

WEST HOLLYWOOD  
DIRECTOR OF EMERGENCY SERVICES

EXECUTIVE ORDER NO. 2021-3

EMERGENCY EXECUTIVE ORDER OF THE CITY MANAGER/DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF WEST HOLLYWOOD, CALIFORNIA, RESCINDING SPECIFIED EMERGENCY MEASURES, ALLOWING CERTAIN NEIGHBORHOOD MEETINGS TO BE CONDUCTED VIA VIRTUAL PLATFORMS, AND EXPANDING THE CITY'S OUT ZONES PERMIT PROGRAM, ADOPTED DURING 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, 2020-11, 2020-12, 2020-13, 2020-14, 2020-15, 2020-16, 2020-17, 2021-1 and 2021-2 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. On April 9, 2020, the City Manager/Director of Emergency Services issued Executive Order No. 2020-2, that implemented several emergency measures intended to slow the spread of the disease including (among other measures), allowing businesses that closed as a result of State and County public health orders to board up its windows in a safe manner, during the period of closure.
- D. Recent County public health data demonstrates that the rate of COVID-19 community transmission, hospitalizations and testing positivity rates have substantially declined. Additionally, there now exists at least three COVID-19 vaccines proven to help combat the disease and that are being made available to the public in phases. As a result, state and local health orders have loosened COVID-19 related restrictions to allow a growing number of establishments to resume operations.
- E. For example, on January 25, 2021, the California Department of Public Health ended the Regional Stay at Home Order, lifting the order for all regions statewide, including Southern California, which West Hollywood was a part of. This action allowed all counties to return to the Blueprint for a Safer Economy framework

which uses color-coded tiers to indicate which activities and businesses can open based on local case rates and test positivity.

- F. On March 12, 2021, the County Department of Health issued a revised County Health Officer Order in light of increasing numbers of vaccinated individuals and the County's move into the Red Tier. While cases are declining, the order cautions that the rate is still very high and that more contagious variants are present in the County. It strongly advises residents to remain at home as much as practicable, prohibits private gatherings of more than three households, and still mandates wearing face masks in public. Under this order, specified businesses are permitted to remain open to the public and conduct normal business operations provided that it abide by the County's Social (Physical) Distancing Protocol and County Health Department Protocol applicable for its business sector, as these protocols may be amended from time to time. For example, certain "Higher Risk Businesses" such as lounges, nightclubs, bars, and public entertainment venues, among others, but allows gyms to reopen indoor operations at 10% maximum capacity. Other "Lower-Risk Businesses", such as movie theaters and restaurants, must operate at a reduced indoor capacity of 50% or less and implement the County Health Reopening Protocols applicable to their business types.
- G. On April 2, 2021, the County entered the even less restrictive Orange Tier of the State's Blueprint for a Safer Economy framework ("Revised Order"). Under the Revised Order, capacity limits for specified establishments, including but not limited to restaurants, breweries and wineries, fitness facilities, cardrooms and places of worship were increased subject to the County's Social (Physical) Distancing Protocol and the County Health Department Protocol applicable for its business sector. The Revised Order also permits bars that possess a low risk public health permit issued by the County to reopen for outdoor operations subject to modifications in compliance with Appendix Y-1 "Protocols for Bars" of the Revised Order and the County's Social (Physical) Distancing Protocol, as these protocols may be amended from time to time.
- H. 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 State and County health orders in response to COVID-19, the City desires to update Exhibit A of its Out Zone Permit Program to temporarily permit eligible bars to operate on public and/or private property, including the public right of way, sidewalks, on-street parking spaces in approved locations, parking areas or other private property located near or in close proximity to the business. Additionally, in light of the growing amount of establishments that are progressively reopening as COVID-19 cases decline, the need for permitting City businesses to board up their windows during the period of closure no longer exists.
- I. Further, now that City parks and recreation spaces have reopened to the public, it is necessary to rescind the provision of Executive Order No. 2020-10 that ordered the closure of bathrooms in these facilities.

- J. The spread of COVID-19 however continues to present a threat to health and safety of the City residents. The disease can still spread rapidly from person-to-person contact and those in close proximity. Neighborhood meetings conducted via virtual platforms such as Zoom, in lieu of in-person meetings, can help curb community transfer of the disease.
- K. 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. This Order is adopted to balance the ability to continue safe and efficient government operations during the global health pandemic. As the health orders evolve, the City's response should also evolve and emergency orders may be rescinded when they no longer add value or are no longer needed in response to the pandemic.

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. Emergency Measures.

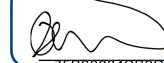
- A. Paragraph (D) of Section 2 of Executive Order No. 2020-2 is hereby rescinded.
- B. Paragraph (H) of Section 2 of Executive Order No. 2020-3 is hereby rescinded and shall read in full as follows:
  - C. In lieu of in-person neighborhood construction meetings that take place before construction begins, and neighborhood meetings required for certain development projects under the WHMC or conditions of project approval, the developer may conduct those meetings virtually using services such as Zoom, which allow for virtual presentation of construction mitigation details and plan and allow for participant questions and comments.
- D. Paragraph (A)(4)(e) of Section 2 of Executive Order No. 2020-10, related to the closure of bathrooms in City park recreation spaces is hereby rescinded.
- E. As authorized under Section 2J of Ordinance No. 20-1121U, Exhibit A of the City's Out Zones Permit Program applicable to restaurants is hereby amended as follows. The "Out Zone Permit Design and Operational Standards for Restaurants and Bars" attached hereto as "Exhibit A" and incorporated by reference shall set forth the new operation standards applicable to bars and restaurants permitted to operate during the time of limited capacities and social distancing requirements for businesses as a result of California and Los Angeles County health orders issued in response to COVID-19.

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.

ORDERED by the City Manager/Director of Emergency Services this 8th day of April, 2021.

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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

## **OUT ZONE PERMITS**

### **EXHIBIT A: RESTAURANTS AND BARS**

#### **OUT ZONE PERMIT DESIGN AND OPERATIONAL STANDARDS FOR RESTAURANTS AND BARS**

##### **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 20-1121\_U 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 or bar.
- 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 bar, 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 Urgency Ordinance 20-1121U.

- 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 a 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 as well as any applicable standards of the City, Alcohol Beverage Control Board, and County of Los Angeles Department of Public Health.
- 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/Bar 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 a restaurant/bar and associated food trucks, as permitted (i.e. they cannot be destinations for take-out food and beverages).
- C. Restaurant/Bar 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 OUT Zone 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.

- G. Bars that possess a low risk public health permit issued to it by the County of Los Angeles, are permitted to operate in the permitted outdoor expansion area from 11:30 a.m. to 10:00 p.m. Monday through Sunday. If the bar is causing disturbances to surrounding properties, these hours may be reduced (or additional conditions imposed) through the Enforcement of Revocable Permit Provisions. Also, customers are limited to the maximum amount of time allowed by the current County Health Order, currently 90 minutes and as may be amended through the County Health Order.

## 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/bar, 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 FOR RESTAURANTS

- A. Restaurants may request an OUT Zone Extended Hours Permit to operate until 2:00 A.M. Bars are not currently eligible to apply for this request based on the hours permitted under the County Health Order.
- 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.