

**CITY OF BELL GARDENS
DIRECTOR OF EMERGENCY SERVICES (CITY MANAGER)
EXECUTIVE ORDER NO. 2020-02
AUTHORIZING THE ALLOWANCE OF TEMPORARY OUTDOOR SERVICES CITYWIDE
WITHOUT DISCRETIONARY LAND USE ENTITLEMENTS**

WHEREAS, on March 4, 2020, Governor Newsom declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and department, and help the state prepare for broader spread of COVID-19; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order No. N-33-20 requiring all individuals to stay home or at their place of residence except as needed to maintain the continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 19, 2020, the Los Angeles County Health Officer ("County") issued a Safer at Home Order for Control of COVID-19 ("Safer at Home Order") with an April 19, 2020 expiration date. Among other things, the Safer at Home Order required closure of restaurants except for delivery, drive thru, and carry out service; and

WHEREAS, on March 20, 2020, the City of Bell Gardens declared its own State of Emergency by adopting Resolution No. 2020-21, which adopted by reference the orders and mandates of the County of Los Angeles' "Safer at Home Order for the Control of COVID-19" and the Governor's Executive Order N-33-20; and

WHEREAS, on April 10, 2020, the County amended the Safer at Home Order and extended its expiration date to May 15, 2020. Among other things, the amended Safer at Home Order continued the closure of restaurants except for delivery, drive thru, and carry out service, and expressly prohibited indoor and outdoor table dining; and

WHEREAS, on May 11, 2020, the City of Bell Gardens reaffirmed its declaration of local emergency by adopting Resolution No. 2020-35; and

WHEREAS, on May 13, 2020, the County further amended the Safer at Home Order and indefinitely extended its expiration date. Among other things, the amended Safer at Home Order continued the closure of restaurants except for delivery, drive thru, and carry out service, and continued the prohibition on indoor and outdoor table dining; and

WHEREAS, on May 29, 2020, the County further amended the Safer at Home Order. Among other things, the revised Safer at Home Order allows restaurants to provide indoor and outdoor table dining subject to social distancing requirements, which includes occupancy limits of no more than 60% of the original building occupancy; and

WHEREAS, Section 2.34.050 (Director and Coordinator of emergency services – Offices created) of Chapter 2.34 (Disaster Council) of Title 2 (Administration and Personnel) of the City of Bell Gardens Municipal Code ("BGMC") establishes a Disaster Council and identifies the City Manager as the Director of Emergency Services ("Director"); and

WHEREAS, Section 2.34.060(B)(1) (Director and coordinator of emergency services – Powers and duties) of Chapter 2.34 (Disaster Council) of Title 2 (Administration and Personnel) of BGMC further empowers the Director 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; and

WHEREAS, on June 22, 2020, the City Council ratified the Director's Executive Order No. 2020-01 to allow temporary outdoor dining for restaurants due to the financial impacts that have been caused by the COVID-19 pandemic, which have led to continued restrictions on the operations of restaurants by the enactment of social distancing protocols and reductions in building occupancy; and

WHEREAS, on July 13, 2020, the Governor and County Health Officer issued an updated order that once again prohibits indoor client services for restaurants, gyms, faith-based organizations, and personal service uses such as barbers, hair salons, nail salons, massage parlors, and tattoo parlors, but allows them to have outdoor operations; and

WHEREAS, the Director desires to maintain compliance with the Health Officer's safety protocols, including the six (6)-foot social distancing measures pursuant to Stage 3 of the State's "Resiliency Roadmap" and L.A. County's "Road to Recovery" protocols; and

WHEREAS, the intent of this Executive Order is to give all businesses that have been restricted from having indoor client services, in addition to restaurants, a chance to recover financially by maintaining the number of customers typically within the occupancy limits of the restaurant through an increase in outdoor servicing opportunities; and

WHEREAS, the increase in outdoor servicing can be accomplished by allowing outdoor seating and servicing within adjacent outdoor areas, sidewalks, and parking lots without compromising safety standards between vehicles and pedestrians; and

WHEREAS, following the implementation of Executive Order No. 2020-01 staff began receiving comments from business owners expressing their concern over the prohibition of tents and canopies identified in the operational standards section and believes the new standard to allow canopies is in the best interest of the City's restaurants and community; and

WHEREAS, this Executive Order is intended to be temporary and will expire once the California Governor and Los Angeles County Health Officer restrictions are lifted and occupancy limits are back to their original state.

NOW, THEREFORE, BE IT RESOLVED that the City Manager acting as the Director of Emergency Services does resolve, declare, determine and order as follows:

SECTION 1. The recitals above are true and correct and incorporated herein by reference.

SECTION 2. Executive Order No. 2020-01, in its entirety, is hereby repealed, replaced and superseded by this Executive Order No. 2020-02 and shall be of no further force or effect.

SECTION 3. The following outdoor services standards supersede any conflicting provisions in the City's Municipal Code for the duration of the Executive Order; and are hereby enacted temporarily without the need to go through discretionary land use approvals or pay fees until such time as the California Governor and Los Angeles County Health Officer restrictions are lifted and occupancy limits are back to their original state:

- I. **Applicability:** Restaurants, barber shops, hair salons, fitness facilities, personal care establishments (i.e., barbers, hair salons, nail salons, massage parlors, and tattoo

- parlors), and faith-based organizations within the City of Bell Gardens that are legally existing and have a valid business license may implement outdoor services within areas that do not impede vehicular or pedestrian circulation.
- II. City Approvals. Business must submit a plot plan to the City's Planning Division for over-the-counter stamp-approval along with a letter of consent from the property owner. The following information is required:
- a. Plot plan must show all proposed locations for the temporary outdoor service areas as well as any existing outdoor services previously approved as part of the business.
 - b. Encroachment Permit application, if applicable, must include insurance certificate indemnifying the City from any liability, covering the City for property damage and personal injury for a minimum combined single limit coverage of \$2,000,000, and naming the City of Bell Gardens, City of Bell Gardens Successor Agency to the Community Development Commission, City of Bell Gardens Officials, its officers, employees, attorneys, volunteers and agents as additional insured. The certificate must provide a minimum of thirty (30) days written notice of cancellation to City.
- III. Parking Lots: If the parking lot is to be considered for outdoor services, no more than 25% of the parking lot area for single-use properties and 10% for properties with multiple uses may be approved so long as the parking lot maintains unimpeded vehicular and pedestrian circulation.
- IV. Private Walkways: Outdoor services may encroach into the private walkways within the property the business is located in but must provide an ADA required 4-foot wide clearance for pedestrian circulation. Outdoor services may only encroach into the walkways contiguous to the existing licensed business.
- V. Sidewalk Services: Outdoor services may encroach into the public sidewalk provided the business obtains a valid "no fee" encroachment permit from the City's Public Works Department following Planning Division approval.
- VI. Operational Standards. The following must be in place at all times:
- a. Outdoor services may only be open during business' normal hours of operation.
 - b. Outdoor service areas must be protected from vehicles with City-approved water-filled barricades for parking lot locations and steel-gate barricades for all other locations. Such barricades must be designed and certified for that specific purpose, as opposed to home-made structures.
 - c. All equipment used for the outdoor services must be kept in good condition and removed at the end of each business day.
 - d. Outdoor service areas must be maintained free of spills, trash, debris, and graffiti at all times.
 - e. Temporary structures are limited to canopies and umbrellas intended for shade. Any temporary structure exceeding 200 square feet in area will require Los Angeles County Fire and City Building & Safety approvals.
 - f. Location of electrical cords and generators shall be reviewed and approved by the Building & Safety Division.
 - g. Plumbing and cooking facilities are prohibited within all temporary outdoor areas.
 - h. Live entertainment beyond that already approved for the business under its existing land use entitlements is prohibited.

- VII. Social Distancing: The six (6)-foot State and County required social distance between customers must be maintained at all times. For restaurants, parties arriving to eat together are exempted as long as no more than six (6) are in a group.
- VIII. Allowed Zones: Outdoor services will be allowed citywide in all zones that allow the previously listed uses. However, the outdoor service space must be contiguous to the existing licensed business.
- IX. Business License Status: Businesses must be in good standing with the City. They must have a valid business license and no pending County Health Department or City Code Enforcement violations.
- X. Health Department and ADA Clearance: Outdoor services must abide with Health Department rules and regulations and the Americans with Disabilities Act (ADA) at all times.
- XI. Areas Not Permitted for Outdoor Services: Fire lanes, landscaped planter areas, public right-of-way's other than sidewalks, designated loading areas, handicapped spaces and walkways, and parking lot areas beyond the allowances given in Section I. Applicability in this Executive Order.
- XII. Alcohol Service/Consumption: The service of alcoholic beverages outside of restaurant businesses must comply with the current requirements/restrictions in place by the California State Department of the Alcoholic Beverage Control.

SECTION 4. The City Manager acting as the Director of Emergency Services is authorized to enact this temporary outdoor services program.

SECTION 5. This Executive Order is not intended to create, and shall not be interpreted as creating, any substantive procedural rights or benefits with respect to businesses offering of outdoor services.

SECTION 6. Revocation. Temporary outdoor services approvals can be revoked with cause at any time by the City Manager acting as Director of Emergency Services or his designee. Revocation will be in writing and will state the reason(s) for the revocation.

SECTION 7. Expiration. Temporary outdoor services will expire once the California Governor and Los Angeles County Health Officer restrictions are lifted and occupancy limits are back to their original state.

SECTION 8. Severability. If any section, subsection, clause, phrase or portion of this Executive Order is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Executive Order. The City Manager / Director of Emergency Services declares that he would have issued this Executive Order and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 9. Dissemination. This Executive Order shall be given widespread publicity and notice in accordance with Government Code Section 8654.

**AMENDMENT NO. 1 TO EXECUTIVE ORDER NO. 2020-01 IS HEREBY ISSUED AS AN
EMERGENCY MEASURE**

ON JULY 27, 2020.

Michael B. O'Kelly
Director of Emergency Services (City Manager)