

## REPORT TO CITY COUNCIL

**DATE:** FEBRUARY 8, 2023

**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. 23-2030 OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, RATIFYING AND CONFIRMING THE DIRECTOR OF EMERGENCY SERVICES' EXECUTIVE ORDER NO. 2023-01, AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF AGOURA HILLS EXTENDING EXECUTIVE ORDER NO. 2021-02 REGARDING TEMPORARY CONTINUANCE OF THE TEMPORARY OUTDOOR OPERATIONS PERMIT (TOOP) PROGRAM FOR DESIGNATED ESTABLISHMENTS

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On January 31, 2023, all temporary outdoor operations permits (TOOP) issued by the City for outdoor dining, as well as outdoor operations for commercial and non-commercial establishments, was set to expire.

On January 26, 2023, the Land Use / Economic Development Subcommittee (Councilmember Lopez and Councilmember Wolf), met and agreed to extend all of the TOOP through February 28, 2023, which coincides with the date the Governor plans on lifting the official State of Emergency

On February 1, 2023, the City's Director of Emergency Services, executed Executive Order No. 2023-01, per the Subcommittee's direction, temporarily continuing the TOOP program, and ensuring that businesses would have valid permits to continue outdoor operations through February 28, 2023.

In the meantime, staff is in the process of amending the Zoning Ordinance to permit outdoor operations to continue on a permanent basis and anticipates having this task completed in May.

Furthermore, the Subcommittee directed staff to prepare a separate action for the City Council to consider which would cover the gap between February 28, 2023 and the completion of staff's Zoning Ordinance amendment in May 2023. Therefore, staff will plan to bring a separate item for the City Council's consideration at the regularly-scheduled meeting on February 22, 2023, to extend the TOOP through June 30, 2023, so that businesses currently operating outdoors with a TOOP could continue to do so until

the City Council has a chance to consider the proposed Zoning Ordinance amendment that staff is working on.

Staff requests the City Council find the Director's Executive Order No. 2023-01 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. 23-2030, ratifying and confirming the Director of Emergency Services' Executive Order No. 2023-01, an Executive Order of the Director of Emergency Services of the City of Agoura Hills extending Executive Order No. 2021-02 regarding temporary continuance of the Temporary Outdoor Operations Permit Program for designated establishments.

Attachments: Resolution No. 23-2030  
Director of Emergency Services' Executive Order No. 2023-01 (Resolution Exhibit 'A')

**RESOLUTION NO. 23-2030**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, RATIFYING AND CONFIRMING THE DIRECTOR OF EMERGENCY SERVICES' EXECUTIVE ORDER NO. 2023-01, AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF AGOURA HILLS EXTENDING EXECUTIVE ORDER NO 2021-02 REGARDING TEMPORARY CONTINUANCE OF THE TEMPORARY OUTDOOR OPERATIONS PERMIT PROGRAM FOR DESIGNATED ESTABLISHMENTS**

**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**, 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 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**, in December 2020, both the California Department of Public Health and the Los Angeles County Health Officer issued Regional Stay-at-Home and Safer-At-Home Orders, temporarily prohibiting outdoor dining by restaurants;

**WHEREAS**, on January 24, 2021, Governor Newsom lifted the Regional Stay at Home Order statewide, thereby allowing restaurants and certain businesses to reopen outdoor dining and other services consistent with the framework in the appropriate tier under the Blueprint for a Safer Economy. Los Angeles County, along with the majority of the State, is in the most restrictive purple tier;

**WHEREAS**, in January 2021, Los Angeles County adopted a health order which allowed for the reopening of only specified outdoor activities for uses such as restaurants, museums, galleries, gymnasiums, fitness facilities, hair salons, barbershops, personal care services, (including esthetician, skin care, and cosmetology businesses, nail salons and massage establishments), and places of worship.

**WHEREAS**, at various times in 2020, the City created various programs for temporary outdoor permits to assist businesses affected by the COVID-19 pandemic, and all City issued Temporary Outdoor Dining Permits, Temporary Outdoor Commercial Expansion Permits and Temporary Outdoor Non-Commercial Expansion Permits expired on January 15, 2021;

**WHEREAS**, on January 27, 2021, through the adoption of City of Agoura Hills Executive Order No. 2021-01, the City streamlined all Temporary Outdoor Permits into one Temporary Outdoor Operations permit program;

**WHEREAS**, on December 27, 2021, the Director of Emergency Services adopted and issued "City Of Agoura Hills Executive Order No. 2021- 02, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Temporarily Continuing the Temporary Outdoor Operations Permit Program for Designated Establishments" ("Executive Order No. 2021-02");

**WHEREAS**, on January 12, 2022, the City Council adopted Resolution No. 22-1993, A Resolution of the City Council of the City of Agoura Hills, California, Ratifying and Confirming the Director Of Emergency Services' Executive Order No. 2021- 02, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Temporarily Continuing the Temporary Outdoor Operations Permit Program for Designated Establishments;

**WHEREAS**, on March 30, 2022, the Director of Emergency Services adopted and issued "City of Agoura Hills Executive Order No. 2022- 01, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Extending Executive Order No. 2021-02 Regarding Temporary Continuance of the Temporary Outdoor Operations Permit Program for Designated Establishments" ("Executive Order No. 2022-01");

**WHEREAS**, on April 13, 2022, the City Council adopted Resolution No. 22-1999, A Resolution of the City Council of the City of Agoura Hills, California, Ratifying and Confirming the Director of Emergency Services' Executive Order No. 2022-01, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Extending Executive Order No. 2021-02 Regarding Temporary Continuance of the Temporary Outdoor Operations Permit Program for Designated Establishments";

**WHEREAS**, on September 28, 2022, the City Council adopted Resolution No. 22-2022, A Resolution of the City Council of the City of Agoura Hills, California, Extending Executive Order No. 2021-02 regarding Temporary Continuance of the Temporary Outdoor Operations Permit Program for Designated Establishments, through January 31, 2023;

**WHEREAS**, the City is encouraged by the region's progress in controlling the COVID-19 pandemic, but recognizes that the spread of COVID-19 will continue as a public health risk; and

**WHEREAS**, COVID-19 variants continue to be discovered (e.g., Delta, Omicron, Omicron BA.2, BQ.1.1, XBB.1.5) with confirmed transmission cases in Los Angeles County; and

**WHEREAS**, the COVID-19 Omicron variant and its subvariants are understood to be far more transmissible than other COVID-19 variants; and

**WHEREAS**, the City understands that some residents and visitors, especially high-risk individuals, whether vaccinated against COVID-19 or not, may desire to have the option to dine and engage in certain activities outdoors in order to maintain better social distancing and limit indoor exposure with other persons; and

**WHEREAS**, private sidewalks and private parking lots adjacent to such Designated Establishments, as such term is defined in this Executive Order, 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**, 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 room and hospitals, during this emergency; and

**WHEREAS**, all current, valid Temporary Outdoor Operations Permits were set to expire on January 31, 2023;

**WHEREAS**, the City of Agoura Hills continues to desire to help facilitate those Designated Establishments to provide outdoor services; and

**WHEREAS**, in order to help facilitate business recovery and provide an option for outdoor operations for those who do not yet feel comfortable dining and participating in certain activities of Designated Establishments indoors, the City desires to continue to issue Temporary Outdoor Operations Permits through February 28, 2023;

**WHEREAS**, in the interest of public health and safety and for the protection of life and property, 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 Sections 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.

**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 February 1, 2023, the Director of Emergency Services adopted, ordered and issued "City of Agoura Hills Executive Order No. 2023-01, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Extending Executive Order No. 2021-02 Regarding Temporary Continuance of the Temporary

Outdoor Operations Permit Program for Designated Establishments” (“Executive Order No. 2022-01”);

**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. 2023-01.** The City Council of the City of Agoura Hills hereby ratifies and confirms the Director of Emergency Services’ Executive Order No. 2023-01, “An Executive Order of the Director of Emergency Services of the City of Agoura Hills Extending Executive Order No. 2021-02 Regarding Temporary Continuance of the Temporary Outdoor Operations Permit Program for Designated Establishments”, attached hereto as Exhibit “A”, pursuant to Agoura Hills Municipal Code Section 3605(a)(7)a.

**PASSED, APPROVED, AND ADOPTED**, this 8<sup>th</sup> day of February, 2023, by the following vote to wit:

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

\_\_\_\_\_  
Chris Anstead, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly M. Rodrigues, City Clerk

**EXHIBIT "A"**

**CITY OF AGOURA HILLS EXECUTIVE ORDER NO. 2023-01,  
DATED FEBRUARY 1, 2023**

**AN EXECUTIVE ORDER OF THE DIRECTOR OF EMERGENCY SERVICES  
OF THE CITY OF AGOURA HILLS EXTENDING EXECUTIVE ORDER NO.  
2021-02 REGARDING TEMPORARY CONTINUANCE OF THE TEMPORARY  
OUTDOOR OPERATIONS PERMIT PROGRAM FOR DESIGNATED  
ESTABLISHMENTS**

**(ATTACHED)**

**February 1, 2023**

**CITY OF AGOURA HILLS EXECUTIVE ORDER NO. 2023-01**

**AN EXECUTIVE ORDER OF THE DIRECTOR OF  
EMERGENCY SERVICES OF THE CITY OF AGOURA  
HILLS EXTENDING EXECUTIVE ORDER NO 2021-02  
REGARDING TEMPORARY CONTINUANCE OF THE  
TEMPORARY OUTDOOR OPERATIONS PERMIT  
PROGRAM FOR DESIGNATED ESTABLISHMENTS**

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, 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, 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 of the City of Agoura Hills ("City") ratified the emergency proclamation issued by the Director of Emergency Services; and

WHEREAS, in December 2020, both the California Department of Public Health and the Los Angeles County Health Officer issued Regional Stay-at-Home and Safer-at-Home Orders, temporarily prohibiting outdoor dining by restaurants;

WHEREAS, on January 24, 2021, Governor Newsom lifted the Regional Stay at Home Order statewide, thereby allowing restaurants and certain businesses to reopen outdoor dining and other services consistent with the framework in the appropriate tier under the Blueprint for a Safer Economy. Los Angeles County, along with the majority of the State, is in the most restrictive purple tier;

WHEREAS, in January 2021, Los Angeles County adopted a health order which allowed for the reopening of only specified outdoor activities for uses such as restaurants, museums, galleries, gymnasiums, fitness facilities, hair salons, barbershops, personal care services, (including esthetician, skin care an



cosmetology businesses, nail salons and massage establishments), and places of worship.

WHEREAS, at various times in 2020, the City created various programs for temporary outdoor permits to assist businesses affected by the COVID-19 pandemic, and all City-issued Temporary Outdoor Dining Permits, Temporary Outdoor Commercial Expansion Permits and Temporary Outdoor Non-Commercial Expansion Permits expired on January 15, 2021;

WHEREAS, on January 27, 2021, through the adoption of City of Agoura Hills Executive Order No. 2021-01, the City streamlined all Temporary Outdoor Permits into one Temporary Outdoor Operations Permit program;

WHEREAS, on December 27, 2021, the Director of Emergency Services adopted and issued "City Of Agoura Hills Executive Order No. 2021- 02, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Temporarily Continuing the Temporary Outdoor Operations Permit Program for Designated Establishments" ("Executive Order No. 2021-02");

WHEREAS, on January 12, 2022, the City Council adopted Resolution No. 22-1993, A Resolution of the City Council of the City of Agoura Hills, California, Ratifying and Confirming the Director Of Emergency Services' Executive Order No. 2021- 02, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Temporarily Continuing the Temporary Outdoor Operations Permit Program for Designated Establishments;

WHEREAS, on March 30, 2022, the Director of Emergency Services adopted and issued "City of Agoura Hills Executive Order No. 2022- 01, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Extending Executive Order No. 2021-02 Regarding Temporarily Continuance of the Temporary Outdoor Operations Permit Program for Designated Establishments" ("Executive Order No. 2022-01");

WHEREAS, on April 13, 2022, the City Council adopted Resolution No. 22-1999, A Resolution of the City Council of the City of Agoura Hills, California, Ratifying and Confirming the Director of Emergency Services' Executive Order No. 2022-01, An Executive Order of the Director of Emergency Services of the City of Agoura Hills Extending Executive Order No. 2021-02 Regarding Temporary Continuance of the Temporary Outdoor Operations Permit Program for Designated Establishments";

WHEREAS, on September 28, 2022, the City Council adopted Resolution No. 22-2022, A Resolution of the City Council of the City of Agoura Hills, California, Extending Executive Order No. 2021-02 regarding Temporary Continuance of the Temporary Outdoor Operations Permit Program for Designated Establishments, through January 31, 2023;

WHEREAS, the City is encouraged by the region's progress in controlling the COVID-19 pandemic, but recognizes that the spread of COVID-19 will continue as a public health risk; and

WHEREAS, COVID-19 variants continue to be discovered (e.g., Delta, Omicron, Omicron BA.2, BQ.1.1, XBB.1.5) with confirmed transmission cases in Los Angeles County; and

WHEREAS, the COVID-19 Omicron variant and its subvariants are understood to be far more transmissible than other COVID-19 variants; and

WHEREAS, the City understands that some residents and visitors, especially high-risk individuals, whether vaccinated against COVID-19 or not, may desire to have the option to dine and engage in certain activities outdoors in order to maintain better social distancing and limit indoor exposure with other persons; and

WHEREAS, private sidewalks and private parking lots adjacent to such Designated Establishments, as such term is defined in this Executive Order, 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, 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, all current, valid Temporary Outdoor Operations Permits expire on January 31, 2023;

WHEREAS, the City of Agoura Hills continues to desire to help facilitate those Designated Establishments to provide outdoor services; and

WHEREAS, in order to help facilitate business recovery and provide an option for outdoor operations for those who do not yet feel comfortable dining and participating in certain activities of Designated Establishments indoors, the City desires to continue to issue Temporary Outdoor Operations Permits through February 28, 2023; and

WHEREAS, in the interest of public health and safety and for the protection of life and property, 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 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

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

**SECTION 1. Expiration Date for Temporary Outdoor Operations Permits.** Subsection H of Section 1 of Executive Order 2021-02 is hereby revised to read as follows:

"H. All Temporary Outdoor Operations Permits shall automatically expire on February 28, 2023, or when this Executive Order expires pursuant to Section 4 of this Executive Order, whichever date is sooner.

**SECTION 2. Extension of Term of Executive Order 2021-02.** This Executive Order hereby extends the term of Executive Order 2021-02, such that Executive Order 2021-02 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 prohibiting outdoor operations, or February 28, 2023, 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 3.** Except for the changes specifically set forth herein, all other provisions and sections of Executive Order 2021-02 shall remain in full force and effect.

**SECTION 4. No Rights or Entitlements.** Nothing in this Executive Order or Executive Order 2021-02 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 5. 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 6. 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 7. Effective Date.** This Executive Order shall be effective immediately as of the date of this Executive Order.

**SECTION 8. 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 9. 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 1<sup>st</sup> day of February 2023.

Digitized by:  
  
NATHAN HAMBURGER

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Nathan Hamburger  
Director of Emergency Services/City Manager