

REPORT TO CITY COUNCIL

DATE: MARCH 22, 2023

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: RAMIRO ADEVA, ASSISTANT CITY MANAGER

SUBJECT: ADOPTION OF INTERIM URGENCY ORDINANCE NO. 23-469U, OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, EXTENDING INTERIM URGENCY ORDINANCE NO. 23-468U RE-ESTABLISHING AND TEMPORARILY CONTINUING A TEMPORARY OUTDOOR OPERATIONS PERMIT PROGRAM AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

On February 22, 2023, the City Council approved Interim Urgency Ordinance No. 23-468U, re-establishing and temporarily continuing a temporary outdoor operations permit program and making a finding of exemption under the California Environmental Quality Act.

The adoption of this Interim Urgency Ordinance will not have any significant effect on the environment, because this Interim Urgency 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. Furthermore, the uses authorized by this Interim Urgency Ordinance are minor public or private alterations in the condition of land which do not involve removal of healthy, mature, scenic trees. Therefore, this Interim Urgency Ordinance is exempt from California Environmental Quality Act review, pursuant to Title 14, Chapter 3, Section 15304(e) of the California Code of Regulations. The Community Development Director is prepared to file a Notice of Exemption for this Interim Urgency Ordinance pending the City Council's adoption.

As discussed during the meeting on February 22, 2023, pursuant to Government Code Sections 65090 and 65858, Interim Urgency Ordinance No. 23-468U would expire 45-days after adoption, which would be April 3, 2023, unless extended by the City Council at a noticed public hearing. The public hearing was duly noticed in the Acorn and on the City's website on March 10, 2023.

The Government Code allows for an extension of 10 months and 15 days following the expiration of the initial 45-days.

Staff continues to work on drafting amendments to the Zoning Code to permit outdoor operations of certain uses to continue on a permanent basis and anticipates having this

task completed later this year. However, since the Zoning Ordinance Amendment will not be completed by April 3, 2023, staff is seeking adoption of this interim urgency ordinance to extend the term of the Temporary Outdoor Operations Permit Program again for the additional time needed (not expected to exceed 10 months and 15 days) to adopt the Zoning Ordinance Amendment.

Interim Urgency Ordinance No. 23-469U would be effective immediately upon passage and adoption does require a four-fifths vote of the City Council, pursuant to Government Code Section 65858.

RECOMMENDATION

Staff respectfully recommends the City Council adopt Interim Urgency Ordinance No. 23-469U, extending Interim Urgency Ordinance No. 23-468U, re-establishing and temporarily continuing a Temporary Outdoor Operations Permit Program and making a finding of exemption under the California Environment Quality Act.

Attachment: Interim Urgency Ordinance No. 23-469U

INTERIM URGENCY ORDINANCE NO. 23-469U

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA EXTENDING INTERIM URGENCY ORDINANCE NO. 23-468U RE-ESTABLISHING AND TEMPORARILY CONTINUING A TEMPORARY OUTDOOR OPERATIONS PERMIT PROGRAM AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Legislative Findings. The City Council of the City of Agoura Hills hereby finds as follows:

A. On February 22, 2023, the City Council adopted Interim Urgency Ordinance No. 23-468U re-establishing and temporarily continuing a temporary outdoor operations permits program, pursuant to Government Code Section 65858. That Interim Urgency Ordinance has a term of forty-five (45) days and is scheduled to expire April 8, 2023;

B. The City Council may consider up to two (2) extensions of Interim Urgency Ordinance No. 23-468U pursuant to the legal requirements provided in Government Code Section 65858. The City Council may initially extend Interim Urgency Ordinance No. 23-468U by up to ten (10) months and fifteen (15) days. Then, City Council may extend Interim Urgency Ordinance No. 23-468U for one (1) subsequent year. Both extensions require a four-fifths vote of the City Council;

C. The City understands that some residents and visitors are immune-compromised, and as high-risk individuals 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;

D. It is important to provide Designated Establishments, as such term is defined in Section 3 of Interim Urgency Ordinance No. 23-468U, a degree of flexibility to operate with temporary additional space so that immune-compromised and high-risk patrons can visit such establishments in a safe manner;

E. In addition, eliminating the ability of Designated Establishments to operate outdoors could potentially cause irreversible financial harm and permanent closure of such business establishments, which threatens not only the welfare of the businesses in the City of Agoura Hills, but also the City's fiscal welfare and health;

F. Vacant business storefronts not only result in decreased sales tax revenue, but can also lead to blighted, neglected areas susceptible to increased crime,

making it imperative for the City to allow Designated Establishments to continue operating outdoors in order to remain open and viable;

G. To help facilitate continued business recovery, prevent the closure of Designated Establishments 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 to eligible Designated Establishments until the City adopts more permanent regulations related to outdoor operations for certain commercial uses;

H. Based upon the findings above, the City Council finds that there is a current and immediate need to allow Designated Establishments to use designated outdoor spaces in order to prevent additional financial harm to Designated Establishments in the City and to allow members of the public, particularly those who are high risk and immune-compromised, who wish to continue to socially distance to patronize Agoura Hills restaurants, gyms and fitness establishments, in order to mitigate the threat to and preserve the public health, safety and welfare presented by COVID-19;

I. To protect the public safety, health, and welfare, the City Council finds that staff requires time to study and analyze the proper location, concentration, and the impact of the expanded outdoor operations of certain commercial uses on the City's development standards for restaurants and potentially other commercial uses. Further study will allow staff to determine whether modifications to the City's Zoning Code are necessary to protect the public safety, health, and welfare. To accomplish this, the City Council imposed, through the adoption of Interim Urgency Ordinance No. 23-468U, emergency regulations related to a temporary outdoor operations permits program;

J. Based upon the findings above, the City Council finds that it is necessary to extend Interim Urgency Ordinance No. 23-468U 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 Interim Urgency Ordinance pursuant to Government Code Section 65858 and take effect immediately upon adoption. As described above, Designated Establishments such as restaurants, gyms, and fitness establishments in Agoura Hills are facing unprecedented hardships related to COVID-19. Therefore, this Interim Urgency Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared;

K. Extension of Interim Urgency Ordinance No. 23-468U will facilitate the City's further study of the appropriate standards for certain outdoor operations in order to address traffic, circulation and public health and safety concerns associated with potentially reducing parking requirements for specified commercial uses to allow outdoor operations. Accordingly, this Interim Urgency Ordinance is necessary to protect public safety, health, and welfare and its urgency is hereby declared;

L. For the reasons specified above and all the evidence in the record, the City Council finds that there is a current and immediate threat to the public health,

safety and welfare caused by allowing the Temporary Outdoor Operations Permit Program to expire before the adoption and effectiveness of a zoning ordinance regulating outdoor operations of certain commercial uses and that the approval of entitlements allowing outdoor uses that may conflict with regulations that will ultimately developed and adopted would constitute a current and immediate threat to the public health, safety, and welfare of the residents and businesses of the City.

SECTION 2. In accordance with Government Code Section 65858 and pursuant to the findings stated herein, the City Council hereby: 1) declares that the findings and determinations set forth above are true and correct; 2) finds that there exists a current and immediate threat to the public safety, health, and welfare; 3) finds that this Interim Ordinance is necessary for the immediate preservation of the public health, safety, and welfare, as set forth herein; and 4) declares and imposes interim development standards for the immediate preservation of the public safety, health, and welfare as set forth in Interim Urgency Ordinance No. 23-468U.

SECTION 3. Adoption as an Interim Urgency Zoning Ordinance. This Ordinance is adopted as an interim urgency zoning ordinance pursuant to the provisions of Government Code Section 65858(a), and shall be effective immediately upon its adoption. Based upon the findings set forth above in this Interim Urgency Ordinance and Interim Urgency Ordinance No. 23-468U, the City Council finds and determines that the adoption of this Interim Urgency Ordinance as an urgency ordinance is necessary for the immediate preservation of public health, safety, and welfare pursuant to the requirements of Government Code Sections 65858(a) and 36937(b).

SECTION 4. Emergency Regulations Extended. The emergency regulations enacted by the City of Agoura Hills pursuant to Interim Urgency Ordinance No. 23-468U are hereby extended pursuant to Government Code Section 65858 for ten (10) months and fifteen (15) days.

SECTION 5. CEQA Finding. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Interim Urgency Ordinance, and the prohibitions established hereby, may have a significant effect on the environment, because this Interim Urgency 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 Interim Urgency Ordinance are minor public or private alterations in the condition of land which do not involve removal of healthy, mature, scenic trees. Therefore, this Interim Urgency Ordinance is exempt from California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15304(e) of the California Code of Regulations. The Community Development Director shall prepare and file a Notice of Exemption for this Interim Urgency Ordinance.

SECTION 6. Planning Studies. City staff shall continue the studies commenced pursuant to Interim Urgency Ordinance No. 23-468U that they deem necessary and

appropriate to make a recommendation to this City Council regarding the development of regulations regarding expanded outdoor operations of certain commercial uses.

SECTION 7. Severability. If any section, subsection, sentence, clause, or phrase of this Interim Urgency 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 Interim Urgency 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 8. Savings Clause. Neither the adoption of this Interim Urgency Ordinance nor the repeal or amendment by this Interim Urgency 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 Interim Urgency 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 9. Effective Date. This Interim Urgency Ordinance shall go into effect immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council pursuant to California Government Code Section 65858. It shall be of no further force or effect ten (10) months and fifteen (15) days from the 45-day expiration date of Interim Urgency Ordinance No. 23-468U, unless extended pursuant to the legal requirements contained in Government Code Section 65858.

SECTION 10. Certification. The City Clerk shall certify to the passage and adoption of this Interim Urgency Ordinance and shall cause its publication in accordance with applicable law.

PASSED, APPROVED, AND ADOPTED this 22nd day of March, 2023, by the following vote to wit:

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

Chris Anstead, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney