

REPORT TO CITY COUNCIL

DATE: JUNE 4, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

**BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER
RAMIRO ADEVA, COMMUNITY DEVELOPMENT DIRECTOR**

SUBJECT: ADOPTION OF URGENCY ORDINANCE NO. 20-450U, OF THE CITY OF AGOURA HILLS, CALIFORNIA, CREATING A TEMPORARY OUTDOOR DINING PERMIT PROGRAM FOR RESTAURANTS

In order to help facilitate business recovery while maintaining physical distancing guidelines during the COVID-19 public health emergency, the staff requests the City Council adopt an Urgency Ordinance, creating a temporary outdoor dining permit program for restaurants.

On May 12, 2020, Governor Newsom released guidelines for the safe reopening of dine-in restaurants statewide, in preparation for when restaurants would be allowed to provide such service. The guidelines pertain to dine-in restaurants, brewpubs, breweries, bars, pubs, craft distilleries, and wineries that provide sit-down meals.

The State guidelines indicate that restaurants should continue to encourage takeout and delivery service whenever possible; however, where dine-in service is allowed, outdoor seating should be made available to minimize cross-flow of customers in enclosed environments. The Los Angeles County Health Officer is currently allowing 60 percent occupancy for restaurants in Los Angeles County, including Agoura Hills.

To assist in the reopening of restaurants for dine-in service and to comply with physical distancing guidelines, staff is recommending the City Council allow for the creation of a temporary outdoor dining permit program for restaurants. The proposed Urgency Ordinance includes the following proposed provisions:

- Restaurants may temporarily provide or expand outdoor dining seating on private outdoor property, such as parking lots, in addition to the outdoor dining spaces currently permitted for restaurants under the Agoura Hills Municipal Code or an applicable conditional use permit, subject to the terms and conditions of a Temporary Outdoor Dining Permit.
- The City Manager or his designee is authorized to create a Temporary Outdoor Dining Permit application, to review applications for such a Temporary Outdoor

Dining Permit, and to issue such Temporary Outdoor Dining Permits with any necessary conditions of approval.

- A Temporary Outdoor Dining Permit will authorize the revocable, and limited, temporary use of outdoor dining seating for restaurants, as specified in the Temporary Outdoor Dining Permit, subject to compliance with operational and safety provisions provided by the City Manager or his designee, applicable State and County health orders, applicable regulations of the Department of Alcohol and Beverage Control, and in compliance with the Americans with Disability Act and any other applicable laws or regulations.
- Provided the requirements of this ordinance and any related conditions are met, the applicant for a Temporary Outdoor Dining Permit shall not be subject to minimum parking requirements specified in the Agoura Hills Municipal Code or in a previously granted entitlement, for the duration of the term of the Temporary Outdoor Dining Permit, which shall be reasonably related to the requirements of State, County, or local social distancing requirements and the economic impacts of COVID-19, due to parking spaces lost as a result of temporarily authorized expansion in outdoor dining areas.
- If the applicant intends to use a shared private parking lot for expanded outdoor dining seating, then the applicant must obtain written consent from the owner of the parking lot or area to be used for outdoor seating, and such written consent shall be provided upon submission of the Temporary Outdoor Dining Permit application.
- No fee shall be imposed for a Temporary Outdoor Dining Permit application.

If adopted by a required four-fifths (4/5) vote of the City Council, the Ordinance would take effect immediately, and remain in effect until repealed by the City Council. Staff recommends all temporary outdoor dining permits issued after the effective date of this ordinance have an expiration date of September 30, 2020, unless extended thereafter. Staff is prepared to review permit applications immediately and expeditiously.

RECOMMENDATION

Staff respectfully recommends the City Council adopt Urgency Ordinance No. 20-450U, creating a temporary outdoor dining permit program for restaurants.

Attachment: Urgency Ordinance No. 20-450U

URGENCY ORDINANCE NO. 20-450U

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS CREATING A TEMPORARY OUTDOOR DINING PERMIT PROGRAM FOR RESTAURANTS

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS
FOLLOWS:

SECTION 1. Urgency Findings. The City Council finds as follows:

- A. The City Council has found that the spread of the novel coronavirus (COVID-19), an infectious disease that causes respiratory illness, globally and within Los Angeles County, could potentially endanger the public health and safety of the residents of Agoura Hills and Los Angeles County, requiring the City to take actions to slow the spread of the disease and protect the health of the public.
- B. On March 4, 2020, a State of Emergency was proclaimed by Governor Newsom.
- C. On March 6, 2020, the County of Los Angeles Board of Supervisors and the Department of Public Health declared a local and public health emergency in response to increased spread of coronavirus across the country.
- D. On March 12, 2020, Governor Newsom issued Executive Order No. N-25-20 with orders including that all residents are to heed any orders and guidance of State and local public health officials.
- E. On March 16, 2020, the Los Angeles County Public Health Officer issued an Order for the Control of COVID-19, which imposed a temporary prohibition of group events and gatherings where at least 50 people are expected to be in attendance, required social distancing measures, ordered all restaurants to limit their services to only preparing and offering food provided to customers via delivery service, pick-up for takeout dining, and via drive-thru; and required all bars (that do not serve food), gyms, and live or movie theaters to be closed.
- F. On March 16, 2020, City Manager Greg Ramirez, acting in his capacity as the City of Agoura Hills Director of Emergency Services, proclaimed the existence of a local emergency in response to the COVID-19 pandemic.
- G. On March 17, 2020, the City Council ratified the Director of Emergency Services' proclamation of the existence of a local emergency.
- H. On March 19, 2020, the Governor issued Executive Order N-33-20, ordering all individuals in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of 16 critical infrastructure sectors.

- I. On March 19, 2020, the California Department of Alcoholic Beverage Control (ABC) suspended enforcement of specific legal prohibitions to assist California's alcoholic beverage industry during the COVID-19 pandemic and released a Notice of Regulatory Relief to help licensees with economic challenges brought on by the spread of the virus.
- J. On March 19, 2020, the Los Angeles County Public Health Officer issued "Safer at Home Order for Control of COVID-19" ordering temporary prohibition of events and gatherings of 10 persons or more and closure of non-essential businesses and areas.
- K. On May 12, 2020, Governor Newsom issued guidance for the eventual reopening of restaurants for dine-in services in counties certified as meeting state benchmarks for addressing the COVID-19 pandemic.
- L. On May 15, 2020, ABC released the Fourth Notice of Regulatory Relief allowing for relaxing the ABC regulation for serving alcoholic beverages on outdoor dining areas associated with an existing restaurant.
- M. On May 29, 2020, the State of California approved the County of Los Angeles's request for a variance to State guidelines because the County of Los Angeles met the necessary public health thresholds to safely allow critical sectors of the economy and community to begin serving residents.
- N. Despite the ability of businesses to gradually re-open in accordance with State and local health requirements, restaurants are limited in their capacity to provide services in their existing facilities due to existing and anticipated social distancing requirements.
- O. The City Council desires to help facilitate business recovery while maintaining compliance with social distancing guidelines during the COVID-19 public health emergency by waiving Temporary Outdoor Dining Permit fees and allowing adjusted parking standards for temporary outdoor dining areas.
- P. Based upon the findings above, the City Council finds that there is a current and immediate need to allow restaurants to use certain outdoor spaces in order to prevent additional harm to restaurants in the City and to allow the public to patronize Agoura Hills restaurants while complying with social distance requirements, in order to mitigate the threat to and preserve the public health, safety and welfare presented by COVID-19.
- Q. Based upon the findings above, the City Council finds that this urgency ordinance is necessary for the immediate preservation of the public health, safety, and welfare. The City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect immediately upon adoption. As described above, restaurants in Agoura Hills are facing unprecedented hardships related to COVID-19 and the shelter-in-place orders.

This ordinance needs to become effective immediately in order to allow the City to permit restaurants to expand into private parking lots and areas immediately adjacent to said restaurants. Therefore, this ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

SECTION 2. Temporary Outdoor Dining Permit in Private Parking Lots and Areas.

A. Notwithstanding the provisions of Sections 9395 and 9395.1 of the Agoura Hills Municipal Code, restaurants may temporarily provide or expand outdoor dining seating on private outdoor property, such as parking lots, in addition to the outdoor dining spaces currently permitted for restaurants under the Agoura Hills Municipal Code or an applicable conditional use permit, subject to the terms and conditions of a Temporary Outdoor Dining Permit and this ordinance. The City Council authorizes the City Manager or his designee to create a Temporary Outdoor Dining Permit application, to review applications for such a Temporary Outdoor Dining Permit, and to issue such Temporary Outdoor Dining Permits with any necessary conditions of approval. Restaurant owners or their authorized representative may apply to the City for a revocable Temporary Outdoor Dining Permit.

B. A Temporary Outdoor Dining Permit shall authorize the revocable and limited, temporary use of outdoor dining seating for restaurants, as specified in the Temporary Outdoor Dining Permit, subject to compliance with operational and safety provisions provided by the City Manager or his designee, applicable State and County health orders, applicable regulations of the Department of Alcohol and Beverage Control, and in compliance with the Americans with Disability Act and any other applicable laws or regulations.

C. Provided the requirements of this ordinance and any related conditions are met, the applicant for a Temporary Outdoor Dining Permit shall not be subject to minimum parking requirements specified in the Agoura Hills Municipal Code or in a previously granted entitlement, for the duration of the term of the Temporary Outdoor Dining Permit, which shall be reasonably related to the requirements of State, County, or local social distancing requirements and the economic impacts of COVID-19, due to parking spaces lost as a result of temporarily authorized expansion in outdoor dining areas.

D. If the applicant intends to use a shared private parking lot for expanded outdoor dining seating, then the applicant must obtain written consent from the owner of the parking lot or area to be used for outdoor seating, and such written consent shall be provided upon submission of the Temporary Outdoor Dining Permit application.

SECTION 3. No Temporary Outdoor Dining Permit Fee. The City Council hereby orders that during the local state of emergency in the City of Agoura Hills due to COVID-19, there shall be no fee imposed for a Temporary Outdoor Dining Permit issued pursuant to this ordinance.

SECTION 4. CEQA. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance, and the prohibitions established hereby, may have a significant effect on the environment, because the ordinance only provides for temporary uses of already developed open space. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations. The City Council hereby further finds that the uses authorized by this ordinance are minor public or private alterations in the condition of land which do not involve removal of healthy, mature, scenic trees. Therefore, the ordinance is exempt from California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15304(e) of the California Code of Regulations.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. Savings Clause. Neither the adoption of this ordinance nor the repeal or amendment by this ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this ordinance, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinances.

SECTION 7. Effective Date. This urgency ordinance shall go into effect immediately upon adoption and shall remain in effect until repealed by the City Council. A summary of this ordinance shall, within fifteen (15) days after passage, be published in accordance with California Government Code Section 36933 with the names of the City Councilmembers voting for and against it.

PASSED, APPROVED, AND ADOPTED this 4th day of June, 2020, by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney