

REPORT TO CITY COUNCIL

DATE: SEPTEMBER 9, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: RAMIRO ADEVA, ASSISTANT CITY MANAGER

SUBJECT: ADOPTION OF RESOLUTION NO. 20-1956; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, RATIFYING AND CONFIRMING THE DIRECTOR OF EMERGENCY SERVICES' EXECUTIVE ORDER NO. 2020-04, AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF AGOURA HILLS AUTHORIZING DESIGNATED NON-COMMERCIAL ESTABLISHMENTS TO CONDUCT TEMPORARY OUTDOOR OPERATIONS WITH ISSUANCE OF A TEMPORARY OUTDOOR NON-COMMERCIAL EXPANSION PERMIT

Since the Federal Center for Disease Control and Prevention confirmed the first possible case of community spread of a novel coronavirus (a disease now known as COVID-19) in the United States on February 26, 2020, there has been a significant escalation of United States domestic cases and deaths from COVID-19.

In June and July 2020, the County of Los Angeles Department of Public Health released Reopening Protocols for outdoor operations for such non-commercial establishments such as places of worship, museums, galleries, and zoos. These Designated Non-Commercial Establishments must follow the County of Los Angeles Department of Public Health's Reopening Protocols applicable to their respective uses.

As the City of Agoura Hills seeks to be responsive to allow non-commercial establishments, to reopen in light of the County's orders with temporary additional space to accommodate physical distancing requirements and guidelines, the prolonged operational restrictions on these Designated Non-Commercial Establishments in the City of Agoura Hills threatens the ability of such establishments to survive and deprives residents and visitors of local options within the City. It is important to provide such establishments a degree of flexibility to operate with temporary additional space to meet social distancing guidelines so that patrons can visit such establishments in a safe manner.

Accordingly, in the interest of public health and safety as affected by the emergency caused by the spread of COVID-19, and pursuant to Agoura Hills Municipal Code Section 3605 which designates the City Manager to be the Director of Emergency Services, on August 25, 2020, the Director ordered, adopted, and issued City of Agoura Hills Executive

Order No. 2020-04, authorizing designated non-commercial establishments to conduct temporary outdoor operations with issuance of a temporary outdoor non-commercial expansion permit, consistent with County of Los Angeles Department of Health Reopening Protocols.

Staff requests the City Council find that the Director's Executive Order to be necessary for continued protection of life and property affected by the COVID-19 crisis. Municipal Code Section 3605(a)(7)a requires that such rules and regulations issued by the Director are to be ratified and confirmed at the earliest practicable time by the City Council.

RECOMMENDATION

Staff respectfully recommends the City Council adopt Resolution No. 20-1956, ratifying the Director of Emergency Services' Executive Order No. 2020-04, authorizing designated non-commercial establishments to conduct temporary outdoor operations with issuance of a Temporary Outdoor Non-Commercial Expansion Permit, consistent with County of Los Angeles Department of Health Reopening Protocols.

Attachments: Resolution No. 20-1956
Director of Emergency Services' Executive Order No. 2020-04 (Resolution Exhibit 'A')

RESOLUTION NO. 20-1956

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, RATIFYING AND CONFIRMING THE DIRECTOR OF EMERGENCY SERVICES' EXECUTIVE ORDER NO. 2020-04, AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF AGOURA HILLS AUTHORIZING DESIGNATED NON-COMMERCIAL ESTABLISHMENTS TO CONDUCT TEMPORARY OUTDOOR OPERATIONS WITH ISSUANCE OF A TEMPORARY OUTDOOR NON-COMMERCIAL EXPANSION PERMIT

WHEREAS, in December 2019, an outbreak of respiratory illness, due to a novel coronavirus (a disease now known as COVID-19), was first identified in December 2019 and has spread globally, impacting more than 75 countries, including the United States; and

WHEREAS, since the Center for Disease Control and Prevention ("CDC") confirmed the first possible case of community spread of COVID-19 in the United States on February 26, 2020, there has been a significant escalation of United States domestic cases and deaths from 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 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government will make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, Agoura Hills Municipal Code ("Municipal Code") Section 3605 designates the City Manager to be the Director of Emergency Services; and

WHEREAS, on March 16, 2020, the Director of Emergency Services proclaimed the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, on March 17, 2020, the City Council ratified the emergency proclamation issued by the Director of Emergency Services; and

WHEREAS, on March 19, 2020, the Los Angeles County Public Health Officer issued a countywide order, the "Safer at Home" Emergency Order, which was further clarified on March 21, 2020. This public health order prohibited all public and private group gatherings and events and required people to stay in their homes with limited exceptions; and required closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters, and all similar gathering places. The

purpose of the order was to further restrict, and limit gathering of persons and require closures of non-essential retail businesses in an effort to slow the spread of the virus; and

WHEREAS, on March 19, 2020, the Governor, also issued Executive Order N-33-20, (commonly known as Safer at Home Emergency Order) an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors; and

WHEREAS, on April 28, 2020, the Governor announced a four-stage framework titled "Resilience Roadmap" for modifying the statewide Safer at Home Emergency Order to gradually permit the phased reopening of the State; and

WHEREAS, on May 4, 2020, the Governor issued Executive Order No. 60-20, to modify its state-wide Safer at Home Emergency Order and allow the state to move into Stage 2 of the reopening process to permit certain low risk establishments and open spaces to open with modifications. Executive Order No. 60-20, also directs the State Public Health Officer to establish criteria and procedures, as set forth in the order to determine how local jurisdictions may implement public health measures that depart from state-wide directives of the State Public Health Officer; and

WHEREAS, on May 26, 2020, the County of Los Angeles issued a Revised Health Officer Order entitled "Reopening Safer at Work and in the Community for Control of COVID-19: Moving the County of Los Angeles Through Stage 2 of California's Pandemic Resilience Roadmap", along with protocols for various types of establishments, which continues to relax restrictions during the recovery period from the COVID-19 pandemic and to align the County of Los Angeles with State Executive Orders and State Health Officer Orders that support the phased reopening of the California Pandemic Resilience Roadmap; and

WHEREAS, in June and July 2020, the County of Los Angeles Department of Public Health released Reopening Protocols for outdoor operations for such non-commercial establishments such as places of worship, museums, galleries, and zoos. These Designated Non-Commercial Establishments must follow the County of Los Angeles Department of Public Health's Reopening Protocols applicable to their respective uses; and

WHEREAS, private sidewalks and private parking lots adjacent to such Designated Non-Commercial Establishments offer a relatively safe space to provide outdoor services and those outdoor spaces are currently at reduced capacity due to the COVID-19 pandemic; and

WHEREAS, the prolonged operational restrictions on these Designated Non-Commercial Establishments in the City of Agoura Hills threatens the ability of such establishments to survive and deprives residents and visitors of local options within the City. It is important to provide such establishments a degree of flexibility to operate with

temporary additional space to meet social distancing guidelines so that patrons can visit such establishments in a safe manner; and

WHEREAS, it is essential to protect members of the public from avoidable risk of serious illness and death resulting from the spread of COVID-19 and protect the healthcare system from a surge of cases into its emergency rooms and hospitals, during this emergency; and

WHEREAS, pursuant to Government Code Section 8634 and Agoura Hills Municipal Code Section 3605(a)(7)a, the Director of Emergency Services for the City of Agoura Hills has the authority to make and issue rules and regulations related to the protection of life and property as affected by the COVID-19 pandemic; and

WHEREAS, in the interest of public health and safety as affected by the emergency caused by the spread of COVID-19, and pursuant to Agoura Hills Municipal Code Section 3605, on August 25, 2020, the Director ordered, adopted, and issued City of Agoura Hills Executive Order No. 2020-04, authorizing designated non-commercial establishments to conduct temporary outdoor operations with issuance of a temporary outdoor non-commercial expansion permit, consistent with County of Los Angeles Department of Health Reopening Protocols; and

WHEREAS, the City Council does hereby find that the Director's Executive Order is necessary for continued protection of life and property affected by the COVID-19 crisis; and

WHEREAS, Agoura Hills Municipal Code Section 3605(a)(7)a requires that such rules and regulations issued by the Director are to be ratified and confirmed at the earliest practicable time by the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES HEREBY DOES RESOLVE AS FOLLOWS:

Section 1. Ratification and Confirmation of Director's Executive Order No. 2020-04. The City Council of the City of Agoura Hills hereby ratifies and confirms the Director of Emergency Services' Executive Order No. 2020-04, "An Executive Order of the Director of Emergency Services of the City of Agoura Hills Authorizing Designated Non-Commercial Establishments to Conduct Temporary Outdoor Operations with Issuance of a Temporary Outdoor Non-Commercial Expansion Permit, Consistent with County of Los Angeles Department of Health Reopening Protocols", attached hereto as **Exhibit "A"**, pursuant to Agoura Hills Municipal Code Section 3605(a)(7)a.

PASSED, APPROVED, AND ADOPTED, this 9th day of September, 2020, by the following vote to wit:

AYES ()
NOES ()
ABSENT ()
ABSTAIN ()

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

EXHIBIT "A"

**CITY OF AGOURA HILLS EXECUTIVE ORDER NO. 2020-04,
DATED AUGUST 25, 2020**

**AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES
OF THE CITY OF AGOURA HILLS AUTHORIZING DESIGNATED NON-
COMMERCIAL ESTABLISHMENTS TO CONDUCT TEMPORARY OUTDOOR
OPERATIONS WITH ISSUANCE OF A TEMPORARY OUTDOOR NON-
COMMERCIAL EXPANSION PERMIT, CONSISTENT WITH COUNTY OF LOS
ANGELES DEPARTMENT OF HEALTH REOPENING PROTOCOLS**

(ATTACHED)

August 25, 2020

CITY OF AGOURA HILLS EXECUTIVE ORDER NO. 2020-04

AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF AGOURA HILLS AUTHORIZING DESIGNATED NON-COMMERCIAL ESTABLISHMENTS TO CONDUCT TEMPORARY OUTDOOR OPERATIONS WITH ISSUANCE OF A TEMPORARY OUTDOOR NON-COMMERCIAL EXPANSION PERMIT, CONSISTENT WITH COUNTY OF LOS ANGELES DEPARTMENT OF HEALTH REOPENING PROTOCOLS

WHEREAS, in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in December 2019 and has spread globally, impacting more than 75 countries, including the United States; and

WHEREAS, since the Center for Disease Control and Prevention (“CDC”) confirmed the first possible case of community spread of COVID-19 in the United States on February 26, 2020, there has been a significant escalation of United States domestic cases and deaths from 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 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government will make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, Agoura Hills Municipal Code (“Municipal Code”) Section 3605 designates the City Manager to be the Director of Emergency Services; and

WHEREAS, on March 16, 2020, the Director of Emergency Services proclaimed the existence of a local emergency in response to the COVID-19 pandemic; and

WHEREAS, on March 17, 2020, the City Council ratified the emergency proclamation issued by the Director of Emergency Services; and

WHEREAS, on March 19, 2020 the Los Angeles County Public Health Officer issued a countywide order, the “Safer at Home” Order, which was further clarified on March 21, 2020. This public health order prohibited all public and private group gatherings and events and required people to stay in their homes with limited exceptions; and required closure of all non-essential retail businesses, shopping centers, playgrounds for

children, bars, nightclubs, movie theaters and all similar gathering places. The purpose of the order was to further restrict, and limit gathering of persons and require closures of non-essential retail businesses in an effort to slow the spread of the virus; and

WHEREAS, on March 19, 2020, the Governor, also issued Executive Order N-33-20, (commonly known as the Safer at Home Order) an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors; and

WHEREAS, on April 28, 2020, the Governor announced a four-stage framework titled "Resilience Roadmap" for modifying the statewide Safer at Home Order to gradually permit the phased reopening of the State; and

WHEREAS, on May 4, 2020, the Governor issued Executive Order N- 60-20, to modify its state-wide Safer at Home order and allow the state to move into Stage 2 of the reopening process to permit certain low risk establishments and open spaces to open with modifications. Executive Order N-60-20, also directs the State Public Health Officer to establish criteria and procedures, as set forth in the order to determine how local jurisdictions may implement public health measures that depart from state-wide directives of the State Public Health Officer; and

WHEREAS, on May 26, 2020 the County of Los Angeles issued a Revised Health Officer Order entitled "Reopening Safer at Work and in the Community for Control of COVID-19: Moving the County of Los Angeles Through Stage 2 of California's Pandemic Resilience Roadmap", along with protocols for various types of establishments, which continues to relax restrictions during the recovery period from the COVID-19 pandemic and to align the County of Los Angeles with State Executive Orders and State Health Officer Orders that support the phased reopening of the California Pandemic Resilience Roadmap.

WHEREAS, in June and July 2020, the County of Los Angeles Department of Public Health released Reopening Protocols for outdoor operations for such non-commercial establishments such as places of worship, museums, galleries and zoos. These Designated Non-Commercial Establishments must follow the County of Los Angeles Department of Public Health's Reopening Protocols applicable to their respective uses; and

WHEREAS, the City of Agoura Hills desires to help facilitate those Designated Non-Commercial Establishments that are expressly authorized by the County of Los Angeles Department of Public Health Reopening Protocols to provide outdoor services; and

WHEREAS, private sidewalks and private parking lots adjacent to such Designated Non-Commercial Establishments offer a relatively safe space to provide

outdoor services and those outdoor spaces are currently at reduced capacity due to the COVID-19 pandemic; and

WHEREAS, the prolonged operational restrictions on these Designated Non-Commercial Establishments in the City of Agoura Hills threatens the ability of such establishments to survive and deprives residents and visitors of local options within the City. It is important to provide such establishments a degree of flexibility to operate with temporary additional space to meet social distancing guidelines so that patrons can visit such establishments in a safe manner; and

WHEREAS, it is essential to protect members of the public from avoidable risk of serious illness and death resulting from the spread of COVID-19 and protect the healthcare system from a surge of cases into its emergency rooms and hospitals, during this emergency; and

WHEREAS, in the interest of public health, and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the Director of Emergency Services to exercise his authority to issue these regulations; and

WHEREAS, pursuant to Government Code Section 8634 and Municipal Code Section 3605(a)(7)a., the Director of Emergency Services for the City of Agoura Hills has the authority to make and issue rules and regulations related to the protection of life and property as affected by the COVID-19 pandemic.

NOW, THEREFORE, THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF AGOURA HILLS DOES HEREBY ORDER AS FOLLOWS:

SECTION 1. Temporary Outdoor Non-Commercial Expansion Permit in Private Outdoor Areas.

A. Only those non-commercial establishments (e.g., places of worship, museums, and galleries) (collectively referred to as "Designated Non-Commercial Establishments") expressly authorized by the County of Los Angeles Department of Public Health to provide outdoor services, as set forth in applicable County of Los Angeles Department of Public Health reopening protocols, may temporarily provide their services outside within the private parking lot, private sidewalk, and/or other private outdoor space (collectively referred to as "Private Outdoor Area") located immediately adjacent to the building in which the Designated Non-Commercial Establishment is already located, subject to the terms and conditions of a valid Temporary Outdoor Non-Commercial Expansion Permit (also referred to as "TONCEP") issued by the City, any related conditions of approval and this Executive Order.

B. The Director of Emergency Services/City Manager hereby authorizes the Community Development Director or his designee to create a Temporary Outdoor Non-Commercial Expansion Permit application with minimum standards and conditions, to review applications for such a Temporary Outdoor Non-Commercial Expansion Permit, and to issue such Temporary Outdoor Non-Commercial Expansion Permits with any necessary conditions of approval. Only Designated Non-Commercial Establishments are

eligible for and may apply to the City for a revocable, limited Temporary Outdoor Non-Commercial Expansion Permit.

C. Temporary Outdoor Non-Commercial Expansion Permits shall authorize the revocable, limited, and temporary outdoor non-commercial expansion of only Designated Non-Commercial Establishments in Private Outdoor Areas, as specified in the Temporary Outdoor Non-Commercial Expansion Permit, subject to compliance with operational and safety provisions provided by the City Manager or his designee, applicable State and County health orders, and in compliance with the Americans with Disability Act and any other applicable laws or regulations.

D. Provided the requirements of this Executive Order and any related conditions are met, the applicant for a Temporary Outdoor Non-Commercial Expansion 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 Non-Commercial Expansion 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 Private Outdoor Areas.

E. If the applicant intends to use a shared Private Outdoor Area for the outdoor expansion of its Designated Non-Commercial Establishment, then the applicant must obtain written consent from the owner of the shared Private Outdoor Area to be used for outdoor expansion of the Designated Non-Commercial Establishment, and such written consent shall be provided upon submission of the Temporary Outdoor Non-Commercial Expansion Permit application.

F. All provisions of the Agoura Hills Zoning Code that would preclude the Community Development Director or his designee from allowing a Designated Non-Commercial Establishment from providing outdoor service in accordance with a duly issued Temporary Outdoor Non-Commercial Expansion Permit are hereby suspended for the period of time that such Temporary Outdoor Non-Commercial Expansion Permit remains in effect.

G. All Temporary Outdoor Non-Commercial Expansion Permits shall automatically expire on September 30, 2020, or when this Executive Order expires pursuant to Section 4 of this Executive Order, whichever date is sooner. Upon expiration of a Temporary Outdoor Non-Commercial Expansion Permit, an applicant may apply for a new Temporary Outdoor Non-Commercial Expansion Permit so long as this Executive Order remains in effect.

H. 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 Non-Commercial Expansion Permit issued pursuant to this Executive Order.

SECTION 2. No Rights or Entitlements. Nothing in this Executive Order shall be considered an entitlement or a permit for outdoor use or outdoor expansion of a permitted

use or to confer any vested rights or property interest to any ongoing or continuing activities beyond the term of this Executive Order.

SECTION 3. Violations. Any person who violates any provisions of this Executive Order is subject to citation and/or abatement pursuant to any relevant provision of law, and this Executive Order shall be enforceable as set forth in Government Code Section 8665 and Section 3609 of the Agoura Hills Municipal Code.

SECTION 4. Term. This Executive Order shall remain in effect until the local emergency declared in response to COVID-19 within the City is concluded, or until any applicable Los Angeles County Department of Public Health order is issued either prohibiting outdoor uses or allowing Designated Non-Commercial Establishments to operate at 100% occupancy, whichever date is soonest. This Executive Order may also be revised, extended, superseded or rescinded during the period of local emergency by a duly enacted resolution or ordinance of the City Council or by a further Order by the Director of Emergency Services.

SECTION 5. Amendments. The Director of Emergency Services shall continue to monitor the Orders of Federal, State and local authorities and shall amend, extend or modify this Executive Order or issue additional Executive Orders as necessary or advisable.

SECTION 6. Effective Date. This Executive Order shall be effective immediately as of the date of this Executive Order.

SECTION 7. Severability. The Director of Emergency Services declares that, should any section, subsection, subdivision, sentence, clause, phrase, or portion of this Executive Order for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Executive Order. The Director of Emergency Services hereby declares that he would have adopted this Executive Order and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 8. Notice of Executive Order. The Director of Emergency Services hereby directs City staff to cause this Executive Order to be disseminated to the public and be given widespread publicity and notice.

ORDERED, ADOPTED and ISSUED this 25th day of August, 2020.



Nathan Hamburger
Director of Emergency Services/City Manager