. As a result of the COVID- 19 public health emergency, the Town of Los Gatos proposes a temporary program to use the right- of-way, sidewalks and streets to help maintain social distancing during the first few phases ( stages) of reopening consistent with the State’ s Resilience Roadmap and provide for residents to receive the health and wellness benefits of being outdoors and support businesses with enough space to safely physically distance. The proposed project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) as followed:

- 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 consistent with the State's Resilience Roadmap and County and State Guidelines in order to mitigate the COVID- 19 public health emergency.

- 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 Town 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 Town's right-of-way.

SECTION 5. Notwithstanding any other Town policy or procedure, the Town Engineer shall be authorized to review and approve on behalf of the Town any and all design and construction necessary as part of the temporary program herein and the Town Manager shall be authorized to enter into agreements on behalf of the Town to implement the strategies herein without further action of the Town Council.

SECTION 6. Any provision of the Los Gatos Town Code or any appendix thereto inconsistent with the provisions of this Resolution, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Resolution.

SECTION 7. All current and prior emergency and public health orders as currently enacted and in effect, or as subsequently amended or modified, issued by the Governor, the State or County Public Health Official or the Town or County Emergency Services Director are expressly adopted

SECTION 8. This resolution remains in place until December 31, 2021.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 16<sup>th</sup> day of February 2021 by the following vote:

COUNCIL MEMBERS:

AYES: Mary Badame, Matthew Hudes, Rob Rennie, Maria Ristow, Mayor Marico Sayoc

NAYS: None

ABSENT: None

ABSTAIN: None

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

DATE: \_\_\_\_\_