CITY OF GARDENA REGULATION NO 4 PURSUANT TO PROCLAMATION DECLARING THE EXISTENCE OF A LOCAL EMERGENCY

GARDENA REGULATION NO. 4 ISSUED PURSUANT TO A PROCLAMATION BY THE CITY MANAGER OF THE CITY OF GARDENA, CALIFORNIA, ACTING AS THE DIRECTOR OF EMERGENCY SERVICES, TEMPORARILY SUSPENDING ZONING AND ENTITLEMENT PERMIT REQUIREMENTS FOR EATING ESTABLISHMENTS TO ALLOW OUTDOOR DINING ON PRIVATE PROPERTY AND ADOPTING A TEMPORARY PRIVATE PROPERTY OUTDOOR DINING PROGRAM

WHEREAS, Gardena Municipal Code Chapter 2.56.060 empowers the City Manager, as the Director of Emergency Services, to declare the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity; and

WHEREAS, Government Code Section 8550 et seq., including Section 8558(c), authorize the City Manager to proclaim a local emergency when the City is threatened by conditions of disaster or extreme peril to the safety of persons and property within the City that are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, Gardena Municipal Code Chapter 2.56.060(A)(6)(a) empowers the City Manager as Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; and

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan City, Hubei Province, China in December 2019. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and, in some cases, death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a tremendous public health threat; and

WHEREAS, on January 30, 2020, the World Health Organization (WHO) declared the outbreak a “public health emergency of international concern” and on March 11, 2020, the WHO has elevated the public health emergency to the status of a pandemic. On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health
emergency for the United States to aid the nation’s healthcare community in responding to COVID-19. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency in California; and

WHEREAS, the Governor on March 12, 2020, issued Executive Order N-25-20, ordering, inter alia, that all residents are to heed the orders and guidance of state and local public health officials; and

WHEREAS, on March 16, 2020, the City Manager, as the City’s Director of Emergency Services, did proclaim the existence of a local emergency as authorized by Government Code section 8630 and Gardena Municipal Code Chapter 2.56.060; and

WHEREAS, on March 16, 2020, the County of Los Angeles Department of Public Health issued the Safer at Home Order for Control of COVID-19, to further restrict and limit the gathering of persons in an effort to slow the spread of COVID-19 within the greater Los Angeles community which was subsequently amended and revised (the “Safer at Home Order”); and

WHEREAS, on March 19, 2020, the City Council pursuant to Resolution No. 644 did ratify the Proclamation declaring the existence of a local emergency; and

WHEREAS, on May 29, 2020, the County further amended the Safer at Home Order. The revised May 29, 2020. Safer at Home Order allowed restaurants to re-open their dining rooms for on-site dining, along with operating protocols to limit the spread of COVID-19. These protocols included social distancing requirements (where customers must maintain space between themselves and others) and a 60% cap on restaurant dining room capacities; and

WHEREAS, on July 1, 2020, the County further amended the Safer at Home Order in order to immediately address the serious recent regression of COVID-19 indicators within the County of Los Angeles, which show troubling and substantial increases in new daily reported COVID-19 cases, hospitalizations, and the testing positivity rate. Among other things, the revised Safer at Home Order ordered the closure of all restaurants, but only for indoor, in-person onsite dining, for at least 21 days, and until further notice from the County; and

WHEREAS many eating establishments throughout the City of Gardena are suffering continuing economic harm due to the business closures mandated by the State Order(s), County’s Safer at Home Order and the COVID-19 public health crisis; and

Gardena Regulation No.4 Pursuant to ProclamationDeclaring the Existence of a Local Emergency
2
WHEREAS, the City has an important government interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, permitting eating establishments to temporarily extend their operations to outdoor areas located on private property for outdoor dining in accordance with this Order will enable the eating establishments to operate safely during the pendency of this COVID-19 emergency; and

WHEREAS the City is empowered under its emergency powers to suspend zoning rules and permits temporarily during the COVID-19 crisis and allow eating establishments to operate in outdoor areas located on private property; and

WHEREAS, California Government Code 8634 empowers the City to promulgate orders and regulations necessary to provide for the protection of life and property during a local emergency; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Manager of the City of Gardena acting as the Director of Emergency Services to exercise my authority pursuant to Chapter 2.56.060 of the Gardena Municipal Code to issue this regulation related to the protection of life and property.

NOW, THEREFORE, IT IS ORDERED by the City Manager of the City of Gardena acting as the Director of Emergency Services as follows, to become effective on July 7th 2020, subject to ratification as soon as practicable by the City of Gardena City Council:

SECTION 1. The Gardena Director of Emergency Services hereby temporarily suspends the provisions of Title 18 (Zoning Ordinance) and requirements of any entitlement permit with respect to requirements for site plan review and parking spaces in order to allow for outdoor dining for eating establishments.

SECTION 2. The Gardena Director of Emergency Services hereby establishes a Temporary Private Property Outdoor Dining Program for eating establishments, allowing for outdoor dining areas on private property in accordance with State and local orders, within the City of Gardena, subject to obtaining a Temporary Private Property Outdoor Dining Permit, where required, and meeting all Program requirements.
SECTION 3. The Temporary Private Property Outdoor Dining Program shall assure that eating establishments allowed to operate under this program shall meet all of the criteria and follow all of the standards outlined in Exhibit A, attached hereto and incorporated herein. If a business violates the Program standards, criteria and conditions, the Director of Community Development may immediately suspend or revoke the Temporary Private Property Outdoor Dining Permit.

SECTION 4. Any denial, suspension or revocation of a Temporary Private Property Outdoor Dining Permit may be appealed pursuant to the procedures for appeals of Temporary Use Permits as set forth in Chapter 18.60 of the Gardena Municipal Code.

SECTION 5. The Gardena Director of Emergency Services hereby authorizes City staff to initiate processing of permits, as applicable under the Temporary Private Property Outdoor Dining for Eating Establishments Program.

SECTION 6. This regulation shall take effect on July 7th, 2020, subject to confirmation at the earliest practicable time by the City Council.

SECTION 7. If any subsection, sentence, clause, phrase, or word of this regulation or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this regulation.

SECTION 8. This regulation shall remain in effect until terminated by subsequent order of the Gardena Director of Emergency Services, terminated by resolution or other action of the City Council, or until the state of local emergency in the City concludes, whichever occurs earlier.

PROCLAIMED this 7th day of July, 2020.

Clint Osorio,
City Manager/Director of Emergency Services
I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF GARDENA REGULATION NO. 3 PURSUANT TO PROCLAMATION DECLARING THE EXISTENCE OF A LOCAL EMERGENCY FOR THE CITY OF GARDENA, CALIFORNIA BY THE CITY MANAGER (DIRECTOR OF EMERGENCY SERVICES) ON THE 7TH DAY OF MAY 2020.

ATTEST:

Becky Romero

MINA SEMENZA, City Clerk

Gardena Regulation No.4 Pursuant to Proclamation Declaring the Existence of a Local Emergency

5
Exhibit A

Temporary Private Property Outdoor Dining Program

This Temporary Private Property Outdoor Dining Program (the "Program") facilitates the re-opening of eating establishments while granting them the ability to temporarily expand dining areas in order to comply with COVID-19 related public health and safety protocols and social distancing requirements.

This Program temporarily suspends City zoning and entitlement permit provisions applicable to eating establishments' dining areas that are in conflict with the expanded dining or use areas allowed by this Program.

Any eating establishment seeking to expand its dining area within private property shall comply with the following:

**Eligible Uses**

- Eating establishments that are legally allowed to serve food in a sit-down format.

**Application Process**

- Complete this application form.
- For uses that have a legal right to serve alcohol, refer to Question 5 on the application form.
- Submit application form to Planning Division of Community Development Department via e-mail at tempdining@cityofgardena.org

**Operating Standards**

Private dining areas shall comply with the following standards at all times:

- Any outdoor portion of the site of an existing eligible use may be converted to dining area with approval of the landlord and subject to Health Department rules and regulations and the Americans with Disabilities Act (ADA) at all times.

- The subject establishment may perform outdoor cooking functions pursuant to all applicable Los Angeles County Department of Health policies.

- The hours of operation of any expansion shall be limited to the hours of operation for the associated indoor dining.
- Due to the expedited nature of the review associated with this permit, tents, heaters, and umbrellas/shade structures over 400 square feet in total area shall not be approved under a Temporary Private Property Outdoor Dining on Private Property application.

- A permit is not transferable to any entity or person and is valid only as to the original applicant.

- Use, occupation and obstruction of the private property which is permitted under this application may be temporarily suspended, without prior notice or hearing, when, in the discretion of the Director of Community Development ("Director"), the police chief, or the fire chief, any such use, occupation or obstruction may interfere with public safety efforts or programs, street improvement activities, construction activities, cleaning efforts or other similar activities or with the health, welfare or safety of the citizens of the city.

- Any outdoor dining area on private property shall be kept in a good state of repair and maintained in a clean, safe and sanitary condition at all times. Regular cleanup of trash and debris shall be the responsibility of the business owner.

- The business owner of the dining area shall maintain designated ingress and egress points and shall keep them clear and accessible at all times. The private property outdoor dining area may be defined by placement of portable but sturdy fencing or other suitable dividers as required or approved by the Director.

- There shall be no covering over any part of the outdoor dining area on private property except for awnings attached to the abutting property, and approved pursuant to all city requirements, including, but without limitation, all requirements of Title 18 of the municipal code, and except for individual table umbrellas (not to exceed 400 square feet of area in total).

- Promoter-produced parties or events shall be prohibited. These events include private parties that involve third parties who profit from organizing and/or drawing attendees to the events.

- Customized lighting and sound system conducive of a nightclub atmosphere shall be prohibited at all times.

- Amplification of music shall be allowed subject to the approval of the Director and shall comply with the regulations of Chapter 8.36 (Noise) of the Gardena Municipal Code.

- Live entertainment and dancing shall be prohibited at all times.

- Smoking is prohibited in all private property outdoor dining areas. Violators may be subject to a fine.

- The site and surrounding area shall be maintained in a litter and graffiti free manner. Any graffiti that should appear on the site shall be removed within 48 hours.
• The Director may, in his or her sole discretion, place additional conditions upon the issuance of the permit in order to insure the protection of the rights of all adjoining property owners and the health, safety and welfare of the public.

• Permits shall be considered temporary and nonpermanent in nature, and permittee shall have neither property interest in nor any entitlement to the granting or continuation of any such permit. Permits may be terminated by the city, with or without cause, regardless of the nature and scope of financial or other interest in, or on account of the permit or the permitted use.

• All dining areas shall operate in compliance with all public health guidelines and protocols related to COVID-19, as issued and updated by the Public Health Officer.

The following additional standards shall apply to businesses serving alcohol:

• Prior to serving alcohol in a dining area, the business must possess both a valid on-sale alcoholic beverage license pursuant to Division 9, commencing with Section 23000, of the California Business and Professions Code of Type 41 (on-sale beer and wine eating place) or of Type 47 (on-sale general eating place), or of their successor types. Alcohol service shall be in compliance with all applicable regulations and guidance issued by the California Department of Alcoholic Beverage Control at all times.

• The private dining area shall be located entirely within the private property and shall not encroach within any public right-of-way.

• A permittee serving alcohol within an outdoor dining area on private property shall post conspicuously within the dining area a sign which reads: “People consuming alcohol outside of this outdoor dining area are subject to arrest. Gardena Municipal Code Section 9.08.020”

• The last alcoholic beverage shall be served no later than one-half hour before closing.

• The establishment shall allow patrons of all ages, at all times.

• No cover charges, entry fees, or minimum drink orders shall be charged/required of patrons.

• Signs advertising brands and types of alcohol shall not be visible from the exterior of the premises. The display of alcoholic beverages shall be interior only (no outdoor display) at all times.

• The following preventive measures shall be undertaken to reduce the potential for alcohol related problems:
• Food service shall remain available during all hours of operation;

Rideshare service phone numbers shall be posted in a conspicuous location at all times in the area(s) where alcohol is served to customers;

• All employees selling or serving alcohol shall be required to participate in an alcohol training program offered by the Alcoholic Beverages Control prior to the operation of selling/serving alcohol;

• The availability of a variety of non-alcoholic beverages shall be made known, posted in a conspicuous location, and offered to customers. The operator shall provide a Designated Driver program and offer free non-alcoholic drinks to designated drivers.

• Operation of any outdoor dining on private property shall be subject to any other conditions which the director should find to be in the interest of the public health, safety or welfare.