

## RESOLUTION NO. 6470

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, RATIFYING REGULATION NO. 4 ISSUED BY THE CITY MANAGER AS 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**

THE CITY COUNCIL OF THE CITY OF GARDENA DOES HEREBY RESOLVE AS FOLLOWS:

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. 6441 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

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, the City Manager, acting as the Director of Emergency Services and pursuant to his authority under Chapter 2.56.060 of the Gardena Municipal Code issued on July 7, 2020, Regulation No. 4 (A true and correct copy of the Director of Emergency Services Regulation No. 4 is attached hereto and incorporated herein by this reference as Attachment "A") and ordered the following:

- Temporarily suspending 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.
- Established 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.
- 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 of the Director of Emergency Services Regulation No. 4. 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.

- 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.
- City staff was authorized to initiate processing of permits, as applicable under the Temporary Private Property Outdoor Dining for Eating Establishments Program.

WHEREAS, in accordance with Gardena Municipal Code Chapter 2.56.060 (6)(a) the City Council must confirm any rules and regulations promulgated by the Director of Emergency Services at the earliest practicable time after issuance of the rules and regulations; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY FIND, DETERMINE, AND RESOLVE, AS FOLLOWS:**

SECTION 1. The City Manager, acting as the Director of Emergency Services' Regulation No. 4 issued on July 7, 2020, and entitled "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", is hereby ratified.

SECTION 2. The City Council authorizes the City Manager, acting as the Director of Emergency Services to make changes to the Temporary Private Property Outdoor Dining Program in Exhibit A of Regulation No. 4 as necessary and appropriate to meet new State and local orders and community needs.

SECTION 3. If any subsection, sentence, clause, phrase, or word of this resolution 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 resolution

SECTION 4. This Resolution 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.

BE IT FURTHER RESOLVED that the City Clerk shall certify to the passage and adoption of this Resolution; shall cause the same to be entered among the original Resolutions of said City; and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

Passed, approved, and adopted this 14<sup>th</sup> day of July, 2020.

  
TASHA CERDA, Mayor

ATTEST:

  
for MINA SEMENZA, City Clerk

APPROVED AS TO FORM:

  
CARMEN VASQUEZ, City Attorney

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            ) SS:  
CITY OF GARDENA                        )

I, **MINA SEMENZA**, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Resolution, being **Resolution No. 6470** duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a regular meeting of said City Council held on the **14th day of July, 2020**, and that the same was so passed and adopted by the following roll call vote:

AYES:     COUNCIL MEMBERS FRANCIS AND TANAKA, MAYOR PRO TEM  
            HENDERSON, COUNCIL MEMBER KASKANIAN AND MAYOR CERDA

NOES:     NONE

ABSENT:   NONE

*Becky Romero*  
*for* \_\_\_\_\_  
City Clerk of the City of Gardena, California

(SEAL)