

RESOLUTION NO. 21-29,231

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURBANK AMENDING RESOLUTION NO. 20-29,161 AUTHORIZING THE EXTENSION OF OUTDOOR DINING PROGRAM INCLUDING CONTINUED USE OF STREET PARKING FOR DINING AND PERMITS IN RESPONSE TO THE COVID-19 PANDEMIC.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. On March 4, 2020, the State of California declared a State of Emergency and the Los Angeles County Department of Public Health (LADPH) declared a Health Emergency due to the spread of COVID-19. On March 13, 2020, the City of Burbank declared a Local Emergency, which was ratified and has been extended by the City Council every sixty days since.

B. Following the March 4, 2020 declarations, the State and LADPH have issued Health Orders and guidance to implement social distancing protocols, face covering requirements, and restrictions on activities and services that render in-person contact, as well as frameworks for the safe reopening of sectors. Since March 2020, these Health Orders have been revised on numerous occasions adding to the list of prohibited and allowed activities.

C. The City of Burbank falls under the jurisdiction of LADPH, and all businesses located in the City of Burbank must comply with the Los Angeles County Health Officer Order, which is in line with California's Order. If Los Angeles County's Order differs from the State's or a City's order, businesses are required to comply with whichever Order is stricter.

D. In March 2020, the order allowed restaurants to remain open as an essential business but only for pick-up or delivery. In early summer, restaurants and other businesses could reopen for indoor customers, as well as outdoor dining for restaurants. In July, Health Orders closed restaurants for indoor dining due to a surge in COVID cases.

E. Restaurant operations must be conducted in accordance with the required Social (Physical) Distancing, reopening protocols, and other infection control protocols. "Social (Physical) Distancing" means, in part: maintaining at least six (6) feet of physical distance from individuals who are not members of the same household.

F. On July 14, 2020, City Council adopted RESOLUTION NO. 20-29,161, entitled:  
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING A TEMPORARY EXPANDED OUTDOOR RESTAURANT DINING PROGRAM WITH GUIDELINES ON PUBLIC SIDEWALKS AND EXEMPTED

FROM THE REQUIREMENTS IN RESOLUTION NO. 24,927  
AS AMENDED.

This Resolution was effective through December 31, 2020 and allowed an expansion outdoor dining on public sidewalks. On December 15, 2020, this resolution was further extended by Resolution No. 20-29, 204, which extended the program and permits through June 30, 2021.

G. On July 15, 2020, the City Manager acting as Director of Emergency Services issued a proclamation closing San Fernando Boulevard (SFB) to vehicular traffic from Angeleno Avenue to Olive Avenue; Olive Avenue to Orange Grove Avenue; Orange Grove Avenue to Magnolia Boulevard (collectively SFB Blocks). Angeleno Avenue, Olive Avenue, Orange Grove Avenue and Magnolia Boulevard remained open to vehicular traffic.

H. The same proclamation permitted restaurants or bars allowed to operate under Los Angeles County Public Health Orders (PH Orders) with frontage on SFB Blocks (collectively Restaurants) to add or expand outdoor dining by encroaching into sidewalks by seeking a permit pursuant to City Council Resolution No. 24927 and/or as amended by City Council Resolution No. 15-28734, or a newly approved temporary expanded outdoor restaurant dining program established through December 31, 2020, by City Council Resolution No. 20-29,161. Restaurants located on a corner fronting SFB Blocks may further expand along the sidewalk contiguous to the side of their restaurant building along the open block and may seek a permit for such expansion pursuant to City Council Resolution No. 20- 29,161. All guidelines and conditions under the applicable resolution shall apply to permits issued thereunder.

I. Further said proclamation allowed restaurants to expand outdoor dining by encroaching into parking stalls along SFB Blocks and seek a permit for such expansion pursuant to City Council Resolution No. 20-29, 161. All guidelines and conditions under the applicable resolution shall apply to permits issued thereunder.

J. On August 11, 2020, by Resolution No. 20-29,172 City Council confirmed the closure of SFB as outlined above and confirmed the extended outdoor dining as provided in the City Manager's July 15th proclamation. The closure of SFB was extended two more times through January 18, 2021.

K. Resolution No. 20-29,172 also delegated to the City Manager, or designee, the authority to temporarily close streets under CA Vehicle Code Section 21101.

L. In November 2020, because of the increases in new COVID-19 cases, further State and County health orders have been issued. Beginning on November 25, 2020 in-person and outdoor dining at restaurants, breweries, wineries, and bars was prohibited, but the same could remain open for take-out, delivery, and drive-thru services.

M. Based on the health orders, the Public Works Director suspended outdoor dining permits until the prohibition on outdoor dining was lifted.

N. Starting on December 7, 2020, a more restrictive stay at home order went into effect and most personal service businesses were ordered closed. Retail businesses including businesses deemed essential like grocery stores were reduced to 20% capacity. These new restrictions including the prohibition on outdoor dining may only be lifted after three weeks and then only when certain metrics are met.

O. On December 14, 2020, based on the restrictive State and County December Health Orders, the City Manager reopened SFB to facilitate take out delivery from restaurants and increase parking for retail establishments.

P. On January 29, 2021, out-door dining was resumed in Los Angeles County and in mid-March Los Angeles County in-door dining resumed at 25% capacity. As of April 5, 2021, restaurants in Los Angeles County in-door dining is allowed at 50% capacity.

Q. Once out-door dining was reopened in January 2021, the Public Works Director allowed the expanded outdoor dining program to resume. Even though SFB remained opened, restaurants could expand into parking spaces along SFB along the original SFB blocks with approval from Public Works. To facilitate dining in parking spaces, barriers were place between the parking stalls and traffic lanes.

R. Nationally, since imposition of stay at home orders, 80% of the businesses nationwide sought some type of financial assistance. A Chamber of Commerce survey conducted this summer showed approximately 70% of Burbank businesses responding sought some type of financial assistance from federal and state programs.

S. The devastating economic impacts of the Safer at Home Orders in effect since March 19, 2020, are still being felt. A recent report found Los Angeles County lost 437,000 jobs in 2020, will have 354,000 fewer living wage jobs in 2021 compared to the pre-pandemic economy, and that 738,672 living wage jobs need to be created for the entire Los Angeles County workforce to achieve a satisfactory standard of living.<sup>1</sup> Also, the report found 62% of businesses in Los Angeles County have less than two months cash on hand. And an estimated 15,000+ businesses have already permanently closed because of the pandemic, with tens of thousands of businesses at risk of permanent closure.

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<sup>1</sup> Los Angeles County Department of Workforce Development, Aging and Community Services (WDACS) commissioned a report entitled "*Pathways for Economic Resiliency: Los Angeles County 2021-2026*" with a shorter executive summary. See: <https://wdacs.lacounty.gov/la-county-wdacs-releases-report-on-covid-19-impact-on-local-economy-recommendations-to-strengthen-data-driven-economic-recovery-efforts/>

T. Between February 2020 and October 2020 restaurant occupations suffered the most, with waiters and waitresses losing over 25,000 jobs and restaurant cooks over 13,000, while fast food and counter workers declined in employment by close to 5,000. In 2022, most occupations are still forecasted to be at an employment level below the beginning of 2020 including restaurant occupations. The hospitality industry, primarily the sectors of accommodation and food services, has been one of the hardest hit industries by the pandemic in Los Angeles County.<sup>2</sup>

U. Based on economic indicators, the longer the emergency orders are in place, the more difficult it will be for restaurants and other businesses to successfully reopen for the long term. Once allowed to reopen, allowing restaurants to operate outdoors in expanded dining areas in the public right-of-way will facilitate their continued operation and survival while protecting the public health.

V. During this State of Emergency, the City must consider the welfare of its businesses while protecting the health and welfare of its citizens. The use of public parking spaces on three blocks of San Fernando Boulevard to create an economic recovery zone for restaurants is a permissible purpose.

W. Although emergency authorization for vaccine(s), have been approved it will take months for the vaccine(s) to be widely distributed. As such, the pandemic will be a factor for at least another few months. Even if California's economy reopens fully in June, it still will take months for businesses and restaurants to recovery.

X. The continued partial closure of SFB parking stalls and extending permits for outdoor dining is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (Class 3: New Construction or Conversion of Small Structures) permitting location of limited numbers of new, small facilities or structures where only minor modifications are made in the exterior of the structures, Section 15305 (Class 5: Minor Alterations to Land Use Limitations) permitting issuance of minor encroachment permits, as well as Section 15301 (Class 1: Existing Facilities) permitting minor alterations to existing facilities involving negligible expansion of existing use. The County Public Health Officer's limitations on operating capacity, physical distance limitations, and the temporary nature of this authorization to close SFB Blocks and allow restaurants to operate in public rights-of-way ensure negligible or no expansion of existing restaurant uses.

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<sup>2</sup> PATHWAYS FOR ECONOMIC RESILIENCY: Los Angeles County 2021 - 2026  
INSTITUTE FOR APPLIED ECONOMICS; December 2020. This report was commissioned by the Los Angeles County Department of Workforce Development, Aging and Community Services (WDACS). © 2020 Los Angeles County Economic Development Corporation.

THE CITY COUNCIL OF THE CITY OF BURBANK RESOLVES:

1. Resolution No. 20-29,161 is amended to allow dining in parking spaces along the SFB blocks and or said streets. Further this expanded outdoor dining on public sidewalks, parking spaces and streets is extended through 11:59 p.m. on December 31, 2021, unless terminated sooner or extended by the City Council or terminated sooner by action of the City Manager, acting as the Director of Emergency Services, or in terminating the emergency associated with the COVID-19 pandemic.

2. The City Manager may reopen and reclose the SFB blocks pursuant to his authority under CA Vehicle Code Section 21101. In no event, however, will SFB blocks remain closed beyond the termination of the emergency associated with the COVID-19 pandemic without further action of the City Council.

3. Any outdoor dining permits issued by the Public Works Director, which were due to expire on December 31, 2020 or on January 18, 2021 are automatically extended until 11:59 p.m. on December 31, 2021 unless terminated sooner or extended by the City Council, or terminated sooner by action of the Public Works Director based on public health orders, and/or the continuing need for the expanded outdoor dining programs, and/or the reopening of SFB blocks. The Public Works Director may waive any fee associated with extending any of said permits and such waiver is for the purpose of assisting the economic recovery of local restaurants.

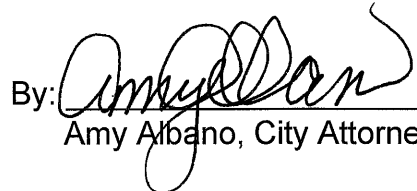
4. Resolution No. 20-29,161 is further amended to authorize the Public Works Director to impose additional conditions on any permits the Director deems reasonable for public welfare and safety. The Public Works Director after consultation with and approval of the Fire Marshall may approve use of outdoor lighting, canopies and/or heaters for outdoor dining.

PASSED and ADOPTED this 27th day of April 2021.




Bob Frutos, Mayor

Approved as to Form:  
Office of the City Attorney



By: Amy Albano, City Attorney

Attest:

  
Zizette Mullins, MMC, City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF BURBANK                )

I, Zizette Mullins, MMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by a majority vote of the Council of the City of Burbank at its regular meeting held on the 27th day of April 2021, by the following vote:

AYES:           Anthony, Schultz, Springer, Talamantes and Frutos.

NOES:           None.

ABSENT:        None.

  
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Zizette Mullins, MMC, City Clerk