

ORDINANCE NO. 595U

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS TO TEMPORARILY SUSPEND CERTAIN MUNICIPAL CODE REQUIREMENTS TO ALLOW THE GARDENS CASINO TO TEMPORARILY CONDUCT OUTDOOR GAMING OPERATIONS DURING COVID-19, AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY.

The City Council of the City of Hawaiian Gardens, California, does ordain as follows:

SECTION 1. Findings.

- A. On March 16, 2020, the City Council of the City of Hawaiian Gardens proclaimed the existence of a local emergency due to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes, named “coronavirus disease 2019,” abbreviated COVID-19 (“COVID-19”). The purpose of the local emergency declaration is to ensure the availability of mutual aid and an effective response and to authorize its City Manager, acting in his capacity as Director of Emergency Services, to furnish information, and to promulgate orders and regulations necessary to provide for the protection of life and property.
- B. On March 19, 2020, the Governor of the State of California also issued Executive Order N-33-20 (commonly known as the “Safer-at-Home” Order), which ordered all individuals living in California to immediately heed the State Public Health Official’s directive to stay home or at their place of residence, except as needed to maintain continuity of operations of outlined critical infrastructure sectors.
- C. On March 19, 2020, the Los Angeles County Health Official issued a “Safer at Home” Order, which was further clarified on March 21, 2020. The County’s “Safer at Home” Order prohibits all public and private gatherings and events and requires people to stay in their homes, with limited exceptions; and further requires closure of all non-essential retail businesses, shopping centers, playgrounds for children, bars, nightclubs, movie theaters, and all similar gathering places. The purpose of this Order is to further restrict, and limit gathering of persons and require closures of non-essential businesses in an effort to stem or slow the spread of the virus.
- D. Evidence demonstrates that these State and County orders have slowed the increase of community transfer of COVID-19 by limiting interactions amongst people. As a result, on May 4, 2020, Governor Newsom, issued Executive Order N-60-20, which sets forth a four-staged framework, entitled “Resilience Roadmap,” that is intended to guide the state’s gradual modification of its Safer at Home Order to reopen California’s economy. The State also issued industry guidance to help specified businesses reopen under new restrictions, which require businesses to, among other things, implement social distancing measures. Executive Order N-60-20 allows the State to move into Stage 2 of the

reopening process to permit certain low risk businesses and open spaces to open with modifications, and further directs the State Public Health Officer to establish criteria and procedures, as set forth in the order to determine how local jurisdictions may implement public health measures that depart from state-wide directives of the State Public Health Officers

- E. The Resilience Roadmap failed to prevent surges in both new coronavirus cases and deaths and thus the State re-imposed another statewide shutdown.
- F. COVID-19 continues to threaten public health throughout the State of California, including specifically within the County of Los Angeles, which as of October 21, 2020, had nearly 274,661 cases and more than 6,528 deaths.
- G. On August 28, 2020, Gov. Newsom unveiled the “Blueprint for a Safer Economy” (“Blueprint”), which he described as “statewide, stringent and slow.” This plan makes a number of changes to the State’s previous Resilience Roadmap. It relies on two leading health metrics: number of cases per 100,000 residents and percentage of COVID-19 tests that come back positive. Based on “recent data,” each county will fall into one of four colored tiers – Purple (Widespread), Red (Substantial), Orange (Moderate) and Yellow (Minimal) – based on how prevalent COVID-19 is in each county and the extent of community spread. That color will indicate how sectors can operate.
- H. Following approval from health officials and then effective public health orders, on or around June 19, 2020, the Gardens Casino reopened to the public, subject to enhanced safety measures and protocols relevant to card rooms. However, on July 1, 2020, Governor Newsom ordered the closure of indoor cardrooms in Los Angeles County for three weeks, and the Los Angeles County Health Officer ordered the closure of all (both indoor and outdoor) cardrooms in Los Angeles County indefinitely. On July 13, 2020, the California Department of Public Health ordered the closure of *indoor* cardrooms indefinitely. On October 5, 2020, the County of Los Angeles amended its public health order to only require the closure of *indoor* cardrooms indefinitely.
- I. As a result of these ongoing public health orders and social distancing requirements, the Gardens Casino has been closed for the past five months, with such closure having a profound and detrimental impact on the City's finances given the City's revenue-sharing agreement with the Casino.
- J. The City is continuing to monitor and evaluate impacts to City businesses and is taking measures to help preserve said business operations consistent with the State’s and County’s ongoing public health orders, and in light of the State’s and County’s respective orders closing only *indoor* cardrooms, the City desires to address concerns about lost Gardens Casino operations, while continuing to study long-term strategies and regulations for preserving Casino operations during the ongoing pandemic and local emergency, by permitting outdoor gaming

operations, to the extent such operations are otherwise permitted by State law and regulations, as well as State and County Health orders.

- K. As a result of these ongoing public health orders and social distancing requirements, the Gardens Casino had been closed for the past five months, with such closure having a profound and detrimental impact on the City's finances given the City's revenue-sharing agreement with the Casino. Even with continued efforts to preserve the City's resources, General Fund, and reserves, because the Gardens Casino provides approximately 70% of the City's revenues to sustain its General Fund, the Casino's past closure and the ongoing uncertainty as to the revenues that will be generated even with its reopening has created such a significant financial shortfall and uncertainty that it has given rise to a fiscal emergency for the City, and further restrictions of expenditures of the City's resources are anticipated.
- L. Accordingly, to facilitate the Gardens Casino operations in accordance with State and County Health orders, the City desires to provide the Gardens Casino with temporary authorization to operate an outdoor gaming area, to the extent otherwise authorized by State law and regulation.
- M. This Ordinance is adopted under Government Code section 36937, for the preservation of the public peace, health, and safety of residents living within the City, and finds urgency to approve this Ordinance immediately based on the facts described herein and detailed in the staff report.

SECTION 2. Temporary Outdoor Gaming Operations for Card Clubs.

To assist in the operations of card clubs during the time of limited capacities and social distancing requirements, the following temporary regulations are hereby given effect:

- A. Notwithstanding any provisions or requirements of Hawaiian Gardens Municipal Code to the contrary, including, but not limited to, Chapter 5.92, Sections 18.70.010-18.70.090, or Section 18.80.10, or the Gardens Casino Parking Management, card clubs are hereby authorized to conduct outdoor card club gaming operations, which shall include a card club's restaurant operations, during the time of limited capacities, social distancing, and outdoor dining requirements for restaurants, and the closure of indoor card rooms, as a result of the State and County Public Health orders in response to COVID-19, as more specifically set forth herein; provided, however, that such City authorization for outdoor gaming operations shall only be effective, at any time, to the extent otherwise authorized by State and County health orders then in effect. In the event either State or County health orders prohibit such outdoor gaming operations, the City's authorization for such operations shall likewise be prohibited.

- B. Card club outdoor gaming operations, as authorized hereunder may be subject to conditions of approval, as determined by the City Manager or his designee, consistent with the purposes and goals of this Urgency Ordinance.
- C. Card club outdoor gaming operations, in accordance with this Urgency Ordinance, shall be effective for the duration of this Urgency Ordinance or until the City Council's declaration of the end of the local emergency, whichever is later.

SECTION 3. Conditions to Temporary Outdoor Gaming Operations for Card Clubs.

The following are conditions precedent to the City's authorization of a card club's temporary outdoor gaming operations, as set forth herein. A card club operating under this Urgency Ordinance must at all times be able to demonstrate to the City, as determined by the sole and absolute discretion of the City Manager or his designee, the card club's compliance with each of the below conditions. Failure to be able to timely and adequately demonstrate compliance with and/or proof of such conditions, as determined by the sole and absolute discretion of the City Manager or his designee, shall result in immediate suspension of outdoor gaming operations authorized under this Urgency Ordinance.

- A. In order for the City's authorization of a card club to provide outdoor gaming operations, in accordance with this Urgency Ordinance, to remain in effect, the card club must at all times be able to demonstrate to the City that it is in compliance with and has obtained all necessary authorizations, exemptions, approvals, certifications, permits, or otherwise, as necessary to authorize a temporary outdoor cardroom and gambling activities, including without limitation for licensed gaming, from any and all public agencies and bodies of (1) the State of California, including, but not limited to the California Department of Public Health, the California Bureau of Gambling Control, and the California Gambling Control Commission; and (2) the County of Los Angeles, including, but not limited to the Los Angeles County Department of Public Health, as applicable ("Authorizations"). For the avoidance of doubt, the Authorizations shall include, but not be limited to, the respective health orders regulating outside gaming and/or outdoor card clubs of the California Department of Public Health and the Los Angeles County Department of Public Health that are then in effect.
- B. A site plan delineating the proposed outdoor gaming area and the layout of furnishings and allowable amenities, including, but not limited to gaming tables, sanitation stations, food tables, and bars. The site plan must also delineate all proposed parking spots, in the event any such spaces are impacted by the outdoor gaming operations. Plans must adhere to and be compliant with all State laws, including, but not limited to, the Gambling

Control Act and the American Disability Act. No additional parking shall be required for the temporary outdoor gaming area.

- C. A card club shall file a Temporary Sign Permit application, as authorized by Urgency Ordinance No. 594U and Executive Emergency Order No. 04-2020 (COVID-19), as ratified by City Council Resolution No. 052-2020, for temporary signage to be displayed at the outdoor gaming area for gaming area, restaurant identification, and directional signage, as needed.
- D. Such other documentation, information, or permit as deemed necessary by the City Manager or his designee to ensure the health, safety, and welfare of the public.

SECTION 4. Design Standards for Temporary Outdoor Gaming Operations.

A card club's temporary outdoor gaming operations shall be subject to the following design standards:

- A. The outdoor gaming operations will only be permitted within the valet area and/or private parking lot directly adjacent to the card club, and must be set back from the public right of way in an amount consistent with the Zoning Code or otherwise approved by the Community Development Department.
- B. The permitted outdoor gaming area must be bounded by removable barriers erected along the exterior perimeters, and in no instance shall any gaming activity be visible from the public right of major arterial roadways. The barriers shall comply with all standards required by the ABC Board and Gambling Control Commission.
- C. Barriers shall be installed around the outdoor gaming area. Barriers need not be removed each evening after the card club has closed, but shall be capable of being removed; if imbedded into the pavement, they must be fixed through the use of recessed sleeves and posts or by wheels that can be locked into place or weighted into place. With the exception of the Temporary Signage for restaurant and gaming area identification, and for directional signage, no other signs or banners of any kind may be placed, displayed, or erected on barriers.
- D. The appearance of the temporary outdoor gaming area should be made attractive and kept in a clean and suitable state.
- E. Card clubs shall maintain building egress as defined by the California Building Code and Title 24, Disabled Access Standards.

- F. The final location and configuration of the temporary outdoor gaming area shall be subject to approval by the City Manager and/or his designee, who shall consider gambling laws, public safety issues, and maintenance of minimum clearances to comply with ADA requirements and the safety and convenience of pedestrians and customers.

SECTION 5. Standards of Operation for Temporary Outdoor Gaming Operations.

A card club's temporary outdoor gaming operations shall be subject to the following standards of operation:

- A. A card club seeking to operate under this Urgency Ordinance shall ensure that it complies with all of its duties and obligations under the Gambling Control Act, the City's Municipal Code (except as herein waived), its gambling licenses, and any further obligations imposed by the Gambling Control Commission, California Department of Public Health, and Los Angeles County Department of Public Health.
- B. Card club management is responsible for operating and maintaining the temporary outdoor gaming area and shall not delegate or assign that responsibility. The temporary outdoor gaming area shall be continuously supervised by management to ensure social distancing guidelines and all County and State health order guidelines are being met.
- C. Alcohol can only be served in designated areas to those on-site customers and cannot be served for off-site consumption.
- D. The outdoor gaming area must be clear of trash, litter, waste, food scraps, and soiled dishes and utensils at all times.
- E. All noise must be maintained at a reasonable level and in compliance with the City's Municipal Code. In no instance shall noise from the outdoor gambling area become a nuisance, affect the health, safety and welfare of the public, or disturb the public's peaceful enjoyment of their property.
- F. At the end of each business day, the card club is required to clean (sweep and wash) the area in and around the temporary outdoor gaming area and remove any debris into a closed receptacle. No debris shall be swept, washed, or blown into the sidewalk, gutter, or street in conformance with the City's storm water quality regulations.
- G. Upon termination of a card club's temporary outdoor gaming operations, as authorized under this Urgency Ordinance, a card club shall promptly remove the barriers, return any impacted parking spaces to their original condition, and remove all personal property, furnishings, and equipment from the parking lot.

- H. With respect to the service of food, and as determined by the card club, alcohol, the card club shall adhere to the requirements for such food and alcohol service as set forth in Urgency Ordinance No. 594U and Executive Emergency Order No. 04-2020 (COVID-19), as ratified by City Council Resolution No. 052-2020.
- I. Such other conditions as deemed necessary by the City Manager or his designee to ensure the health, safety, and welfare of the public.

SECTION 6. **Enforcement.**

- A. Notice of violation of any section or portion of this Urgency Ordinance, as set forth herein, shall be made in writing to the card club by any Code Enforcement Officer, Public Works Inspector, Building Inspector, police or fire department official of the City, or by the City Manager or his designee. A copy of the notice shall be filed with the Community Development Director and City Manager. The card club shall immediately cure the violation upon receipt of the notice. If the violation is not cured within ten (10) days after issuance of the notice to the card club, the Community Development Director may recommend to the City Manager, or the City Manager in his sole and absolute discretion may determine, that the City's authorization for such temporary outdoor gaming operations should be revoked or suspended, which the City Manager or his designee may do in his sole discretion.
- B. In the case of non-compliance with or substantial difficulties resulting from the conditions or requirements imposed, or allowed to be imposed, herein, or from other unforeseen problems with the authorization of the temporary outdoor gaming operations, the City Manager or his designee has the right to reevaluate the requirements or conditions stated herein, and the City Manager or his designee may, in his/her sole discretion, (1) revoke the City's authorization of the temporary outdoor gaming operations provided herein or (2) amend the conditions or requirements herein provided; and if the card club's temporary outdoor gaming operations have created neighborhood, police, or Code Enforcement problems, the City's authorization of the temporary outdoor gaming operations may be revoked, at the discretion of the City Manager or his designee.

SECTION 7. **Severability.**

If any section, subsection, sentence, clause, phrase or word of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Urgency Ordinance.

SECTION 8. CEQA.

State California Environmental Quality Act (“CEQA”) Guidelines section 15269(c) exempts from environmental review specific actions that are necessary to mitigate an emergency. This Urgency Ordinance to temporarily waive off-street parking requirements and suspend temporary use permit requirements so as to allow a commercial business to operate outdoors as necessary in light of the State and County public health orders prohibiting only indoor card clubs. As a result of these orders, outdoor card clubs have been permitted to resume but with significant social distancing requirements to help prevent the spread of the coronavirus, to the maximum extent possible. In order to allow for appropriate social distancing, the City wishes to suspend its parking requirements and related regulations to allow card clubs to physically expand operations into outside spaces and their off-street parking areas to accommodate their customers safely. This is a temporary measure in response to the current COVID-19 pandemic and the City’s response to the Governor’s state of emergency, executive orders, and Blueprint plan, and the Los Angeles County Health Officer’s reopening permissions granted thereunder. The temporary suspension of these parking and related Municipal Code and Zoning requirements, and authorization for temporary outdoor gambling operations, is necessary to protect the public health, safety and welfare as the City of Hawaiian Gardens carefully moves to reopen more of its businesses. For these reasons, the City’s adoption of the urgency ordinance is statutorily exempt from CEQA pursuant to State CEQA Guidelines, section 15269. Staff will file a Notice of Exemption with the Los Angeles County Clerk within five (5) working days after the Urgency Ordinance is adopted.

SECTION 9. Urgency Declaration; Effective Date.

The City Council finds and declares that the adoption and implementation of this Ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above by the City, pursuant to Government Code section 36937. As a result of State and County public health orders, all card clubs were forced to close. The rapid, immediate and unexpected loss of revenue from this closure is devastating to both businesses, such as card clubs, and the City. The local economic recovery will be challenging as businesses, including card clubs, are unable to operate at full capacity with the new reopening requirements. Relaxing local Municipal Code and zoning requirements to temporarily allow outdoor gaming operations will assist in the economic recovery of local business and the City. This Ordinance is also conducive to the public health because it requires card clubs to follow the directives of State and County public health officials to prevent the further spread of the disease. This Ordinance must be passed by four-fifths of the City Council and shall take effect immediately after passage.

SECTION 10. **Certification.**

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Hawaiian Gardens at a regular meeting on this 27th day of October, 2020.

/S/ _____
Jesse Alvarado
Mayor of the City of Hawaiian Gardens

ATTEST:

APPROVED AS TO FORM:

/S/ _____
Poonam Davis,
Interim City Clerk

/S/ _____
Megan Garibaldi
City Attorney

**CITY OF HAWAIIAN GARDENS
CITY CLERK'S OFFICE**

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Poonam Davis, City Clerk of the City of Hawaiian Gardens, do hereby certify that **Ordinance No. 595U**, was duly and regularly introduced, adopted, and passed at a Regular meeting of the City Council on this **27th day of OCTOBER 2020** by the following votes as the same appears on file and of record in the Office of the City Clerk.

AYES: TRIMBLE, MARAVILLA, FARFAN, ROA, ALVARADO
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

/S/ _____
POONAM DAVIS, MMC
INTERIM CITY CLERK