

## Exhibit "A"

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-032-2021, A ZONING TEXT AMENDMENT TO PORTIONS OF CHAPTER 9.16 (COMMERCIAL, OFFICE PROFESSIONAL, INDUSTRIAL, AND OPEN SPACE DEVELOPMENT STANDARDS) OF TITLE 9 OF THE CITY OF GARDEN GROVE MUNICIPAL CODE ESTABLISHING ENHANCED DEVELOPMENT AND OPERATIONAL STANDARDS AND MODIFIED PARKING REQUIREMENTS FOR INCIDENTAL OUTDOOR DINING AREAS ASSOCIATED WITH EATING ESTABLISHMENTS/RESTAURANTS WITHIN THE COMMERCIAL AND INDUSTRIAL ZONES.

### **City Attorney Summary**

***This Ordinance approves zoning text amendments to portions of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Garden Grove Municipal Code to update the special operating conditions and development standards, and parking requirements for eating establishments/restaurant uses with outdoor dining within C-1 (Neighborhood Commercial), C-2 (Community Commercial), C-3 (Heavy Commercial), M-1 (Limited Industrial), and M-P (Industrial Park) zones. The amendments revise the existing standards in a manner that makes them generally consistent with the standards applicable to similar incidental outdoor dining areas in the mixed use zoning districts. Restaurant uses that include outdoor dining areas are a permitted use in commercial and industrial zoning districts. This Ordinance enacts additional and more specific operating conditions and development standards for these uses, including provisions regulating the design and location of outdoor dining areas, requirements for separation of outdoor dining areas from pedestrian and vehicular pathways and the public right-of-way, and alcoholic beverage sales in outdoor dining areas. This Ordinance also creates separate parking requirements for outdoor dining areas within commercial and industrial zoning districts, which provide that no additional parking is required for the first 500 square feet of an outdoor dining area that is open on at least three sides and not covered by a roof structure.***

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, outdoor dining at eating establishments is currently a permitted incidental and accessory use within the commercial and industrial zones;

WHEREAS, portions of commercial and industrial zoned properties can accommodate outdoor dining areas that do not encroach into, and that still preserve, the required path of travel for pedestrians, and on-site vehicle circulation;

WHEREAS, allowing for and encouraging more outdoor dining areas in commercial and industrial zones will further General Plan goals and policies;

WHEREAS, Amendment No. A-032-2021 was initiated by the City of Garden Grove and is a zoning text amendment to portions of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 (Land Use Code) of the Garden Grove Municipal Code to establish enhanced special operating conditions and development standards and modified parking requirements for eating establishments/restaurants with outdoor dining areas within the commercial and industrial zoning districts;

WHEREAS, following a Public Hearing held on November 4, 2021, the Planning Commission adopted Resolution No. 6033-21 recommending approval of Amendment No. A-032-2021;

WHEREAS, pursuant to a legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on \_\_\_\_\_, 2021, and all interested persons were given an opportunity to be heard;

WHEREAS, the City Council gave due and careful consideration to the matter; and

WHEREAS, the City Council hereby incorporates by reference the findings and reasons set forth in Planning Commission Resolution No. 6033-21, and makes the following findings regarding Amendment No. A-032-2021:

- A. The Amendment is internally consistent with the goals, objectives and elements of the City's General Plan.
- B. The Amendment will promote the public interest, health, safety and welfare.

WHEREAS, the City Council finds that the proposed Ordinance is exempt from the California Environmental Quality Act ("CEQA"), Cal. Pub. Resources Code Section 21000 et seq. pursuant to Sections 15301, Existing Facilities, and 15303, New Construction or Conversion of Small Structures, of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Sections 15301 and 15303).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1: The above recitals are true and correct.

SECTION 2: The facts and reasons stated in Planning Commission Resolution No. 6033-21 recommending approval of Amendment No. A-032-2021, a copy of which is on file in the Office of the City Clerk, are hereby incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 3: Subdivision V of Section 9.16.020.050 (Special Operating Conditions and Development Standards) of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the

Garden Grove Municipal Code is hereby amended as follows (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

V. Eating Establishment/Restaurant with Outdoor Seating.

1. ***Incidental Use Only. With the exception of permitted joint-use outdoor dining areas as provided for in paragraph 5 below***, the outdoor dining area must be accessory to the eating establishment/restaurant.

~~2. The seating area must not encroach into any required setback, parking and/or circulation area, required landscape areas, or required paths of travel.~~

~~3. The outdoor seating areas shall have a clearly marked perimeter.~~

2. ***Design. Outdoor dining areas shall be open on at least three sides, and open to the sky. Non-fixed umbrellas and awnings and canopies that accent the building are permitted. Side panels or any other accessories that enclose the outdoor dining area are prohibited.***

3. ***Location.***

a. ***The seating area shall not encroach into any required front setback, parking and/or vehicular circulation area, required landscape areas, required paths-of-travel, or public rights-of-way.***

b. ***Within any Commercial or Industrial zone, outdoor dining areas may be permitted within the required side or rear setback area, consistent with the requirements of this chapter.***

c. ***The outdoor dining area must be located immediately adjacent to, abutting, and adjoining the establishment with which it is associated, and shall not extend beyond the building and/or storefront frontage and/or length of the tenant space of the associated primary establishment.***

4. ***Delineation of Area. Any outdoor dining area serving a single business shall maintain a clearly marked perimeter and shall be separated from vehicular pathways and public sidewalks with low walls and/or landscape hedges a minimum of 30 inches in depth or 42 inches in height. Establishments that include the service or sale of alcoholic beverages are subject to additional separation requirements provided in subsection 6 (Alcoholic Beverage Sales in Outdoor Dining Areas) of this section.***

5. ***Outdoor dining areas for joint-use between businesses shall be separated from pedestrian and vehicular pathways with low walls and/or landscaping. Joint-use outdoor dining areas are not required to be located immediately adjacent to an establishment, but shall be located within 25 feet of at least one establishment participating in the joint-use area. Where adjacent to a public right-of-way, the area shall be delineated as required by subsection 4 (Delineation of Area) of this subdivision V. No alcohol shall be served in any outdoor dining area that serves more than one business.***

**6. Alcoholic Beverage Sales in Outdoor Dining Areas. The service of alcoholic beverages and its consumption by customers in an outdoor dining area shall comply with Section 9.16.020.080 (Alcohol Beverage Sales) and furthermore, shall be restricted as follows:**

**a. Any establishment permitted to sell alcohol that maintains an outdoor dining area shall separate the outdoor dining area with a wall, fence, or hedge that is intended to clearly delineate the dining area from pedestrian traffic, and prevent ease of access in any manner to this area by pedestrians and other non-patrons. The wall, fence, or hedge shall fully enclose the outdoor dining area to separate it from public access ways. The wall, fence, or hedge shall consist of a minimum five-foot-high barrier and/or other special separation/improvement from surroundings that would hinder access from pedestrians to the outdoor dining area, as determined by the Police Chief. The barrier/fencing shall be subject to the following standards:**

**i. Any barrier/fencing around the outdoor area perimeter shall allow visibility into the area from adjacent properties and streets.**

**ii. Any barrier/fencing around the outdoor area perimeter shall be architecturally compatible with the structure housing the eating or drinking establishment.**

**iii. The location, design, and placement of any barrier/fencing are subject to review and approval by the Planning Services Division during the site plan review or conditional use permit review process.**

**b. Ingress and egress to/from the outdoor dining area shall be from the interior of the eating or drinking establishment only. There shall be no ingress or egress permitted to/from the outdoor dining area to any parking area, landscape area, or public right-of-way except for emergency purposes only. Any proposed accesses located within the outdoor dining area that lead to any locations other than into the eating or drinking establishment shall be marked as emergency exits only and shall be provided with panic hardware.**

**c. The operator shall post a written notice to customers, as approved by the City, which states that the drinking or carrying of an alcoholic beverage outside of the outdoor dining area is prohibited and unlawful.**

**d. Hours of operation shall not begin prior to 7:00 a.m. nor extend later than 10:00 p.m.**

SECTION 4: Subsection 2 (Eating/Drinking Establishments – Restaurants, Cafés, Cafeterias, Lounges, Bars) of Subdivision B (Commercial Uses) of Section

9.16.040.150 (Parking Spaces Required) of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to add specific parking standards for outdoor dining areas associated with eating and drinking establishments (additions shown in ***bold-italics***):

<b>USE</b>	<b>REQUIRED MINIMUM PARKING SPACES</b>
2. Eating/Drinking Establishments – Restaurants, Cafés, Cafeterias, Lounges, Bars	
a. Attached 0-16 seats less than 300 sq. ft. of customer/dining area	1 space per 200 sq. ft. of gross floor area
b. Attached 16+ seats	1 space per 100 sq. ft. of gross floor area with a min. of 10 spaces
c. Freestanding	1 space per 100 sq. ft. of gross floor area with a min. of 10 spaces
d. With entertainment	1 space per 100 sq. ft. of gross floor area (seating and service), plus 1 space per 35 sq. ft. of entertainment area, plus 1 space per 7 sq. ft. of dance floor
<b><i>e. Outdoor dining</i></b>	<b><i>No additional parking required for the first 500 square feet of outdoor dining area. For any area in excess of 500 square feet, parking shall be provided as required above for the applicable use. Where dining areas are enclosed on at least three sides, all parking shall be provided as required for the above applicable use.</i></b>

**SECTION 5:** If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance 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 Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

**SECTION 6:** The Mayor shall sign and 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 and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.