

REPORT TO PLANNING COMMISSION

DATE: MAY 18, 2023

TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION

FROM: DENICE THOMAS, AICP, COMMUNITY DEVELOPMENT DIRECTOR

BY: JESSICA CLEAVENGER, PRINCIPAL PLANNER

REQUEST: 1) ADOPT A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO MODIFY CHAPTER 3 (COMMERCIAL DISTRICTS) AND CHAPTER 6 (REGULATORY PROVISIONS) TO ADD PROVISIONS TO THE OUTDOOR DINING DESIGN AND OPERATIONAL STANDARDS AND AMEND THE OFF-STREET PARKING PROVISIONS TO ALLOW OUTDOOR DINING OPPORTUNITIES AND 2) TO MAKE A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

APPLICANT: City of Agoura Hills

CASE NOS: ZOA-2023-0006

LOCATION: Citywide

ENVIRONMENTAL DETERMINATION: Exempt from the California Environmental Quality Act (CEQA) per §15061(b)(3) and §15301 (Existing Facilities) of the CEQA Guidelines.

ZONING DESIGNATION: Citywide

GENERAL PLAN DESIGNATION: Citywide

RECOMMENDATION: Staff recommends the Planning Commission approve a resolution, recommending City Council adopt an ordinance amending provisions to the outdoor dining design and operational standards and amending provisions related to off-street parking based on the findings of the attached Draft Resolution.

I. PROJECT

The project is a request to approve a resolution recommending the City Council approve the adoption of the Zoning Ordinance Amendment which amends the Outdoor Dining Design and Operational Standards chapter and the Parking Allocation chapter (Case No. ZOA-2023-0006). The purpose of the proposed amendments is to provide relief for restaurants seeking to continue to serve dining patrons in their expanded outdoor seating areas while also creating a holistic approach to reviewing applications.

II. BACKGROUND

On March 16, 2020, the City's Director of Emergency Services proclaimed the existence of a local emergency in response to the COVID-19 pandemic. In June of 2020, the City began issuing Temporary Outdoor Dining Permits (TODP) to local restaurants interested in serving dining patrons in outdoor areas. In December of 2020 both the California Department of Public Health and the Los Angeles County Health Officer issued a Regional Stay-at-Home and Safer-at-Home Orders, temporarily prohibiting outdoor dining by restaurants. In January of 2021, Governor Newsom lifted the Regional Stay-at-Home Order statewide, thereby allowing restaurants to reopen outdoor dining opportunities. At that time, due to increased interest from fitness facilities and dance studios to operate outdoors, the City amended its permitting process to include additional commercial facilities and created the Temporary Outdoor Operations Permits (TOOP) program.

At the height of the TOOP program, there were 25 commercial establishments, including restaurants, gyms, and dance studios, receiving permits. Extensions on the TOOP deadlines were issued a total of ten times to local businesses wishing to continue to operate outdoors. The most recent extension, Interim Urgency Ordinance No. 23-469U, was approved on March 22, 2023 and remains in effect for a period of 10 months and 15 days. Throughout the TOOP process, staff remained heavily engaged with the local businesses, performing site visits to ensure tents and table layouts comply with safety and access requirements and polling local businesses on their interest in converting their outdoor facilities into permanent facilities. Currently, as restrictions on indoor operations have been lifted, 13 restaurants within the City have expressed interest in converting their temporary outdoor dining areas into permanent outdoor dining areas.

A Land Use/Economic Development Committee (LUEDC) meeting was held on January 26, 2023, at which time staff presented research conducted on the baseline conditions within the City of Agoura Hills as they relate to outdoor dining operations, as well as, regulations imposed by the Building Code with respect to health and sanitation requirements for restaurants. Staff also discussed with the LUEDC the project directives, which included creating a more holistic permitting process to review applications for Outdoor Dining Permits while ensuring the facility is adequately parked,

provides required Americans with Disabilities Act (ADA) access and meets Los Angeles County Health Department sanitation regulations.

III. OUTREACH

In early February of 2023, staff began an outreach program to survey local restaurants that either had an active TOOP or obtained a TOOP previously from the City. Staff performed site visits to 13 local restaurants and conducted phone interviews with two restaurants. Three restaurants choose not to participate in the survey and three restaurants that previously obtained a TOOP, have since closed their doors and are no longer in business. Of those restaurants surveyed, the restaurant owners indicated that, on average, 62 percent of their patrons still request to dine outdoors.

Additionally, of the restaurants surveyed, 13 of the restaurant owners expressed interest in applying for a permanent outdoor dining area. Of those restaurant owners who expressed a desire to turn their temporary outdoor dining area into a permanent feature, seven did not anticipate making additional changes to their facilities and six indicated potentially adding features such as railings, lighting, and shade covers or screens.

IV. PROPOSED AMENDMENTS

A. The proposed amendments to the Outdoor Dining Design and Operation Standards section include:

1. Amending Section 9395.1 (Outdoor Dining Design and Operations Standards Enumerated);
2. Creating Section 9395.2 (Outdoor Dining Permit Requirements); and
3. Creating Section 9395.3 (Findings)

Amendments to Section 9395.1 include clarifying existing standards or regulations that govern the Outdoor Dining Permits, while adding some additional standards which will require the restaurants to maintain adequate ADA access, meet Building Code requirements regarding sanitation facilities and require the posting of a point-of-contact to address complaints that may be received.

Additionally, the proposed amendments include adding a new section (Section 9395.2) to establish a three-tiered approach to permitting the outdoor dining operations. Currently, the Agoura Hills Municipal Code (AHMC) is silent when a restaurant owner expands into their outdoor area with less than four tables. When four or more tables are proposed in an outdoor area, the Community Development Director has the authority to review and approve the existing Outdoor Dine Permits. The proposed Ordinance creates a zoning clearance process for outdoor dining area expansions consisting of fewer than four tables. Requiring a zoning clearance to document the smaller outdoor dining area expansions will allow the City to set

standards related to Fire Department requirements, ADA access and general maintenance of the outdoor areas.

When four or more tables are proposed, the application will either be reviewed by the Community Development Director (if the increase is less than or equal to 10 percent of the existing interior seating and waiting area) or by the Planning Commission (if the increase is greater than 10 percent of the existing interior seating and waiting area). The rationale behind the 10 percent comes directly from the Building and Plumbing Codes and their requirement to potentially increase the number of sanitation facilities once a restaurant expands its seating and waiting area by more than 10 percent of its existing interior seating and waiting area.

Finally, the proposed Ordinance adds a second new section (section 9395.3) to incorporate findings for approval of the outdoor operation permits.

B. The proposed amendments to the Parking Allocation section include:

1. Amending Section 9654.6 (Parking Allocation);

The second section of the AHMC that is proposed to be amended is Section 9654.6, the Parking Allocation table. The proposed amendment would include a change to the existing parking requirement for restaurants from 15 spaces per 1,000 square feet of seating and waiting area to the International Transportation Engineers (ITE) standard which is an average of 9.6 seats per 1,000 square feet of gross floor area.

The ITE Standards are a nationally recognized set of parking demand standards based on a collection of documented research studies, staff feels the standards would fit the needs of the City to provide adequate restaurant parking while not impacting neighboring commercial facilities.

V. NEXT STEPS

Upon approval of a resolution recommending City Council adopt the proposed Ordinance, staff will bring the item to the next available City Council meeting. Upon approval, the Ordinance will become effective 30 days after passage. Upon adoption by City Council, staff will contact all restaurants that have obtained a TOOP and advise them on how to apply for and obtain a permanent Outdoor Dining Permit with the City. Staff will also update the City website with application materials and advice regarding the permit process.

VI. FINDINGS

General Plan Consistency

Staff finds the Ordinance will be consistent with the following applicable General Plan goals and policies:

Goal LU-1: Growth and Change. Sustainable growth and change through orderly and well-planned development that provides for the needs of existing and future residents and businesses, ensures the effective and equitable provision of public services, and makes efficient use of land and infrastructure.

- Policy LU-1.2 Development Locations. Prioritize future growth as infill of existing developed areas re-using and, where appropriate, increasing the intensity of development on vacant and underutilized properties, in lieu of expanded development outward into natural areas and open spaces. Allow for growth on the immediate periphery of existing development in limited designated areas, where this is guided by standards to assure seamless integration and connectivity with adjoining areas and open spaces.

Analysis: The Ordinance is consistent with Policy LU-1.2 of Goal LU-1 which allows for growth of existing development in limited designated areas as it prioritizes growth and expansion on existing developed properties. The Ordinance requires the expanded outdoor dining areas to be located on private property immediately adjacent to the restaurant and requires review of Outdoor Dining Permits by the City prior to approval. Establishing the proposed review and approval process will allow staff to limit development into natural areas and open spaces unnecessarily.

Goal LU-2 City of Diverse Uses. A mix of land uses that meets the diverse needs of Agoura Hills' residents, offers a variety of employment opportunities, and allows for the capture of regional population and employment growth.

- Policy LU-2.4 Visitor-Serving Uses. Provide for visitor serving commercial uses in key locations to attract tourists, beachgoers, and Santa Monica Mountains park users.

Analysis: The Ordinance is consistent with Goal LU-2 which encourages a mix of land uses that meets the diverse needs of the City's residents. Specifically the Ordinance is consistent with Policy LU-2.4 which calls for visitor serving commercial uses in key locations to attract tourists, beachgoers, and Santa Monica Mountains park users. The Ordinance supports businesses with their desire to expand existing services while limiting adverse environmental impacts to public health and safety.

IV. ENVIRONMENTAL REVIEW

The Ordinance has been reviewed pursuant to the California Environmental Quality Act (CEQA) and has been determined to be exempt pursuant to section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. Furthermore, the Ordinance authorizes only minor public or private alterations in the condition of land which do not involve the removal of healthy, mature, scenic trees and the Ordinance imposes regulations that limit the environmental impacts of existing commercial property. The Ordinance is also exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines since the Ordinance proposes provisions involving a negligible expansion of an existing use.

V. RECOMMENDATION

Staff respectfully requests that the Planning Commission approve a resolution recommending the City Council adopt an Ordinance amending provisions to the Outdoor Dining Design and Operational Standards and amending provisions to off-street parking to allow for outdoor dining based on the findings of the attached Draft Resolution.

VI. ATTACHMENTS

1. Draft Resolution Directing City Council to Approve an Ordinance to Amend the Outdoor Dining Provisions
2. Draft Ordinance Amending the Outdoor Dining Provisions

Case Planner: Jessica Cleavenger, Principal Planner

ATTACHMENT 1

Draft Resolution Directing City Council to Approve an Ordinance to Amend the Outdoor Dining Provisions

RESOLUTION NO. 23-XXXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS RECOMMENDING THAT THE CITY COUNCIL APPROVE A ZONING ORDINANCE AMENDMENT TO AMEND ARTICLE IX (ZONING) TO MODIFY CHAPTER 3 (COMMERCIAL DISTRICTS) AND CHAPTER 6 (REGULATORY PROVISIONS) TO ADD PROVISIONS TO THE OUTDOOR DINING DESIGN AND OPERATIONAL STANDARDS AND AMEND THE OFF-STREET PARKING PROVISIONS TO ALLOW OUTDOOR DINING OPPORTUNITIES AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. ZOA-2023-0006) (CITY OF AGOURA HILLS, APPLICANT)

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

WHEREAS, an application was duly filed by the City of Agoura Hills to amend Article IX (Zoning) of the Agoura Hills Municipal Code to modify regulations pertaining to outdoor dining operations and off-street parking regulations.

WHEREAS, the Planning Commission determined that the adoption of the proposed ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. Furthermore, the Ordinance authorizes only minor public or private alterations in the condition of land which do not involve the removal of healthy, mature, scenic trees and the Ordinance imposes regulations that limit the environmental impacts of existing commercial property. The Ordinance is also exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines since the Ordinance proposes provisions involving a negligible expansion of an existing use.

WHEREAS, the Planning Commission of the City of Agoura Hills considered the proposed ordinance at a public hearing held on May 18, 2023 at 6:30 p.m. The public hearing was held in accordance with the Governor's Executive Order N-29-20 on an electronic platform that allowed for the applicant and members of the public to present statements and provide materials to the Planning Commission. Notice of the time, date and means of participation in, and purpose of the aforementioned hearing was duly given and published as required by state law.

WHEREAS, the evidence, both written and oral, was duly presented to and considered by the Planning Commission of the City of Agoura Hills at the foresaid public hearing.

WHEREAS, after the close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by city staff, the staff report, the recommendations, and all other pertinent documents and associated actions regarding the proposed ordinance amendment.

WHEREAS, the Planning Commission finds the proposed ordinance would be consistent with the objectives of Article IX (Zoning) of the Agoura Hills Municipal Code and with the General Plan. The Ordinance is also consistent with Goal LU-1 of the General Plan which encourages sustainable growth and change through orderly and well-planned development that provides for the needs of existing and future residents and businesses. Specifically the Ordinance is consistent with Policy LU-1.2 of Goal LU-1 which allows for growth of existing development in limited designated areas. The Ordinance is consistent with Goal LU-2 of the General Plan which encourages a mix of land uses that meets the diverse needs of the City's residents. Specifically the Ordinance is consistent with Policy LU-2.4 of Goal LU-2 which calls for visitor serving commercial uses in key locations to attract tourists, beachgoers, and Santa Monica Mountains park users.

Section I. Based on the aforementioned findings, the Planning Commission hereby recommends the City Council adopt an "ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO MODIFY CHAPTER 3 (COMMERCIAL DISTRICTS) AND CHAPTER 6 (REGULATORY PROVISIONS) TO ADD PROVISIONS TO THE OUTDOOR DINING DESIGN AND OPERATIONAL STANDARDS AND AMEND THE OFF-STREET PARKING PROVISIONS TO ALLOW OUTDOOR DINING OPERATIONS AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT" attached hereto as Attachment 2.

Section II. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and this certification to be entered in the Book of Resolutions of the Planning Commission of the City.

PASSED, APPROVED, and ADOPTED this 18th day of May 2023, by the following vote to wit:

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

John Asuncion, Chairperson

ATTEST

Denice Thomas, Secretary

ATTACHMENT 2

Draft Ordinance Amending the Outdoor Dining Provisions

ORDNANCE NO. 23-XXX

AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO MODIFY CHAPTER 3 (COMMERCIAL DISTRICTS) AND CHAPTER 6 (REGULATORY PROVISIONS) TO ADD PROVISIONS TO THE OUTDOOR DINING DESIGN AND OPERATIONAL STANDARDS AND AMEND THE OFF-STREET PARKING PROVISIONS TO ALLOW OUTDOOR DINING OPPORTUNITIES AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City understands that some residents and visitors may desire to have the option to dine and engage in certain activities outdoors and it is important to provide such opportunities in a safe manner.

WHEREAS, the City Council finds that allowing the expansion of outdoor operations without a proper regulatory process has the potential to impact the safety of residents and visitors due to substandard access and ADA requirements.

WHEREAS, the City Council finds that allowing the expansion of outdoor operations without a proper regulatory process has the potential to impact health and safety of residents and visitors due to substandard sanitation requirements.

WHEREAS, the City Council finds that regulations on commercial outdoor operations are necessary to ensure neighborhood compatibility, to facilitate economic growth within the City, and to protect the health, safety and general welfare of the City's residents.

WHEREAS, in accordance with the California Constitution, Article XI, Section 7, a City may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws.

NOW, THEREFORE, the City Council of the City of Agoura Hills does ordain as follows:

Section 1. The facts set forth in the recitals of this Ordinance are true and correct.

Section 2. The proposed amendments are consistent with the objectives of Article IX (Zoning) of the Agoura Hills Municipal Code and with the General Plan. The Ordinance is consistent with Goal LU-1 of the General Plan which encourages sustainable growth and change through orderly and well-planned development that provides for the needs of existing and future residents and businesses. Specifically the Ordinance is consistent with Policy LU-1.2 of Goal LU-1 which allows for growth of existing development in limited designated areas. The Ordinance is consistent with Goal LU-2 of the General Plan which encourages a mix of land uses that meets the diverse needs of the City's residents. Specifically the Ordinance is consistent with Policy LU-2.4 of Goal LU-2 which calls for visitor

serving commercial uses in key locations to attract tourists, beachgoers, and Santa Monica Mountains park users.

Section 3. Section 9395.1 of Part 12 (SPECIAL COMMERCIAL USE STANDARDS) of Chapter 3 (COMMERCIAL DISTRICTS) of Article IX (ZONING) of the Agoura Hills Municipal Code is hereby amended to read as follows, with deleted language shown in ~~strikeout~~, new language shown in underline, and reordered language shown in double underline:

“9395.1. - Outdoor dining design and operational standards enumerated.

No property in the commercial land use districts which allows for dining establishments defined in this section shall be used for outdoor dining unless said outdoor dining complies with the following standards. ~~This section does not apply to patio areas which were designated for dining as part of the original permit processing.~~

~~A. Outdoor dining operational standards.~~

1. All outdoor dining shall be located ~~on~~ within the private parking lot, private sidewalk, and/or other private outdoor space ~~private property~~ immediately adjacent to the dining establishment.
2. Dining establishments that serve alcoholic beverages in their outdoor dining area shall be required to meet the additional specific standards from the state alcoholic beverage control board as well as all other applicable federal, state, and local requirements.
3. Temporary, mobile, or freestanding food service providers are not eligible under these standards.
4. An obstruction free, clear sidewalk area for pedestrian traffic passing through the outdoor dining and seating area shall be required. Dining areas shall not be permitted in areas where less than a four-foot obstruction-free pedestrian area exists between outside the cafe outdoor dining area and any obstructions such as streets, trees, newsstands, bus benches, or curblines.
5. No sign, including signs on table umbrellas, shall be permitted in the outdoor dining area of the establishment with the exception of an identification or menu sign.
6. All fire department regulations and standards concerning exterior lighting and power shall be met. These regulations and standards shall be supplied at the time of application.

7. All fire department regulations and standards concerning adequate access shall be met.
8. ~~7.~~ All outdoor dining sites shall be handicapped accessible per federal, state, and local requirements.
9. ~~8.~~ The property owner, the property management, and the management of the dining establishment shall be responsible for compliance with all outdoor dining requirements.
10. Contact information for the property owner, the property management, or the management of the dining establishment shall be posted on-site during operating hours.
11. ~~9.~~ Unruly behavior shall not be permitted in the outdoor dining area.
12. ~~10.~~ Outdoor dining areas, including flooring, shall remain clear of litter, food scraps, and soiled dishes at all times. Where eating establishments provide self-service take-out service, an adequate number of employees shall be maintained to clear refuse or litter on a regular basis even though table service is not provided. Concrete flooring shall be washed daily.
13. ~~11.~~ At the end of the business day, establishments shall be required to clean (sweep and mop) the area in and around the outdoor dining area.
14. ~~12.~~ If disposable utensils are used, the establishment shall comply with all applicable recycling programs and all provisions of the Agoura Hills Municipal Code.
15. ~~13.~~ Outdoor dining areas shall be continuously supervised by management or employees of the dining establishment. Dining establishments serving alcoholic beverages shall have a supervisor on-site at all times.
16. ~~14.~~ Outdoor dining areas shall be operated in a manner that meets all requirements of the health department of Los Angeles County and any other applicable regulations.
17. ~~15.~~ Outdoor speakers are prohibited.
18. Any dining establishment that provides outdoor dining requiring an outdoor dining permit shall provide the required parking for the dining area, as defined in section 9654.6.

19. The design materials and colors used for chairs, tables, lighting and other fixtures including umbrellas and awnings for both public eating and food establishments shall be generally consistent with both the architectural style and colors used on the building facade and the quality of the shopping center fixtures, as determined by the Director.
20. The layout of outdoor dining and seating areas required as part of the outdoor dining permit shall be in conformance with design established by the department of planning and community development.
21. Outdoor dining areas requiring an minor or major outdoor dining permit pursuant to section 9395.2 shall provide barriers or enclosures to designate outdoor dining areas. The need for barriers or enclosures shall be at the discretion of the Director and shall depend on the number of tables and the distance from pedestrian accessways. Barriers or enclosures must conform to the building and safety department's installation standards and be removable (capable of being removed, if needed, by use of recessed sleeves and posts, or by wheels which can be locked into place). All barriers must be able to withstand inclement outdoor weather and one hundred (100) pounds of horizontal force at the top of the barricade when in their fixed positions. The height of any barrier shall not be less than three (3) feet, or more than three and one-half (3½) feet, including the top of any landscaping.
22. Any Required landscaping used for barriers shall be properly maintained. Water drainage onto the sidewalk shall not be allowed. Stressed or dying landscaping must be promptly replaced. Potted plants shall have a saucer or other suitable system to retain seepage and be elevated to allow for air flow of at least two (2) inches between the saucer and the sidewalk.
23. Upon termination of the outdoor dining use, the outdoor dining barriers shall be removed and the sidewalk returned to its original condition.
24. Any other regulation promulgated by the Director of Planning and Community Development to implement the provisions of this Chapter."

Section 4. Sections 9395.2 and 9395.3 are hereby added to Part 12 (SPECIAL COMMERCIAL USE STANDARDS) of Chapter 3 (COMMERCIAL DISTRICTS) of Article IX (ZONING) of the Agoura Hills Municipal Code to read as follows:

“9395.2. - Outdoor dining permit application requirements.

~~B. Outdoor dining permit requirements and standards.~~

~~1. Public eating establishments with four (4) or more tables shall require an outdoor dining permit from the planning and community development department. Such eating establishments shall provide the following:~~

A. All public eating establishments with outdoor dining tables are required to obtain an outdoor dining permit subject to the following:

1. Public eating establishments with fewer than four (4) tables, or less than or equal to 360 square feet of outdoor dining area, whichever is less, shall be required to obtain an outdoor dining zoning clearance from the planning and community development department on the basis of a ministerial decision to certify that the proposed use meets all requirements and conditions of any previously approved conditional use permit or site plan review.

a. Applications for an outdoor dining zoning clearance shall include the following:

~~c. Each outdoor dining permit application shall include the following:~~

- 1) Written approval from the property management;
- 2) A seating plan and floor plan that includes ingress and egress locations;
- 3) Existing and proposed interior and outdoor seating and waiting area square footages;
- 4) A detail of ~~the required~~ any proposed barrier or enclosure; and
- 5) Furniture specifications; and
- 6) ~~A parking analysis~~

2. Public eating establishments with four (4) or more tables, or more than 360 square feet of outdoor dining area, whichever is less, shall be required to obtain an outdoor dining permit as follows:

a. Minor outdoor dining permits. Minor outdoor dining permits are defined as those outdoor dining permits for applications where the square footage of the outdoor dining area is less than or equal to 10 percent of the existing interior dining and waiting area square footage. The Director of Planning and Community Development shall be the reviewing authority for all minor outdoor dining permits.

- b. Major outdoor dining permits. Major outdoor dining permits are those outdoor dining permits for applications where the square footage of the outdoor dining area is greater than 10 percent of the existing interior dining and waiting area square footage. The Planning Commission shall be the reviewing authority for all major outdoor dining permits.
- c. Applications for minor and major outdoor dining permits shall include the following:
 - 1) Written approval from the property owner;
 - 2) A seating plan and floor plan that includes ingress and egress locations;
 - 3) Existing and proposed interior and outdoor seating and waiting area square footages;
 - 4) A detail of the required barrier or enclosure;
 - 5) Furniture specifications; and
 - 6) A parking analysis.

B. 2. All plans and permits for the outdoor dining area approved by the city shall be kept on the premises for inspection at all times the establishment is open for business.

C. 4. Any modification to the approved plans shall be submitted for review and approval by the department of planning and community development prior to the initial implementation of any modification and shall comply with applicable guidelines then in effect.

D. Annual inspections by the department of planning and community development shall be performed for all approved outdoor dining permits.

E. Modifications to outdoor dining permits may be granted by the Director of Planning and Community Development for changes to the approved plans that do not result in an increased number of tables or expansion of dining areas.

F. The City Council may establish fees by resolution for the review of such applications.

G. In approving an outdoor dining permit, the reviewing authority may impose such conditions as may be reasonably necessary to protect the public health, safety and general welfare, and to ensure that the proposed outdoor dining use is established and conducted in a manner which is consistent with this chapter and the development standards for the underlying zone.

H. All outdoor dining permits are subject to revocation pursuant to section 9679.

9395.3. - Findings.

The reviewing authority shall approve an outdoor dining permit application if all of the following findings can be made:

A. The proposed outdoor dining use is consistent with the general plan and any specific plans adopted for the area.

B. The proposed outdoor dining use will not adversely affect existing and anticipated development in the vicinity and will promote the harmonious development of the area.

C. The proposed outdoor dining use will not create any significant parking or traffic impacts, traffic safety hazards, pedestrian - vehicle conflicts, or pedestrian safety hazards and will not impede the safe and orderly flow of pedestrians along the public right of way.

D. The proposed outdoor dining use will not be detrimental to the public health, safety, or general welfare.”

Section 5 Subsection B of Section 9654.6 (Parking Allocation) of Division 4 (OFF-STREET PARKING, LOADING AND LANDSCAPING) of PART 2 (SPECIAL REGULATIONS) of Chapter 6 (REGULATORY PROVISIONS) of Article IX (ZONING) of the Agoura Hills Municipal Code is hereby amended to read as follows, with deleted language shown in **strikeout** and new language shown in **underline** the remainder of the table shall remain unchanged:

“9654.6. Parking allocation.

B. Parking spaces required. The number of off-street parking spaces shall be no less than the following:

USE	PARKING SPACES REQUIRED
<i>Commercial</i>	
*Restaurants, including drinking establishments, sit down and fast food	<u>9.6 45</u> for each 1,000 square feet of <u>existing gross seating and waiting</u> floor area.

**Based on the average parking rate for Fast Casual, Quality, High Turnover-Sit Down, and Fast-Food with Drive-Through category’s within the Institute of Transportation Engineers (ITE) Parking Generation Manual 5th edition.*

Section 6. CEQA. The City Council finds and determines that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect

on the environment. Furthermore, the Ordinance authorizes only minor public or private alterations in the condition of land which do not involve the removal of healthy, mature, scenic trees and the Ordinance imposes regulations that limit the environmental impacts of existing commercial property. The Ordinance is also exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines since the Ordinance proposes provisions involving a negligible expansion of an existing use.

Section 7. Severability Clause. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsections, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 8. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

Section 9. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED this ___ day of _____, 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