

ORDINANCE NO. 20-1121U

AN URGENCY ORDINANCE OF THE CITY OF WEST HOLLYWOOD AMENDING THE TEMPORARY OUTDOOR EXPANSION PROGRAM TO RENAME THE PROGRAM AS "OUT ZONES", ALLOW EXPANDED HOURS OF OPERATION FOR GYM/FITNESS FACILITIES, AMEND REQUIREMENTS FOR NOTICING FOR OUT ZONE EXTENDED HOURS PERMITS TO BE REVIEWED BY THE PLANNING AND DEVELOPMENT SERVICES DIRECTOR, AND CLARIFY FOOD TRUCK REQUIREMENTS TO ASSIST IN THE REOPENING OF BUSINESSES IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19) AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY.

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings.

- A. International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes named "coronavirus disease 2019," abbreviated COVID- 19, ("COVID-19").
- B. On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19.
- C. 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 a broader spread of COVID- 19.
- D. On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.
- E. On March 16, 2020, the City Council proclaimed the existence of a local emergency to ensure the availability of mutual aid and an effective City response to the novel coronavirus ("COVID-19").

- F. On March 16, 2020, the Los Angeles County Public Health Officer issued an order countywide that (1) prohibited gatherings where at least 50 or more people are expected to attend, (2) puts limits and regulations on gatherings of 10-49 people, (3) limits restaurants to drive-through/takeout/delivery only, and (4) closes bars (that don't serve food), gyms, movie theaters, etc.
- G. On March 16, 2020, the Los Angeles County Public Health Officer issued an order countywide that (1) prohibited gatherings where at least 50 or more people are expected to attend, (2) put limits and regulations on gatherings of 10-49 people, (3) limits restaurants to drive-through/takeout/delivery only, and (4) closes bars (that don't serve food), gyms, movie theaters, etc.
- H. The Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to strict adherence to social distancing guidelines, canceling or postponing group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus. Other counties throughout the state have issued essentially "shelter in place" directives.
- I. On March 19, 2020 the Los Angeles County Public Health Officer issued a second countywide order, the Safer at Home For Control of COVID-19 Order, which was further clarified on March 21, 2020. This public health order prohibits all public and private group gatherings and events and requires people to stay in their homes with limited exceptions; and requires closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters and all similar gathering places. The purpose of the order is to further restrict, and limit gathering of persons and require closures of non-essential retail businesses in an effort to stem or slow the spread of the virus.
- J. On March 19, 2020, the Governor of the State of California, also issued Executive Order N-33-20, an Order of the State Public Health Officer ordering all individuals living in California to stay home or at their place of residence except as needed to maintain continuity of operations of outlined federal critical infrastructure sectors.
- K. On May 4, 2020, Governor Newsom announced that, beginning May 8, 2020, the State of California would move from Stage 1, which had been in place statewide since the issuance of the Stay at Home order, to Stage 2, which is the gradual re-opening of some lower risk workplaces.

- L. On May 26, 2020, the Los Angeles County Public Health Officer issued a countywide order, the Safer at Work and in the Community For Control of COVID-19. This public health order allowed for new standards and safe reopening in alignment with the State of California guidelines. Among the activities now permitted under the change are faith-based services, in-store shopping at low-risk retail stores, drive-in movies and other recreational pursuits.
- M. On May 29, 2020, the Los Angeles County Health Officer issued a revised order, the Safer at Work and in the Community For Control of COVID-19. This public health order allowed for operations of hair salons, barbershops, and in-person dining to resume immediately with modified occupancy and operating procedures to ensure the safeguard of the public.
- N. On June 12, 2020, the County of Los Angeles Department of Public Health adopted a staged approach, supported by science and public health expertise, to allow certain gyms and fitness establishments to safely reopen with modified occupancy and operating procedures to ensure the safeguard of the public. These orders continue to evolve (as recently as September 4, 2020) at the state and county level, in response to the spread of the virus.
- O. The California Department of Alcohol Beverage Control (“ABC”) has issued various “Regulatory Relief” orders designed to support the alcoholic beverage industry in its efforts to assist California in slowing the spread of the virus while assisting the industry in dealing with the economic challenges it is facing as a result. More recently on May 15, 2020, ABC issued its fourth notice of Regulatory Relief providing for temporary relief for licensees to expand licensed footprints in order to serve more people outside where it is safer while the COVID-19 pandemic continues, through an inexpensive ABC permit requiring authorization from local jurisdictions.
- P. On May 20, 2020, ABC issued its fifth Regulatory Relief Notice to permit on a temporary basis, licensees that do not operate kitchen facilities and do not prepare bona fide meals on the licensed premises to partner with businesses that do offer meals to sell bona fide meals in conjunction with to-go containers of alcoholic beverages.
- Q. Effective August 31, 2020, Governor Newsom’s “Blueprint for a Safer Economy” replaced the County Data Monitoring List that had been used to regulate permitted activities at the county level. Under the new framework, every county is assigned to a tier based on its COVID-19 adjusted case rate and test positivity from the last two weeks. Counties can progress through four tiers, ranging from “widespread” (Purple Tier 1) to “minimal” (Yellow Tier 4) community disease transmission. Los

Angeles County is assigned to Tier 1, which has the strictest limitations on activities. Tier 1 mandates all bars and nightclubs where no meals are provided to remain closed, and prohibits restaurants from offering indoor dining.

- R. As of the date of this ordinance, many restaurants retail establishments, gyms, and fitness facilities have begun to reopen, and it is critical they operate in a safe manner where social distancing can be maintained in accordance with guidance from the State of California and local health officials. While state and county health orders continue to evolve, outdoor operations are critical to business operations, especially in periods where indoor operations are limited or closed.
- S. To assist restaurants, retail establishments, and gyms, it is necessary to temporarily allow them to operate on public and/or private property, including the public right way, sidewalks, on-street parking spaces in approved locations, parking areas or other private property located near or in close proximity to the business. The purpose of this Ordinance is to amend the requirements for expanded hours for restaurants, and to allow gyms to open earlier under certain circumstances.
- T. This Ordinance is temporary in nature and only intended to promote stability and safe and healthy operations within businesses in the City during the COVID-19 pandemic outbreak, and to prevent avoidable business closures thereby serving the public peace, health, safety, and public welfare and ensuring jobs and economic vitality within the City, while also preventing further spread of the virus.
- U. This Ordinance 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. The West Hollywood City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living within the City and finds urgency to approve this ordinance immediately based on the facts described herein and detailed in the staff report. Under Government Code Section 8634, this ordinance is necessary to provide for the protection of health, life, and property.

SECTION 2. Section 2 of Urgency Ordinance No. 20-1110U is amended to read as follows:

OUT Zones Program for Businesses Impacted by the COVID-19 Crisis.

- A. Notwithstanding anything to the contrary in the West Hollywood Municipal code, an “OUT Zones Permit Program” (formerly referred to as the “Temporary Outdoor Expansion Permit Program”) to assist in the safe and healthy reopening of business establishments during the time of limited capacities and social distancing requirements for businesses as a result of California and Los Angeles County Health orders in response to COVID-19, is hereby established as set forth in Exhibit A (restaurants), Exhibit B (gyms), and Exhibit C (retail), attached hereto and incorporated herein by reference. The purpose of this ordinance is to offer streamlined approval for eligible businesses to use public and private property, including but not limited to sidewalks, on-street parking spaces in approved locations and private parking lots as areas to expand outdoor business operations. This temporary program is separate from and can be used in conjunction with an outdoor encroachment permit authorized under WHMC 11.18 and 11.28. Businesses that use their private property for outdoor social distancing expansion need to obtain an OUT Zone Permit. Businesses that use public right of way for outdoor social distancing expansion must obtain both an OUT Zone Permit and an encroachment permit. All outdoor activities must comply with all applicable health laws and orders.
- B. Notwithstanding any conditions of approval on location specific permits, including but not limited to a condition requiring valet parking, or any other condition that impedes the ability to conduct outdoor business as further authorized by an approved OUT Zone Permit, the city may grant an OUT Zone Permits for temporary outdoor business activity in accordance with the terms of this ordinance.
- C. The provisions of West Hollywood Municipal Code Sections 19.28.040, Table 3-6, regarding Number of Parking Spaces Required for Non-Residential Land Uses are hereby temporarily suspended to allow for implementation of item A above on a temporary basis through the duration of City, State, and County COVID-19 periods of declared emergency.
- D. The provisions of WHMC Section 19.10.030 Table 2-5 regarding uses and permit requirements for commercial and public zoning districts are temporarily waived for the purposes authorized in this ordinance through the duration of City, State, and County COVID-19 periods of declared emergency.
- E. Hours of operation for the outdoor expansion area of retail establishments and gym/fitness facilities granted an OUT Zone Permit are limited to 6:00 A.M. to 10:00 P.M.
- F. With an OUT Zone Permit, restaurants on property abutting or adjacent to commercially zoned property are permitted to operate in the permitted

outdoor expansion area from 6:00 A.M. to 12:00 A.M., Sunday through Thursday, and from 6:00 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 6:00 A.M. to 12:00 A.M. Monday through Sunday. If the restaurant is causing disturbances to surrounding properties, these hours may be reduced (or additional conditions imposed) through the Enforcement of Revocable Permit Provisions. When bars are permitted to re-open for outdoor operations, the permitted hours to operate in a permitted outdoor expansion area shall be the same as that for restaurants.

1. Restaurants may request an OUT Zone Extended Hours Permit, to allow extended hours of operation up to 2:00 A.M. for the outdoor expansion area to be reviewed and authorized by the Planning and Development Services Director through a Director's Hearing, in accordance with West Hollywood Municipal Code Section 19.74 regarding public hearings and as otherwise specified in Exhibit A, Restaurants.
  2. 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.
- G. Permittees that utilize public property for outdoor social distancing expansion shall obtain and maintain insurance in an amount specified below. 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:
1. 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.
  2. 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.

- H. If alcohol is to be served in the outdoor social distancing expansion area, it must be served in compliance with the Alcoholic Beverage Control's COVID-19 Temporary Catering Authorization (ABC-218 CV19 Permit).
- I. The permits authorized under this ordinance, as further described in the attachments, are temporary and revocable and do not create a vested right to operate in the expanded space. In addition to the revocation provisions specified in the attachments to this Ordinance, the City may revoke the permits when approval is granted to reopen at capacity levels established prior to the March 16, 2020 Los Angeles County Health Officer Order.
- J. The City Manager, or designee, is authorized to promulgate regulations to implement the requirement of this ordinance and modify the terms of the attachments to this Ordinance and add additional businesses, subject to the confirmation by the City Council, as early as is practical.

SECTION 3. Exhibits A, B and C to Urgency Ordinance 20-1110U are amended to read as attached this Ordinance.

SECTION 4. This ordinance shall be effective immediately.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

SECTION 6. Environmental Review. The City Council finds that adoption and implementation of this ordinance is not a "project" for purposes of the California Environmental Quality Act (CEQA), as that term is defined by CEQA guidelines (Guidelines) sections 15061(b)(3), and 15378(b)(5). The effect of the proposed amendment will be for existing businesses to use right of way and parking spaces for socially distant restaurant operations, operating a less intensive capacity than before the crisis. No new development will result from the proposed action and the activity is temporary. No impact to the physical environment will result. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of West Hollywood, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations). The existing businesses will operate a less intensive capacity than before and the temporary expansion into right of way will be conditioned through the encroachment permit process to prevent impacts.

SECTION 7. Urgency Declaration; Effective Date: The City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above and as the City and public would suffer further spread of the virus, as businesses open and need additional space to operate in a safe and healthy manner. On May 26, 2020, the Los Angeles County Public Health Officer issued a countywide order, the Safer at Work and in the Community For Control of COVID-19. This public health order allowed for new standards and safe reopening in alignment with the State of California guidelines. Among the activities now permitted under the change are faith-based services, in-store shopping at low-risk retail stores, drive-in movies and other recreational pursuits. On May 29, 2020, the Los Angeles County Health Officer issued a revised order, the Safer at Work and in the Community For Control of COVID-19 that allowed for operations of hair salons, barbershops, and in-person dining to resume immediately with modified occupancy and operating procedures to ensure the safeguard of the public. On June 12, 2020, the County of Los Angeles Department of Public Health adopted a staged approach, supported by science and public health expertise, to allow certain gyms and fitness establishments to safely reopen with modified occupancy and operating procedures to ensure the safeguard of the public. Effective August 31, 2020, Governor Newsom's "Blueprint for a Safer Economy" replaced the County Data Monitoring List that had been used to regulate permitted activities at the county level. Under the new framework, every county is assigned to a tier based on its COVID-19 adjusted case rate and test positivity from the last two weeks. Counties can progress through four tiers, ranging from "widespread" (Purple Tier 1) to "minimal" (Yellow Tier 4) community disease transmission. Los Angeles County is assigned to Tier 1, which has the strictest limitations on activities. Tier 1 mandates all bars and nightclubs where no meals are provided to remain closed, and prohibits restaurants from offering indoor dining. As of the date of this ordinance, many businesses have begun to reopen, and it is critical they operate in a safe manner where social distancing can be maintained in accordance with guidance from the State of California and local health officials. While state and county health orders continue to evolve, outdoor operations are critical to business operations, especially in periods where indoor operations are limited or closed. Many cities in Southern California have implemented similar programs. As businesses have been closed for over two months, their livelihood depends on opening immediately and to do that before a vaccine is available means that additional measures need to be implemented. The ABC supports this program and has implemented similar relief to facilitate the operation outside a licensed premises. This relief measure also prevents avoidable business closures thereby serving the public peace, health, safety, and public welfare and ensuring jobs and economic vitality within the City, while also preventing further spread of the virus. Under Government Code Section 8634 and WHMC Chapter 2.80, this ordinance is necessary to provide for the protection of life and property for the reasons set out herein. The Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.



Ordinance No. 20-1121U  
Page 9

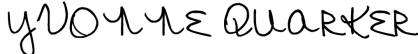
SECTION 8. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 21<sup>st</sup> day of September, 2020 by the following vote:

AYES:	Councilmember:	D'Amico, Duran, Meister, Mayor Pro Tempore Heilman, and Mayor Horvath.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.

DocuSigned by:  
  
 DAFB1A0A14647B  
 LINDSEY P. HORVATH, MAYOR

ATTEST:

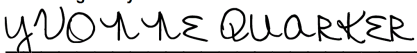
DocuSigned by:  
  
 634519E40F194EC  
 YVONNE QUARKER, CITY CLERK

STATE OF CALIFORNIA        )  
 COUNTY OF LOS ANGELES    )  
 CITY OF WEST HOLLYWOOD    )

I, YVONNE QUARKER, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 20-1121U was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 21<sup>st</sup> day of September, 2020.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29<sup>th</sup> day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 22<sup>nd</sup> DAY OF SEPTEMBER, 2020.

DocuSigned by:  
  
 634519E40F194EC  
 YVONNE QUARKER, CITY CLERK

**OUT ZONE PERMITS**  
**EXHIBIT A: RESTAURANTS**  
**OUT ZONE PERMIT DESIGN AND OPERATIONAL STANDARDS FOR**  
**RESTAURANTS**

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 Ordinance 20-1121U 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 an 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.

- F. These regulations apply to outdoor dining on private property and the public right-of-way.

## II. OUT 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. Peddler's Permit fee is waived for businesses that utilize food trucks as part of the OUT Zone Permit.
- E. 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.
- 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.
- 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. Up to two food trucks associated with the subject property business may be permitted on each property with an approved OUT Zone Permit. Food trucks as part of the OUT Zone program are not permitted on public

property. Adequate space and markings on the ground to facilitate socially distanced queueing are required.

## 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 and associated food trucks, as permitted (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 6:00 A.M. to 12:00 A.M., Sunday through Thursday, and from 6:00 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 6:00 A.M. to 12:00 A.M. Monday through Sunday. If the

restaurant is causing disturbances to surrounding properties, these hours may be reduced (or additional conditions imposed) through the Enforcement of Revocable Permit Provisions.

## 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, Sherriff 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 ZONE EXTENDED HOURS PERMIT

- A. Restaurants may request an OUT Zone Extended Hours Permit 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 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, and as otherwise outlined in this section.
- D. Noticing: All noticing requirements shall comply with 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 Zone Extended Hours Permit, 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 Zone Extended Hours Permits:

- 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.
  - iv. Should any conditions of the OUT Zone Permit and Extended Hours Permit conflict, the conditions of the Extended Hours Permit 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.



**EXHIBIT B (GYMS)**  
**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 Ordinance 20-1121U in order to establish specific design and operational criteria for temporary outdoor expansion on public and private areas.
- B. An outdoor area for gyms and fitness establishments to operate on private property adjacent to or directly accessible from the facility, including private parking stalls, or other private areas, where patrons may engage in physical activity.
- C. These standards and procedures regulate the design and operation of temporary outdoor expansion areas associated with existing gym and fitness facilities. However, they do not provide information on all the government agency requirements for starting a new gym or fitness facility or expanding an existing one. Business owners must secure the appropriate licenses and permits from the City of West Hollywood Planning and Development Services Department and Public Works Department.
- D. 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 Urgency Ordinance 20-1121U.
- E. These regulations apply to gym and fitness facility activities on private property.

**II. 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.

### III. OUTDOOR FITNESS AREA

- A. The outdoor fitness area shall be permitted only on private property, including, 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 as the outdoor fitness area. Parking does not need to be added or replaced.
- B. The final location and configuration of the outdoor fitness 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.
- C. Temporary signage may be included as part of outdoor fitness areas.

### IV. DESIGN STANDARDS

- A. All structures, barriers and/or equipment shall be temporary in nature. Items need not be removed each evening, but shall be capable of being removed; 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. Structures that are more permanent in nature are subject to further review by Building and Safety and may require additional permits.
- B. No additional parking shall be required for outdoor fitness areas.

### V. STANDARDS OF OPERATION

- A. Outdoor fitness areas are limited to use by patrons of gym/fitness facility and cannot be utilized by general members of the public.
- B. Gym/fitness facility management shall keep the outdoor fitness area clear of litter, debris, trash, etc. Trash receptacles shall be provided in the outdoor fitness area.

- C. At the end of each business day, establishments are required to clean (sweep and wash) the area in and around the outdoor fitness 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.
- D. Temporary outdoor lighting shall not impact adjacent residential units.
- E. The allowable hours of operation are 6:00 a.m. to 10:00 p.m., per the City's Noise Ordinance (WHMC 9.08.050). Restricted hours may be applied if the fitness area is located immediately adjacent to residential uses.
- F. Noise: All gym/fitness facilities shall comply with the City's Noise Ordinance. Outdoor amplification of music is not permitted. Use of an outdoor microphone or megaphone is not permitted. All music and instruction shall be transmitted to patrons through wireless headphone systems. Music and instruction shall not be audible to any adjacent residential uses. From 6:00 A.M. to 9:00 A.M., gym/fitness facilities shall not be audible from any residential uses. Additional measures may be necessary to comply with the noise limitations as required by the Noise Ordinance.

## 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 business representative by any Code Enforcement Officer, Sherriff Department Official, or Fire Department Official of the City. The Permittee or manager or other business representative 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 other business representative, unless otherwise specified, the Director may suspend or revoke the OUT Zone Permit. Permittee or other business representative 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 gym or fitness

facility, 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.

**EXHIBIT C (RETAIL)**  
**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 Ordinance 20-1121U in order to establish specific design and operational criteria for temporary outdoor expansion on public and private areas.
- B. An outdoor area for retail establishments to operate on public property adjacent to or directly accessible from the facility, limited to the sidewalk area encompassing the store frontage, where patrons may engage in physical activity.
- C. These standards and procedures regulate the design and operation of temporary outdoor expansion areas associated with existing retail establishments. However, they do not provide information on all the government agency requirements for starting a new retail establishment or expanding an existing one. Business owners must secure the appropriate licenses and permits from the City of West Hollywood Planning and Development Services Department and Public Works Department.
- G. 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 Ordinance 20-1121U.
- D. These regulations apply to outdoor retail sale activities on public property.

II. 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. Temporary signage may be included as part of outdoor retail areas.

### III. OUTDOOR RETAIL SALES AREA

- A. The outdoor retail sales area shall be permitted only public property adjacent to or directly accessible from the facility, limited to the sidewalk area encompassing the store frontage.

- B. The final location and configuration of the outdoor retail sales 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. Items need to be removed each evening. Structures that are more permanent in nature are subject to further review by Building and Safety and may require additional permits.

#### V. STANDARDS OF OPERATION

- A. Retail establishment management shall keep the outdoor retail sales area clear of litter, debris, trash, etc. Trash receptacles may be provided in the outdoor retail sales area.
- B. At the end of each business day, establishments are required to clean (sweep and wash) the area in and around the outdoor retail sales 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.
- C. Upon termination of either the OUT Zone Permit or the Encroachment Permit, the Permittee or business representative shall immediately remove the barriers around the outdoor retail sales 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.
- D. The allowable hours of operation for the outdoor expansion area are 6:00 a.m. to 10:00 p. m., per the City's Noise Ordinance (WHMC 9.08.050). Outdoor amplification of music is not permitted.

#### 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 other representative of

business, unless otherwise specified, the Director may suspend or revoke 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 retail establishment, 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.