SUBJECT: UPDATES TO THE OUT ZONE PROGRAM
INITIATED BY: CITY MANAGER’S DEPARTMENT
(Paul Arevalo, City Manager)
(Lauren Langer, Assistant City Attorney)
(Janet Jimenez, Assistant to the City Manager)
(Tara Worden, AICP, Business Development Analyst)
(Paolo Kespradit, Management Specialist)

COMMUNITY SERVICES DEPARTMENT
(Oscar Delgado, Assistant City Manager)
(John Keho, AICP, Director, Planning and Development Services)
(Jennifer Alkire, AICP, Planning Manager, CHPP)
(Rachel Dimond, AICP, Senior Planner, LRP)
(Jackie Rocco, Director, Public Works)
(Danny Rivas, Code Compliance Manager)

STATEMENT ON THE SUBJECT:
The City Council will consider updates to the OUT Zone Program (formerly known as the Temporary Outdoor Expansion Permit) as measures to assist local businesses in their efforts to recover from COVID-19 impacts.

RECOMMENDATIONS:
Staff recommends that the City Council continue to follow the phased business reopening plan from Los Angeles County Department of Public Health and amend the temporary measure to help businesses reopen successfully while meeting social distancing and safety requirements through the following recommendations:

1) Adopt Resolution No. XXXXX: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD RATIFYING EXECUTIVE ORDER 2020-11 AND EXECUTIVE ORDER 2020-13, IMPLEMENTING EMERGENCY MEASURES TO ASSIST LOCAL BUSINESSES THROUGH THE COVID-19 CRISIS (Attachment A);

2) Amend Urgency Ordinance 20-1110U: 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, TO ASSIST IN THE REOPENING OF BUSINESSES IMPACTED BY THE NOVEL CORONAVIRUS (COVID-19) AND SETTING FORTH THE FACTS

AGENDA ITEM 2.N.
CONSTITUTING SUCH URGENCY (Attachment B) and;

3) Authorize the Director of Finance & Technology Services to waive fees for the Outdoor Encroachment Permit and Peddler’s Business License Application as part of the OUT Zone Program.

BACKGROUND / ANALYSIS:
On June 1, 2020, the City Council adopted Urgency Ordinance 20-1106U which established the Temporary Outdoor Expansion for Social Distance program and permit process, authorizing restaurants to expand operations into the public right of way and parking areas to account for social distancing requirements. July 6, 2020, the City Council adopted Urgency Ordinance 20-1110U which expanded the Temporary Outdoor Expansion Permit to uses including retail establishments, gym/fitness facilities, and personal care services. This revision to the program also included updates to hours of operation for restaurants.

The City of West Hollywood continues to craft policies that help businesses reopen by temporarily relaxing the rules that regulate outdoor activity, allowing customers and employees to maintain the social distancing recommended by public health officials. To allow West Hollywood businesses to operate outdoors safely, staff has revised the program with a series of updates, as follows.

Executive Order 2020-11
On August 25, 2020, the City Manager issued Executive Order 2020-11, which revised several policies intended to support the local economy to be implemented immediately and ratified by City Council at the following City Council meeting. Executive Order 2020-11 provided the following relief measures for businesses impacted by COVID-19:

- 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.
- 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.
- Revisions to the Temporary Outdoor Expansion Program as follows:
  1. Renamed the Outdoor Temporary Use Zone (OUT Zone) Program.
  2. Established Director’s Hearing process for OUT Zone Extended Hours Permits.
     - Director’s Hearing for OUT Zone Extended Hours Permits will be held on the second Tuesdays of the month, or more frequently if needed. The City will provide support to applicant to meet the public noticiting requirement as follows: 10-day notice of public hearing to be mailed to all stakeholders within a 200-foot radius of applicant business, 10-day notice of public hearing to be posted on-site, and a 10-day notice of public hearing to be posted in local print.
news outlets.

- Businesses interested in applying for an OUT Zone Extended Hours Permit should fill out the online form to start the process. For more information, please see the application webpage at www.weho.org/outdoorpermit.

3. Authorized use of public on-street parking spaces for City’s OUT Zone Parklet Program for phase one and two locations. Provided authority to close parking lanes to vehicles for the protection and safety of persons using the City’s commercial corridors during the COVID-19 pandemic. Both Executive Order 2020-11 and 2020-13 provide locations for closed parking lanes to be utilized for OUT Zones.

Executive Order 2020-13

On September 11, 2020, the City Manager issued Executive Order 2020-13, which expanded the locations of the OUT Zones Parklet Program. The installation of the OUT Zone Parklets requires temporarily closing a travel lane and the permanent closure of the parking lane to accommodate safe business activity during the COVID-19 pandemic.

Revisions to Urgency Ordinance 20-1110U

Formerly known as the Temporary Outdoor Expansion Permit, the newly branded OUT Zone Program currently encompasses nearly 70 businesses, allowing restaurants, retail, gyms/fitness facilities, and personal care facilities to safely operate entirely outdoors. This program continues to evolve, as input is received from the business community and direction is given from the Los Angeles County Department of Public Health and the associated Health Officer Orders.

- Hours of Operation for Retail and Gyms
  - Hours of operation for retail establishments and gym/fitness facilities granted an OUT Zone Permit are limited daily from 7:00 A.M. to 10:00 P.M. (previously 8:00 A.M. to 10:00 P.M.)
  - 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.

- Inclusion of food trucks for OUT Zones
  - Up to two food trucks may be permitted as part of an existing restaurant’s OUT Zone Permit, given they are located on private property.
  - Food trucks that are permitted through an OUT Zone Permit for an existing West Hollywood restaurant must be associated with the permitted restaurant.
• Peddler’s Permit fees are temporarily waived for food trucks that are included as part of an OUT Zone Permit.

Update on OUT Zones Parklet Program

On August 25, 2020, by Emergency Executive Order, the Temporary Outdoor Expansion Permit was renamed to the Outdoor Use Temporary Zone (OUT Zone) Program. Staff has expanded the program to include on-street curbside parking spaces along the City’s commercial boulevards as public space to expand business operations outside.

The soft opening for the first phase of the City’s new OUT Zones program began on Tuesday, August 25, 2020 with the installation of protective barriers, known as ‘k-rails' outside of participating businesses. Phase two of the OUT Zone program was installed on September 11, 2020 with additional locations for phase three currently being evaluated.

Since the launch of the OUT Zone program, the City of West Hollywood has been mentioned in Eater LA, KCBS, KNBC, and other local new publications. The most up-to-date list of participating OUT Zone businesses can be found at www.weho.org/outzones. OUT Zones are marked by colorful signage with spots to “Dine OUT” for restaurants and cafes, “Shop OUT” for boutiques and goods, and “Werk OUT” for exercise and personal care.

On September 11, 2020, Executive Order 2020-13 was signed to allow an expansion of the OUT Zone Parklet Program into additional locations in the City.

Business Outreach

Staff regularly meets with assorted business sectors through weekly virtual meetings established by the West Hollywood Chamber of Commerce. Business input has shaped the direction of the OUT Zone Program and continues to contribute to the program’s improvement.

Initial feedback from businesses participating in the OUT Zone Program has been immensely positive. Businesses with outdoor outdoors have seen an increase in clients and customers, and as such have been able to re-hire staff, and expand hours of operation.

CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:

This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:
• OSP-3: Promote Economic Development while Maintaining Business Vitality & Diversity.

In addition, this item is compliant with the following goal(s) of the West Hollywood
General Plan:

- ED-1: Maintain a diverse and resilient economy.
- ED-2: Expand the City’s tax base to support fiscal stability.

EVALUATION PROCESSES:
Staff will regularly review the implementation of the program. If a business is in violation of the outdoor design standards or standards of operation, a Code Enforcement Officer will notify the business and provide the business an opportunity to rectify the violation. If the business does not rectify the violation, the permit may be revoked.

ENVIRONMENTAL SUSTAINABILITY AND HEALTH:
The Outdoor Use Temporary Zone (OUT Zone) permit program will allow customers and employees to conduct business and maintain safe social distancing, per the direction provided by the LA County Department of Public Health.

COMMUNITY ENGAGEMENT:
The West Hollywood business community has expressed interest in expanding their operations outside of their existing building footprint. This expansion would allow increased occupancy, increased revenue, and ensure safe social distancing is maintained. The West Hollywood Chamber of Commerce has advocated for the expanded outdoor operations of businesses while business recover from COVID-19 economic impacts.

OFFICE OF PRIMARY RESPONSIBILITY:
CITY MANAGER’S DEPARTMENT / CITY MANAGER OFFICE
PLANNING & DEVELOPMENT SERVICES DEPARTMENT / CURRENT & HISTORIC PRESERVATION PLANNING DIVISION
DEPARTMENT OF PUBLIC WORKS / CITY ENGINEERING DIVISION AND CODE COMPLIANCE DIVISION

FISCAL IMPACT:
Staff anticipates the program will help businesses successfully reopen with increased capacity, and mitigate the downward trend in sales tax receipts, and eventually restore sales tax receipts to pre-pandemic levels.

Staff proposes to waive the following fees for applicants:
1. Fee for Outdoor Dining Encroachment Permit which includes:
   - $100 Initial Permit Application Review
   - $12 Permit Issuance/Annual Fee (per square foot)
   - $1 (per square foot) monthly pro-rate for alcohol serving businesses
$0.50 (per square foot) monthly pro-rate for non-alcohol serving businesses

2. Fee for Peddler’s Permit Business License Application
   - $300 Application Fee and Background Check Requirement

Staff estimates that Peddler’s Permit waivers will be utilized by approximately five businesses, for a total estimated loss of revenue $1,500.

**ATTACHMENTS:**

Attachment A: Resolution No. 20-
Attachment B: Amendments to Urgency Ordinance 20-1110U
The City Council of the City of West Hollywood does hereby find, order, and resolve as follows:

SECTION 1. For the reasons set forth in the Order, the City Manager/Director of Emergency Services’ Executed Order 2020-11, dated August 25, 2020, ordering the following is ratified:

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 Zone 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 2. For the reasons set forth in the Order, the City Manager/Director of Emergency Services’ Executed Order 2020-13, dated September 10, 2020, ordering the following additions to the OUT Zone Parklet Program as established above, is ratified:

A. Beginning on September 10, 2020, the City, in consultation with the City’s Traffic Engineer, has expanded the 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. Existing parking lane closures were established in Executive Order 2020-11, and those remain in effect. The additional 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 eastbound parking lane closest to the curb on the south side of Santa Monica Boulevard, between Havenhurst Drive and La Jolla Drive (in front of 8200 Santa Monica Boulevard, generally);

2. the westbound parking lane closest to the curb on the north side of Santa Monica Boulevard, between Harper Avenue and Sweeter Avenue (in front of 8279 Santa Monica Boulevard, generally);

3. the westbound parking lane closest to the curb on the south side of Santa Monica Boulevard, between Harper Avenue and Sweetzer Avenue (in front of 8264 Sunset Boulevard, generally);

4. 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);

5. the eastbound parking lane closest to the curb on the south side of Melrose Avenue, between La Peer Drive and Almont Drive (in front of 8906 Melrose Avenue, generally);

6. the westbound parking lane closest to the curb on the north side of Melrose Avenue, between La Peer Drive and Almont Drive (in front of 8905 Melrose Avenue, generally);

7. the westbound parking lane closest to the curb on the north side of Santa Monica Boulevard, between Larrabee Street and Palm Avenue (in front of 8803 Santa Monica Boulevard, generally); and

8. the southbound parking lane closest to the curb on the west side of Palm Avenue, between Santa Monica Boulevard and Cynthia Street (in front of 809 Palm Avenue, generally).
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


B. During the pendency of the local emergency and statewide state of emergency, the Director of Emergency Services is empowered: “[t]o 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 25th day of August, 2020.

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

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, 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 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 of 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.
WEST HOLLYWOOD
DIRECTOR OF EMERGENCY SERVICES

EXECUTIVE ORDER NO. 2020-13

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


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), which program has been renamed and is also referred to as the Out Zone program. 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 the OUT Zone program further into on-street parking spaces. This is balanced with the reduced demand overall that has reduced strain on parking supply citywide. 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. 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. Beginning on September 11, 2020, the City, in consultation with the City's Traffic Engineer, has expanded 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 businesses that obtain appropriate OUT Zone Permits to utilize the space for socially distanced outdoor use. 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. Existing parking lane closures established in Executive Order 2020-11, remain in effect. The additional 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 eastbound parking lane closest to the curb on the south side of Santa Monica Boulevard, between Havenhurst Drive and La Jolla Drive (in front of 8200 Santa Monica Boulevard, generally);
2. the westbound parking lane closest to the curb on the north side of Santa Monica Boulevard, between Harper Avenue and Sweeter Avenue (in front of 8279 Santa Monica Boulevard, generally);
3. the westbound parking lane closest to the curb on the south side of Santa Monica Boulevard, between Harper Avenue and Sweetzer Avenue (in front of 8264 Sunset Boulevard, generally);
4. 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);
5. the eastbound parking lane closest to the curb on the south side of Melrose Avenue, between La Peer Drive and Almont Drive (in front of 8906 Melrose Avenue, generally);
6. the westbound parking lane closest to the curb on the north side of Melrose Avenue, between La Peer Drive and Almont Drive (in front of 8905 Melrose Avenue, generally);
7. the westbound parking lane closest to the curb on the north side of Santa Monica Boulevard, between Larrabee Street and Palm Avenue (in front of 8803 Santa Monica Boulevard, generally); and

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 11th day of September, 2020.

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

______________________________
Yvonne Quarker, City Clerk
ORDINANCE NO. 20U-_______

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.


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 7:00 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 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.

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.

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 21st day of September, 2020 by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

LINDSEY HORVATH, MAYOR

ATTEST:

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-XXXXU was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 21st 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 29th day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS __ DAY OF SEPTEMBER 2020.

YVONNE QUARKER, CITY CLERK
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-____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.

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.
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 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, 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-______U 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-______U.

E. These regulations apply to gym and fitness facility activities on private property.

II. APPLICATION PROCEDURE

A. An application for a 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 7:00 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 7:00 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 Sheriff 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-____U 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-____U.

D. These regulations apply to outdoor retail sale activities on public property.

II. APPLICATION PROCEDURE

A. An application for a 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 7:00 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, 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 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.