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Seventeenth Supplement to Public Order Under City of Culver City Emergency Authority

Issue Date: June 10, 2020

Subject: Temporary Zoning Code Modifications to Support the Safe Reopening and Recovery of Restaurants and Retail Businesses During COVID-19

On May 29, 2020, the Los Angeles County Department of Public Health revised its "Reopening Safer at Work and in the Community for Control of COVID 19: Moving the County of Los Angeles through Stage 2 of California's Pandemic Resilience Roadmap" (Revised County Order), to allow additional businesses to conditionally re-open. The County of Los Angeles is following the State of California's phased re-opening that progressively designates sectors, businesses, establishments or activities that may reopen or resume, with necessary modifications to protect the public health and safety, and to lower the risk of transmission of Novel Coronavirus Disease (COVID-19).

On June 1, 2020, to continue to align with the County of Los Angeles as it moves through Stage 2 of the Resilience Roadmap, by allowing activities to resume and Culver City businesses to safely re-open as the County permits, the City Manager issued a Sixteenth Supplement to Public Order (June 1 Order), allowing hair salons and barbershops to reopen with conditions; allowing restaurants and other food facilities to reopen for in-person dining at 60% capacity; and allowing restaurants and retailers to temporarily expand into the public right-of-way, subject to the approval of the Public Works Director/City Engineer, who was granted the discretion to establish procedures, standards, conditions, rules and regulations to protect the public health, safety and welfare.

On June 9, 2020, the City Council received a progress update from the Economic Recovery Task Force including, among other things, potential temporary modifications to or relaxation of requirements of Title 17, Zoning, of the Culver City Municipal Code ("Zoning Code"), in order to assist with the recovery of existing businesses and help new businesses establish themselves in Culver City. The City Council provided direction to the City Manager as follows:

- *Legal Nonconforming Uses:* Due to COVID-19, the ability of businesses to operate on a continuous basis is yet to be determined. Many businesses may have to resume and continue operations intermittently in response to economic demand or additional health concerns. Discontinuance of a legal non-conforming use should be allowed to extend beyond the one-year period, before it is considered

extinguished, in order to help businesses that face uncertainty during the pandemic.

- *Exclude Outdoor Dining Area from Parking Calculations:* In order to meet social distancing requirements, outdoor dining will be necessary to assist restaurants with the space and capacity needed to remain profitable. In order to facilitate establishment of outdoor dining to protect the public health and economic vitality of area businesses, the City should waive the parking requirements for outdoor dining areas.
- *Include Only Indoor Dining in Parking Calculations:* To help new restaurant uses establish themselves in Culver City, parking requirements should be applied to the square footage of the dining area only. It can be assumed that dining area drives the most trip generation as part of a restaurant and areas such as walk-in freezers and bathrooms do not generate their own parking demand. This modification would assist new businesses that intend to occupy space previously held by retail or office uses with a less intensive standard.
- *Allow Takeaway Alcohol Services:* Alcoholic beverage offerings help to bring in additional revenue for businesses. During the COVID-19 pandemic, California State Alcoholic Beverage Control has relaxed regulations to allow restaurants that usually sell alcohol for in place dining to sell it as part of takeaway orders, if the alcohol is in a secure beverage container, such as a cup with a lid. Culver City can support local restaurants by further addressing alcoholic beverage takeaway as part of this resolution.
- *Dining and Retail Sales in Private Parking Lot Areas:* The requirement of a conditional use permit for outdoor dining and outdoor retail displays on private property should be temporarily waived. An alternate Temporary Use Permit (TUP) process has been utilized for restaurants to allow outdoor dining in privately owned parking lots to assist with social distancing. This TUP process should be extended to retail businesses for outdoor retail displays in order to assist with social distancing within retail locations.

To support the safe reopening and recovery of restaurants and retail businesses during COVID-19, and consistent with the City Council's June 9th direction, by virtue of authority vested in me as the Director of Emergency Services, pursuant to the provisions of CCMC Section 3.09.020.B.1.h(2), to make and issue rules and regulations on matters reasonably related to the protection of persons, property and the environment as affected by such emergency, I hereby order:

1. Zoning Code Section 17.610.010.B provides that a nonconforming use, which has been abandoned or discontinued for a period of one year, shall not be reestablished, and any subsequent reuse or any new use established shall

conform to the current provisions of the Zoning Code. In order to address the uncertainty businesses are facing with regard to their ability to operate on a continuous basis, and whether operations will be intermittent in response to economic demand or additional health concerns during the pandemic, Zoning Code Section 17.610.010.B is suspended for the duration of this Public Order.

2. Per Zoning Code Section 17.320.020, Table 3-3B, parking for outdoor dining areas is not required for the first 250 square feet. The remaining outdoor dining area exceeding 250 square feet is required to be parked at a ratio of 1 space per 100 square feet. In order to facilitate establishment of outdoor dining to protect the public health and economic vitality of area businesses, all outdoor dining square footage shall be excluded from the business parking calculation, for the duration of this Public Order.
3. Per Zoning Code Section 17.320.020, Table 3-3B, parking for restaurant uses are required to be parked based on the total gross floor area of the entire tenant space, with a parking ratio of one space per 100 square feet. In order to encourage and facilitate new restaurant uses in Culver City, the parking ratio shall only apply to the square footage of the dining area of the restaurant, and shall exclude all other areas of the business, for the duration of this Public Order.
4. Per Zoning Code Sections 17.400.070 and 17.400.075, all outdoor dining and outdoor retail displays on private property require a conditional use permit (CUP). In order to assist with social distancing, and facilitate an expedited approval for this use, the requirement for a CUP shall be suspended and replaced with a Temporary Use Permit (TUP) process, for the duration of this Public Order. Temporary Use Permits shall be processed in accordance with Zoning Code Chapter 17.520.
5. Takeaway alcoholic beverages must be sold in conjunction with meals prepared for pick-up and delivery, and must be in closed containers to prevent consumption without removal of a lid or cap (no lids with sipping holes or openings for straws). Restaurants offering takeaway alcoholic beverages must comply with all California State Alcoholic Beverage Control (ABC) rules and regulations, including the posting of required signage. Alcoholic beverages shall not be consumed in public or in any other area where open containers are prohibited by law, with the exception that restaurants may serve alcohol in outdoor dining areas adjacent to the business, subject to ABC approval of a COVID-19 Temporary Catering Authorization under ABC's Fourth Notice of Regulatory Relief.
6. This Seventeenth Supplement to Public Order supersedes any provision in a previous Order where there is a conflict between the Orders; otherwise all Stay at Home orders remain in place. Except as specifically provided herein, public and private gatherings of any number of people occurring outside of a single household or living unit continue to be prohibited.

7. Additional social distancing, infection control, and health and safety measures and guidelines may be imposed at any time, in my sole discretion, in order to ensure the protection of the public's health and safety, and the intent of each and every Public Order is carried out.

Any violation of this Seventeenth Supplement to Public Order may be enforced under the CCMC, which provides for fines not to exceed \$1,000 or imprisonment not to exceed six months. Each individual officer should use their discretion in enforcing this order and always keep the intent of the order in mind.

This Seventeenth Supplement to Public Order shall be effective immediately and shall remain in effect until superseded, amended, modified or rescinded.

Date: 6/10/2020



John M. Nachbar, City Manager
Director of Emergency Services
City of Culver City