TEMPORARY OUTSIDE DINING PERMIT APPLICATION

CITY OF UPLAND
DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION
(909) -931-4130

PROJECT ADDRESS/LOCATION: _____ _____	**FILE NO.:** **TUP-** _____ **RELATED FILES:** _____
APPLICANT NAME: _____ **ADDRESS:** _____ _____ **PHONE:** _____ **FAX:** _____ **E-MAIL:** _____	**PROPERTY OWNER:** _____ **ADDRESS:** _____ _____ **PHONE:** _____ **FAX:** _____ **E-MAIL:** _____

PROJECT DESCRIPTION

- ❑ TEMPORARY DINING OUTSIDE OF DOWNTOWN
- ❑ TEMPORARY DINING WITHIN THE DOWNTOWN

Start Date:	End Date:

APPLICANT CERTIFICATION

I hereby certify that the information provided is complete and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

_____ Signature

_____ Date

DATE RECEIVED:	RECEIVED BY:	FEES:	RECEIPT NO:

Revised 07/20

FILING REQUIREMENTS

- ❑ Three (3) copies of the site plan and floor plan which accurately depict the request. All plans shall be clearly and accurately dimensioned, and drawn at a clearly noted scale. **The plan/sketch shall be prepared on 8 ½ inches by 11 inches paper.**

- ❑ A letter describing the request in detail and providing justification for approval. including the following

    a) Describing hours of operation and general operating details; and

    b) A commitment that the area will be designed, located, and operated that the public health, safety, and general welfare will be protected.

    c) A commitment that the operation will be conducted in accordance with COVID-19 guidance documents issued by San Bernardino County.

- ❑ A letter of authorization from the property owner(s), if the application is not being made by the property owner(s)

- ❑ Color photographs of the site

- ❑ Any other support materials determined to be necessary for consideration by the Community Development Director

FILING FEES:

Temporary Outside Dining Permit: **NO FEE**

NOTE:
The temporary outside dining area may be discontinued at the sole discretion of the City.

DECLARATION AND ACKNOWLEDGMENT

As the applicant, I acknowledge that if I receive approval of the Temporary Outside Dining Permit Application, it will be only for the business and/or project that is described within this application and that I will comply with all regulations and the required conditions of approval attached to this Application from the City of Upland prior to the start of business operations and during business operations.

Signature: _____ Date: _____

City of Upland
Parking Lot Dining Program
City-Wide

What? State and local Health Department regulations have limited the capacity of interior dining areas in response to COVID-19. Outdoor parking lot dining areas are temporary installations that may be proposed by a business in order to allow for increased capacity to serve patrons normally handled in an interior dining area.

Where? Any parking space normally utilized by a business, with the exception of handicap spaces.

How Big Can They Be? Three (3) parking spaces per 1,000 square feet of total business lease area, including any dining rooms, kitchens, bathrooms, etc. For example, a 2,000 square-foot restaurant may use up to 6 parking stalls for parking lot dining.

Does it Need to be Enclosed? All parking lot outdoor dining areas must be protected by both a vehicle barrier (to prevent cars from intruding into the space) and a visual barrier (to allow people to clearly see the space). A vehicle barrier can be a concrete wheelstop, or a K-rail. Visual barriers must be at least 36 inches high for visibility. Wrought iron or vinyl fences are some of the few materials that are considered visual barriers.

NOTE: Temporary signs may be placed on the fence (or similar barrier without a Temporary Sign Permit.

Entrances and Exits? Aside from the main entrance and exit into the space, an emergency exit with a minimum width of 36 inches is required.

Can I Put Shade Structures? Any shade structures such as umbrellas or tents must be significantly anchored and fixed in place. Please contact us with your proposal.

Is Lighting Required? Any parking lot dining area that is used during the evening hours require lighting. Power may be obtained from a variety of sources such as running a power line from inside your business, or connecting to a parking lot light. Please contact us with your proposal.

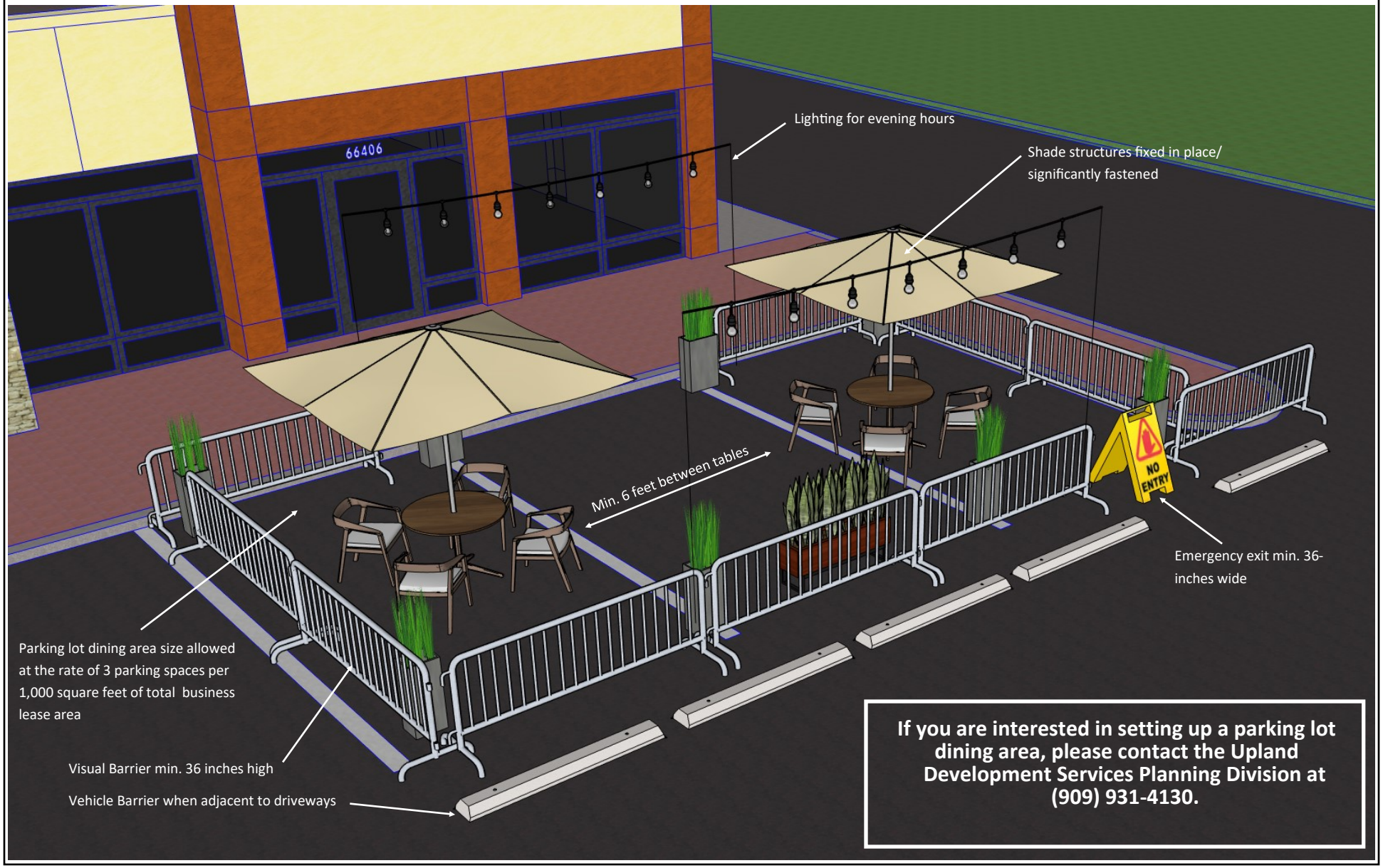
Private Property? The business shall be responsible for securing a letter of permission from the commercial center owner/manager.

How Long is the Permit Valid? The permit is valid for one month and must be renewed for an additional month prior to expiration.

NOTE: No alcohol shall be allowed without a proper ABC clearance/approval for outdoor service.

The City cares about the wellbeing of your business! We understand that each space is unique and may require a unique set of solutions. If you are interested in setting up an outdoor dining area, please contact the Planning Division at (909) 931-4130.

Typical Parking Lot Dining Concept



If you are interested in setting up a parking lot dining area, please contact the Upland Development Services Planning Division at (909) 931-4130.

Rev. 07/01/2020

City of Upland
Downtown Outdoor Dining Program

Pursuant to State and local Health Department regulations that temporarily restrict dining indoors for restaurants, as well as previous requirements restricting the capacity of indoor dining areas, the City of Upland is establishing an Outdoor Dining Program for Downtown Upland in response to COVID-19. Outdoor dining shall be permitted temporarily within designated street closure areas (See attached map) until October 31, 2020 pursuant to the following conditions and requirements to allow for increased capacity to serve patrons normally handled in an interior dining area.

Conditions and Requirements:

a. Restaurant may use the street for outdoor seating and serving food. The width of the outdoor seating area to be the width of the restaurant's leasehold street frontage.

b. Seating on the sidewalk is permitted and must maintain 2-foot clearance from curb and maintain 4-foot through-clearance for ADA access.

c. Expanded outdoor footprint must have a "visual barrier" to enclose the restaurant's outdoor service area and must be at least 36 inches high for visibility. A wrought iron or vinyl fence, or bike rack are examples of the materials that are considered visual barriers. The enclosed service area must have a minimum 4-foot entrance and exit. Temporary signs may be placed on the fence (or similar barrier) without a Temporary Sign Permit.

d. The restaurant must obtain a license from the ABC for an outdoor expanded footprint to serve alcohol.

e. All alcohol drinks that are prepared or alcohol that is stored must be done inside the restaurant only.

f. The serving of alcohol outdoors is only permitted in conjunction with the serving of food.

g. No alcohol is permitted beyond the designated outdoor service area of the restaurant.

h. All businesses must close by 10:00pm.

i. The restaurant must permit the City to inspect the premise without notice.

j. Excessive calls for service to police or excessive medical aid calls to County Fire District may result in shutting down outdoor service.

k. All restaurants must maintain their outdoor service area free from trash, debris or broken glass at the end of business each night. Restaurants must power wash their area bi-monthly.

l. The outdoor service area shall be cleaned each night and hand sanitizing stations shall always be available.

m. Private security shall be maintained from 10:00 p.m. to 6:00 a.m. by either the restaurant applicant, collectively by the restaurants permitted for outdoor dining or by the designated merchant board for Downtown; Historic Downtown Upland.

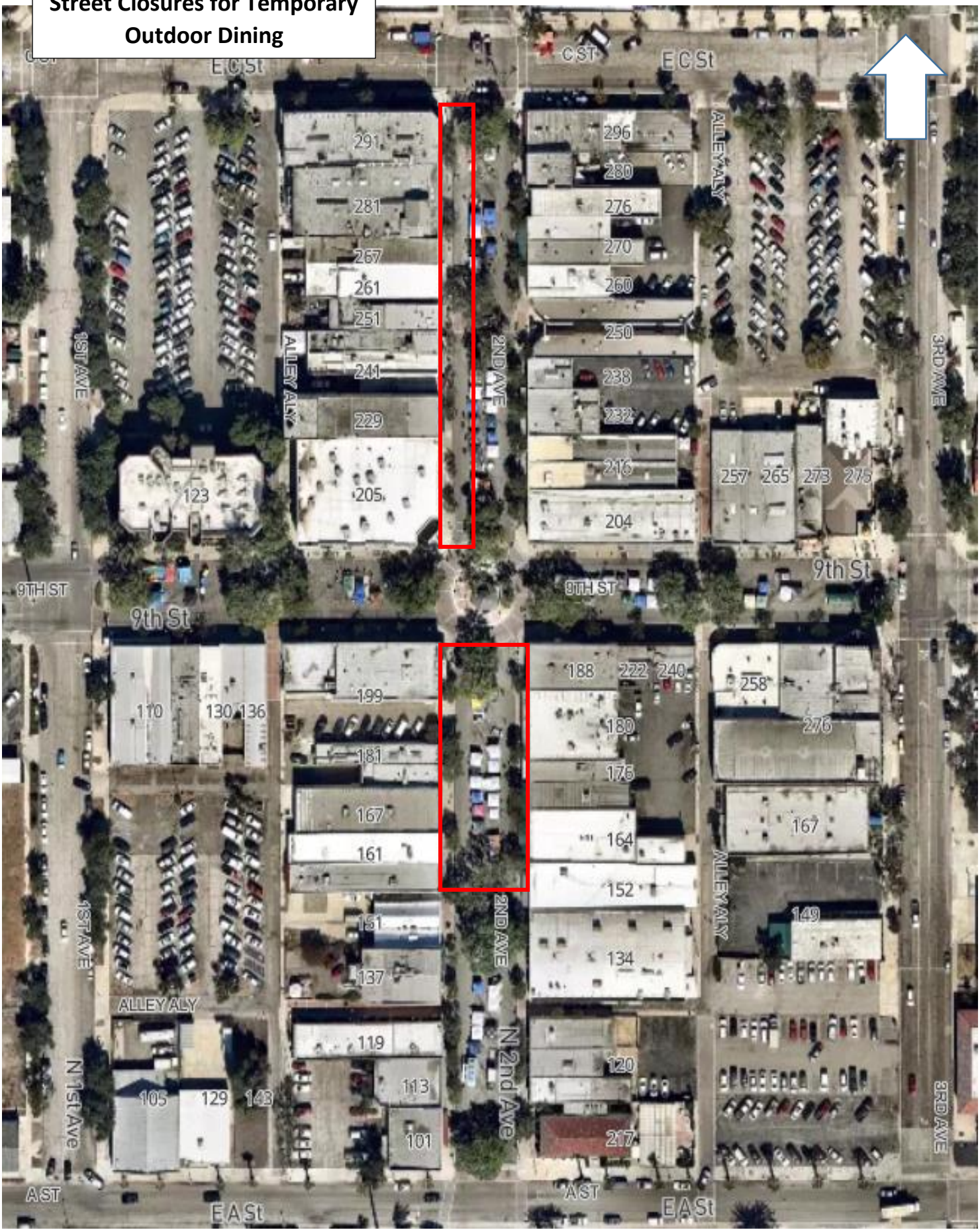
n. Any shade structures such as umbrellas or tents must be significantly anchored and fixed in place. Please contact the City with your proposal.

o. Outdoor dining area that is used during the evening hours may require lighting. Power may be obtained from a variety of sources such as running a power line from inside your business or connecting to outdoor outlet. Please contact the City with your proposal.

p. The permit is valid for one month and must be renewed for an additional month prior to expiration.

q. Applicant must agree to indemnify, defend, and hold the City, its officials, officers, employees, and agents free and harmless from any liabilities arising from the use of public areas, including any approved use of the public right-of-way, for or related to outdoor dining operations.

Street Closures for Temporary Outdoor Dining



DIRECTOR OF EMERGENCY SERVICES
EXECUTIVE ORDER 2020-5

WHEREAS, COVID-19 has spread globally to over 70 countries, infecting more than 118,000 persons and killing more than 4,200 individuals worldwide. Due to the expanding list of countries with widespread transmission of COVID-19, and increasing travel alerts and warnings for countries experiencing sustained or uncontrolled community transmission issued by the Centers for Disease Control and Prevention (CDC), COVID-19 has created conditions that are likely to be beyond the control of local resources and require the combined forces of other political subdivisions to combat; and

WHEREAS, 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 to help the State prepare for the broader spread of COVID-19; and

WHEREAS, 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; and

WHEREAS, on March 13, 2020, the City Council adopted Resolution No. 6529 declaring the existence of a local emergency concerning the COVID-19 virus pursuant to Government Code Section 8630; and

WHEREAS, the federal, state, and local authorities, including the California Department of Public Health and the Health Officer of the County of San Bernardino, have issued directives, orders, and guidelines to protect public health and prevent transmission of COVID-19, including, but not limited to, stay at home orders, social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS these public health directives and orders impact daily life in the community, as well as the livelihood and economic well-being of residents and businesses; and

WHEREAS, the space limitations of some dine-in restaurants make it difficult or impossible to provide an essential service to the public while complying with these public health directives, orders, and guidelines related to COVID-19; and

WHEREAS, the City can assist dine-in restaurants to operate and serve patrons in compliance with these public health directives, orders, and guidelines related to COVID-19 by allowing portions of City-owned public rights-of-way, including certain streets, to be used for outdoor dining during the current City of Upland local emergency, subject to the requirements below; and

WHEREAS, Section 2.20.060 of the Upland Municipal Code authorizes the Director of Emergency Services, to make and issue rules and regulations on matters reasonably related to the protection of life and property affected by such emergency; provided, such rules and regulations are subject to confirmation at the earliest practicable time by the City Council; and

Executive Order 2020-5
Director of Emergency Services

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise my authority pursuant to Section 2.20.060 of the Upland Municipal Code to order the adoption of the regulations below related to the protection of life and property.

NOW, THEREFORE, IT IS HEREBY ORDERED by the City Manager of the City of Upland, acting as the Director of Emergency Services as follows:

SECTION 1. Recitals. The preceding recitals are true and correct.

SECTION 2. Temporary Outdoor Dining Permits. Notwithstanding any provisions in the Upland Municipal Code to the contrary, outdoor dining at restaurants is hereby allowed in certain public places, including limited portions of the public right-of-way subject to the limitations and requirements below.

A. Restaurants otherwise licensed and/or approved to operate in the City may apply for a Temporary Outdoor Dining Permit to serve customers in parking lots or other public areas, including portions of the public right of way. No person shall operate a restaurant on any public property or public right-of-way without an approved Temporary Outdoor Dining Permit or otherwise authorized by law.

B. Applications for a Temporary Outdoor Dining Permit must be made on a form designated by the City and shall include such information as the City Manager or her designee shall reasonably require.

C. The City Manager of her designee shall have the sole authority to approve a Temporary Outdoor Dining Permit subject to following conditions and such other reasonable conditions deemed necessary or convenient to protect the public, health, safety, or welfare.

1. All outdoor dining operations shall be conducted in a manner that is safe, orderly, neat, sanitary, and ADA accessible. Outdoor dining shall not be conducted in any manner causing a public nuisance.

2. All restaurant operations must comply with all applicable public health directives, orders, and guidelines regarding COVID-19.

3. Alcohol sales shall not be allowed without proof of ABC authorization for outdoor alcohol service.

4. Permittees shall be solely responsible for the setup, operations, maintenance and removal of furniture and materials required to facilitate safe and satisfactory use of the outside area.

5. Permittees must agree to indemnify, defend, and hold the City, its officials, officers, employees, and agents free and harmless from any liability arising from the use of public areas, including any approved use of the public right-of-way, for or related to outdoor dining operations.

6. Permits shall be limited to the hours of operation and for the term, if any, specified in the approval.

7. All restaurant operations must be conducted in accordance with federal, State, County and City laws, ordinances, rules and regulations as may from time to time be applicable to such business, including but not limited to rules and regulations related to the

sale of food and the sale of alcohol. Restaurant shall be required to maintain a valid City business license.

8. The City may modify or revoke any permit for any reason or for no reason upon written notice to permittees. Permittees' use of the premises is subject to temporary modification or suspension at any time based on the public's priority for use of public property or right-of-way as determined solely by the City.

D. No Temporary Outdoor Dining Permit shall be considered an entitlement for use of an outdoor dining and seating area in or on any public property or right-of-way, or to confer any vested rights or property interest to any ongoing or continuing activities beyond the expiration of the Temporary Outdoor Dining Permit or this Order. Permission granted to use the designated public right-of-way is revocable at any time at the City's sole discretion, or upon expiration of the City's emergency declaration, or in the interest of the public health, safety and welfare. The City shall at all times retain exclusive final authority over City property and the public right-of-way, including the right to use the right-of-way for maintenance of utilities, or other public infrastructure, and as necessary to protect the public health , safety, and welfare.

SECTION 3. Enforcement. This Order may be enforced in any manner allowed by law, and violations shall be a misdemeanor punishable by a fine not to exceed $1,000.00, or by imprisonment not to exceed six months, or both, pursuant to the Upland Municipal Code.

SECTION 4. Severability. The Director of Emergency Services declares that, should any section, subsection, subdivision, sentence, clause, phrase, or portion of this Order for any reason be held 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 Order. The Director of Emergency Services hereby declares that she would have adopted this Order and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Notice Order. Copies of this Order shall be disseminated to the public and be given widespread publicity and notice.

SECTION 6. Effective Date. This Order shall take effect immediately and shall remain in effect until terminated by the Director or the City Council or until the City Council declares the local emergency to be over.

ADOPTED this JULY 7, 2020

BY: _____
Rosemary Hoerning
City Manager/Director of Emergency Services

ATTEST:

BY: _____
Keri Johnson
City Clerk