

WEST HOLLYWOOD  
DIRECTOR OF EMERGENCY SERVICES

EXECUTIVE ORDER NO. 2020-11

EMERGENCY EXECUTIVE ORDER OF THE CITY  
MANAGER/DIRECTOR OF EMERGENCY SERVICES OF THE  
CITY OF WEST HOLLYWOOD, CALIFORNIA,  
IMPLEMENTING EMERGENCY MEASURES TO ASSIST  
LOCAL BUSINESSES THROUGH THE COVID-19 CRISIS

SECTION 1. RECITALS

- A. All of the recitals in West Hollywood Director of Emergency Services Executive Order Nos. 2020-1, 2020-2, 2020-3, 2020-4, 2020-7, 2020-8, 2020-9, 2020-10 remain in effect and are incorporated herein by reference.
- B. During the pendency of the local emergency and statewide state of emergency, the Director of Emergency Services is empowered: “[to] make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council.” under Section 2.80.060 A.(6)(a) of the West Hollywood Municipal Code.
- C. As a result of state and county public health orders, local businesses are experiencing forced closure or major change in operation, both of which are challenging during this unprecedented health pandemic. The County Health Order and Department of Alcoholic Beverage Control are allowing restaurant service to occur outdoors only, and these important practices require some flexibility in local requirements. The City has authorized the use of outdoor space for both restaurants and gyms as part of the existing Temporary Outdoor Expansion Permit (TOEP). In order to provide additional space to maintain adequate social distancing while dining, in concert with economic development for restaurants, the City recognizes the need to expand into on-street parking spaces. This is balanced with the reduced demand overall that has reduced strain on parking supply citywide. Additionally, the City recognizes the need to allow some restaurants that can implement measures to ensure limited impacts to adjacent neighborhoods to have extended business hours to help maintain that social distancing, and adequate operations to maintain economic recovery. Restaurants also acknowledge that additional food options in the form of food trucks on-site can help boost business and allow for additional social distancing for restaurant workers with smaller kitchen facilities. Accordingly, creating more outdoor space for expanded outdoor operations is critical to the City’s COVID response. Outdoor operations are becoming increasingly more important as a means to help the struggling local economy and to provide opportunities for residents to leave their homes and participate in healthy and safe activities.
- D. The below measures are also intended to provide economic relief to

businesses that are experiencing economic uncertainty while preparing for the continuation of the corresponding programs and services. The measures are also intended to reflect the current state of business closures and provide financial relief for those businesses. As such, the Sunset Strip Business Improvement District assessments are deferred until December 31, 2020.

- E. This Order is adopted pursuant to the City's police powers and powers afforded to the City in time of national, state, county and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State law, and the Chapter 2.80 of the West Hollywood Municipal Code to protect the peace, health, and safety of the public, and to protect life and property as affected by the emergency, in that this Order facilitates access to food, essential goods, and medication and assists the local business community in dealing with the extreme economic challenges it is facing as a result of measures to slow the spread of COVID-19.

NOW, THEREFORE, I, Paul Arevalo, the Director of Emergency Services for the City of West Hollywood, do hereby issue the following order to become effective immediately, subject to ratification as soon as practicable by the City Council:

IT IS HEREBY ORDERED THAT:

SECTION 2. Notwithstanding any conflicting W.H.M.C. requirement or license or permit condition, the following rules apply during the period of declared local emergency:

- A. Assessments for the businesses included as part of the Sunset Strip Business Improvement District are deferred from September 1, 2020 until December 31, 2020, and any late fees and/or penalties are waived.
- B. The annual Parking Credits payments to the city, due in July (for the period of July (2020-2021)), is deferred this year and not due until December 31, 2020. The twelve-month fee will be prorated, and businesses will only pay for nine months of parking credits.
- C. The Temporary Outdoor Expansion Program is renamed the OUT Zone. Exhibit A to Ordinance No. 20-1110U is amended in accordance with Section 2.J of that Ordinance to read as attached. Revised Exhibit A changes the name of the Permit to the OUT Zone Permit, and establishes requirements for OUT Zones Extended Hours Permits. In order to establish and accommodate the City's OUT Zone Parklet Program, Exhibit A is further amended to eliminate restrictions on use of on street parking spaces. Use of public on-street parking spaces for OUT Zone Permits is permitted only when authorized through the City's OUT Zone Parklet Program.
- D. Beginning on August 24, 2020, the City, in consultation with the City's Traffic Engineer, has established the City's OUT Zone Parklet Program, where the City may temporarily close parking lanes to vehicles for the protection and safety of persons using this portion of the City's commercial corridors during the COVID-19 pandemic. This City-run parklet program will allow the City to install concrete barriers with OUT

Zone program branding to close the curb side parking lane to allow restaurants that obtain appropriate OUT Zone Permits to utilize the space for socially distanced outdoor dining. The parking lane closures will continue for a period of twelve months following installation of the concrete barriers, unless the closures are extended for a longer period, or terminated sooner by the City Council or Director of Emergency Services. Use of the closed lanes or parking spaces for any commercial purpose requires an approved OUT Zone Permit and city encroachment permit. The closure locations include portions or all of the following street segments, to be updated by Executive Order as necessary to expand the program to provide additional space for socially distanced outdoor dining in the City of West Hollywood:

1. the westbound parking lane closest to the curb on the north side of Santa Monica Boulevard, between Robertson Boulevard and Hilldale Avenue (in front of 8949-8921 Santa Monica Boulevard, generally);
2. the westbound parking lane closest to the curb on the north side of Santa Monica Boulevard, between San Vicente Ave and Larrabee Street;
3. the eastbound parking lane closest to the curb on the south side of Santa Monica Boulevard, between Robertson Boulevard and San Vicente Boulevard (in front of 8948-8900 Santa Monica Boulevard, generally);
4. the westbound parking lane closest to the curb on the north side of Santa Monica Boulevard, between San Vicente Boulevard and Palm Avenue (in front of 8869-8803 Santa Monica Boulevard, generally);
5. a portion of the eastbound parking lane closest to the curb on the south side of Santa Monica Boulevard, between Sweetzer and Harper Avenue (in front of 8278-8272 Santa Monica Boulevard, generally);
6. a portion of the eastbound parking lane closest to the curb on the south side of Melrose Avenue, between N Almont Drive and Robertson Boulevard (in front of 8906 Melrose Avenue and 8826 Melrose Avenue, generally);
7. a portion of the eastbound parking lane closest to the curb on the south side of Melrose Avenue, between Robertson Boulevard and Norwich Drive (in front of 8684 Melrose Avenue, generally);
8. a portion of the westbound parking lane closest to the curb on the north side of Melrose Avenue, between Westbourne Drive and Westmount Drive (in front of 8565 Melrose Avenue, generally);
9. a portion of the westbound parking lane closest to the curb on the north side of Melrose Avenue, between La Cienega Boulevard and Orlando Avenue (in front of 8479 Melrose Avenue, generally);
10. a portion of the eastbound parking lane closest to the curb on the south side of Sunset Boulevard, between Harper Avenue and Havenhurst Drive (in front of 8246-8280 Sunset Boulevard, generally); and

11. a portion of the westbound parking lane closest to the curb on the north side of Sunset Boulevard, between Hilldale Avenue and Clark Street (in front of 8911-8901 Sunset Boulevard, generally).

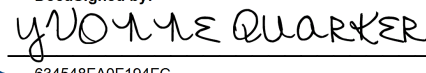
SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or word of this order is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this order.

SECTION 4. Effective Date and Termination. This Order shall become effective immediately and shall continue until the earlier to occur of: (1) the conclusion of the local emergency; (2) its termination is ordered by the City Manager/Director of Emergency Services; or (3) it is duly terminated by the City Council. The Order may also be superseded by a duly enacted ordinance or order of the City Council expressly superseding this Order.

SECTION 5. Environmental Review. The parking lane closures effectuated by this Order are necessary to facilitate outdoor economic and recreational activity in compliance with County Health Officer Orders to reduce the spread of COVID-19. Implementation of the Order is thus exempt from the California Environmental Quality Act ("CEQA") under the statutory exemption for actions necessary to prevent or mitigate an emergency (Public Resources Code § 21080(b)(4); CEQA Guideline § 15269(c)) and the categorical exemption for minor temporary use of land (CEQA Guideline § 15304(e)). The OUT Zone Parklet Program is a temporary measure, that is created in direct response to County Health restrictions on indoor dining, personal care, and fitness activities and is needed to provide space for businesses to operate in the dense, built out environment. The Program retains parking opportunities for customers and provides space for pedestrians and people bicycling to safely travel and maintain physical distance. In response to COVID-19, businesses have experienced unprecedented and ongoing closures and limitations, and the ability of local businesses to survive (and to mitigate the effects of this emergency) depend on creation of additional outdoor and expanded spaces to provide for physical distancing. The City is not closing traffic lanes and the City Engineer has reviewed and approved the parking lane closures as a safe place to accommodate more outdoor business activity. The use of concrete K-rail will provide a safe space clearly delineated and physically separated from traffic. Further, the k-rail will provide a clear barrier that will not impact the traffic lanes directly adjacent, thus not having any impact to traffic flow or circulation in these area. Finally, as this is a temporary measure during a period of reduced use of streets by vehicular traffic (with many people working from home), and as the improvements can be removed, there is no possibility that the parking lane closures will have a permanent effect on the environment.

ORDERED by the City Manager/Director of Emergency Service this 25<sup>th</sup> day of August, 2020.

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Paul Arevalo, City Manager and Director of  
Emergency Services  
City of West Hollywood

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Yvonne Quarker, City Clerk

## **EXHIBIT A (RESTAURANTS)**

### **OUT ZONE PERMIT DESIGN AND OPERATIONAL STANDARDS**

#### **I. INTRODUCTION**

- A. The OUT Zone Permit Design and Operational Standards are adopted pursuant to Urgency Ordinance 20-1106U and further amended through Urgency Ordinance 20-1110U and Executive Order 2020-11 in order to establish specific design and operational criteria for temporary outdoor expansion on public and private areas.
- B. An outdoor dining area is a place on both public and private property adjacent or near a business, including but not limited to the public sidewalk, public right-of-way, on-street parking spaces in permitted areas, public metered parking spaces, private parking stalls, or other private areas, where patrons may consume food and/or beverages provided by an adjacent and nearby food service establishment.
- C. Establishments serving alcoholic beverages that apply for a OUT Zone Permit shall meet the additional requirements of the State of California Alcohol Beverage Control Board ABC-218 CV19 and any subsequent requirements.
- D. These standards and procedures regulate the design and operation of temporary outdoor expansion areas associated with existing businesses. However, they do not provide information on all the government agency requirements for starting a new restaurant or expanding an existing one. Business owners must secure the appropriate licenses and permits from the State Alcohol Beverage Control Board, Los Angeles County Health Department, the City of West Hollywood Planning and Development Services Department and Public Works Department.
- E. Approved OUT Zone Permits may be effective only for the duration of the Urgency Ordinance 20-1106U as amended through Urgency Ordinance 20-1110U and Executive Order 2020-11.
- F. These regulations apply to outdoor dining on private property and the public right-of-way.

#### **II. OUT ZONE PERMIT APPLICATION PROCEDURE**

- A. An application for an OUT Zone Permit shall be obtained from and submitted to the Planning and Development Services Department. Submittal requirements include a site plan drawn to scale to delineate the proposed outdoor area and the layout of furnishings and allowable amenities, as well as any other requirements outlined in the OUT Zone application form.
- B. An encroachment permit shall be required for outdoor areas in the public right-of-way. Proof of Certificate of liability insurance shall be provided to the Public Works Department, with the City of West Hollywood named as Additionally Insured, prior to issuance of an encroachment permit as follows:

- i. Per WHMC 11.28.080, the applicant shall, at its own cost and expense, procure and maintain in force policies of comprehensive public liability insurance in a combined single limit amount of at least one million dollars (\$1,000,000.00) covering the applicant's operations on the sidewalk. Such insurance shall be procured from an insurer authorized to do business in California, shall be subject to the approval in writing of the city, shall provide primary and not excessive coverage, shall name the city, its officers and employees, and the property owner as additional insureds and shall contain provisions that prohibit cancellation, modification, or lapse without thirty days' prior written notice to the city.
    - ii. In addition, the applicant shall procure and maintain in force Worker's Compensation insurance with statutory limits, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00) per accident.
  - C. If the food establishment has an existing license from the California Department of Alcohol Beverage Control (ABC), the food establishment must obtain a temporary permit from both the City of West Hollywood and ABC. Applicants shall adhere to ABC conditions of approval prior to serving alcohol.
  - D. Temporary signage may be included as part of outdoor dining areas.

### III. OUTDOOR DINING SITES

- A. The outdoor dining area shall be permitted on public and/or private property, including the public right way, sidewalks, on- street parking spaces in permitted areas, parking areas or other private property located near or in close proximity to the business. If the business has on-site parking, the private parking may be used for outdoor dining/seating. Parking does not need to be added or replaced.
  - i. Use of on-street curbside parking spaces shall be limited to commercial businesses with store frontages on that street only when authorized as part of the City's OUT Zone Parklet program. Businesses that have an existing parklet may not expand the existing parklet to include additional adjacent on-street parking spaces without further approval from the City.
- B. The final location and configuration of the outdoor dining area shall be subject to approval by the Director of the Planning and Development Services Department, who shall consider public safety issues and maintenance of minimum clearances to comply with ADA requirements and the safety and convenience of pedestrians and customers.

### IV. DESIGN STANDARDS

- A. All structures, barriers, and/or equipment shall be temporary in nature. Establishments that serve alcoholic beverages in the outdoor dining area shall provide a temporary, removable barrier that satisfies these Standards and of the Alcohol Beverage Control Board if alcohol is to be served.
- B. Barriers shall conform to the Public Works Director's installation standards and be removable. Barriers need not be removed each evening, but shall be capable of being removed; if imbedded into the pavement they must be fixed through the use of recessed sleeves and posts, otherwise by wheels that can be locked into place or weighted in place.

- C. No additional parking shall be required for the outdoor dining.
- D. Businesses with an active OUT Zone Permit may provide food truck service as a component of the outdoor expansion area on private property only. Adequate space and markings on the ground to facilitate socially distanced queueing are required. Food trucks must be associated with the business that has the OUT Zone Permit. No more than two food trucks shall be permitted on one property at any time.

V. STANDARDS OF OPERATION

- A. Restaurant management is responsible for operating and maintaining the outdoor dining area and shall not delegate or assign that responsibility. Outdoor dining areas shall be continuously supervised by management to ensure social distancing guidelines are being met.
- B. Outdoor dining areas are limited to dine-in customers being served from the restaurant (i.e. they cannot be destinations for take-out food and beverages). Alcohol can only be served to customers in conjunction with a food order.
- C. Restaurant management shall keep the outdoor dining area clear of litter, food scraps, and soiled dishes and utensils at all times. Trash receptacles shall be provided in outdoor dining areas used for consuming take-out items.
- D. At the end of each business day, establishments are required to clean (sweep and wash) the area in and around the outdoor dining area and remove the debris to a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter or street in conformance with the City's storm water quality regulations.
- E. Upon termination of the Outdoor Dining Encroachment Permit, the Permittee shall immediately remove the barriers around the outdoor dining area, return the sidewalk to its original condition, and remove all personal property, furnishings, and equipment from the sidewalk. Any personal property remaining on the premises shall be removed pursuant to the laws of the State of California.
- F. Restaurants on property abutting or adjacent to commercially zoned property are permitted to operate in the permitted outdoor expansion area from 8:00 A.M. to 12:00 A.M., Sunday through Thursday, and from 8:00 A.M. to 1:00 A.M., Friday and Saturday. Restaurants on property abutting, adjacent to, or across an alley from residentially zoned property are permitted to operate in the permitted outdoor expansion area from 8:00 A.M. to 11:00 P.M. Monday through Sunday.

VI. ENFORCEMENT OF REVOCABLE PERMIT

- A. Notice of violation of the outdoor design standards or standards of operation shall be made in writing to the Permittee or manager or other representative of business by any Code Enforcement Officer, Sheriff Department Official, or Fire Department Official of the City. The Permittee or manager or other representative of business shall immediately cure the violation upon receipt of notice. If the violation is not cured within thirty (30) minutes after issuance of the notice to the Permittee or manager or representative of business, unless otherwise specified, the Director may suspend or

revoke the Encroachment Permit and the OUT Zone Permit. Permittee or representative of business may otherwise be subject to administrative citations failing to comply with the notice of violation.

- B. In the case of non-compliance with conditions of approval, substantial difficulties resulting from the OUT Zone Permit issuance, or other unforeseen problems with the OUT Zone Permit, the Planning and Development Services Director has the right to reevaluate the permit or its conditions of approval; and, if the OUT Zone Permit has created impacts to the neighborhood or area surrounding the restaurant, or Sherriff or Code Enforcement problems, the Temporary Permit may be revoked.
- C. This is a revocable permit that is intended to allow business expansion for social distancing in a manner that does not cause disturbances to surrounding properties. In the case where the activity is endangering jeopardizing, or otherwise constituting a menace to the public convenience, health, interest, safety, or the general welfare of persons residing or working in the vicinity of the proposed use, the Director of Planning and Development Services may revoke the OUT Zone Permit.

#### VII. OUT ZONES EXTENDED HOURS PERMIT

- A. Restaurants may request an OUT Zones Extended Hours Permits to operate until 2:00 A.M.
- B. Application Materials: Submittal requirements include an approved or pending Out Zone Permit site plan, proposed hours of operation, proposed measures to avoid any violation of the Noise Ordinance, as well as any other requirements outlined in the OUT Zone Extended Hours Permits application form.
- C. Hearing Required: A Director's Hearing is required for review and determination by the Planning and Development Services Director, in compliance with Section 19.74 of the West Hollywood Municipal Code, or as otherwise outlined in this section.
- D. Noticing: All noticing requirements shall comply with W.H.M.C. Chapter 19.74, except as otherwise noted below:
  - i. Surrounding Residents and Property Owners: Notice of hearing shall be sent a minimum of 10 days before the scheduled public hearing to all owners of real property as shown on the county's current equalized assessment roll, and all tenants within a radius of 200 feet.
  - ii. Posting of Site. A display board containing notice shall be posted at the subject parcel not more than 5 feet inside the street facing property line at least 10 days before the initial hearing or any appeal hearing. The sign shall be a minimum of 11 inches tall and 17 inches wide, and shall include the permit number, the address and a description of the project, the date of the hearing and appropriate City staff contact information. No part of the sign shall exceed eight feet above grade. The applicant is responsible for the preparation, installation, and maintenance of the posted notice. The applicant shall submit to the city proof of posting verifying that the sign was posted on the site in a timely manner. Subsection 19.74.020B(3)(b) of the Municipal Code applies. The extended posting periods set out in Executive Order No. 2020-01 do not apply.
- E. Findings: In order to approve an OUT Zones Extended Hours Permits, the Director



shall make the following findings:

- i. The establishment, maintenance, or operation of the proposed outdoor use with the proposed late night hours will not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, interest, safety, or general welfare of persons residing in the neighborhood of the proposed use.
- F. Conditions: The following conditions may be applied to OUT Zones Extended Hours Permits, with additional conditions required as necessary for the approval finding above to be made in the affirmative:
- i. Proper mitigation measures should be applied to eliminate potential impacts related to loitering and noise.
  - ii. A sound buffering, acoustic wall may be required along property lines adjacent to the outdoor dining area. The design and height of the wall shall be approved by the Director.
  - iii. Any other conditions to ensure that adjacent residential neighborhood will not be negatively impacted, with particular attention paid to properties within 200 feet of residential uses.
  - iv. Should any conditions of the Out Zone Permit and OUT Zone Extended Hours Permit conflict, the conditions of the OUT Zones Extended Hours Permits shall apply.
- G. Any decision rendered by the Planning and Development Services Director regarding approval of extended hours of operation may be appealed to the Assistant City Manager, followed by an appeal to the City Council, in accordance with Section 19.76, Appeals, with the same noticing requirements as the OUT Zone Extended Hours Permit.