



City of Phoenix
PLANNING AND DEVELOPMENT DEPARTMENT

Temporary Outdoor Dining FAQ's

Contact Information and Links

Where can I get information about the temporary outdoor dining program?

Answer: The Planning and Development Department created a webpage dedicated to this program. Program information is available at: phoenix.gov/pddsite/Pages/temp-outdoor-dining

Who do I call to get assistance with completing forms and meeting the program's guidelines?

Answer: Contact Sam McAllen, Program Manager, in our Office of Customer Advocacy. Sam can be reached at samuel.mcallen@phoenix.gov or 602-534-9051.

Applicable Fees?

Is the temporary outdoor dining program free?

Answer: Yes. Phoenix City Council approved the creation of temporary outdoor dining and alcohol consumption areas to support businesses who wish to implement outdoor dining areas to meet social distancing requirements and recommendations.

Eligibility Inquiries

Are all restaurants able to do this?

Answer: Yes, subject to the following

- The area must be a minimum of 500-ft from a single-family zoning district or have a **Use Permit** approved through a public hearing process.
- The area must have enough room to meet the parking, circulation, and occupancy requirements.

How long is this program going to be allowed?

Answer: The duration is only good during the City Council's State of Emergency due to COVID, and once the State of Emergency is rescinded, the owner will have (90) days to comply.

Do I need an Administrative Temporary Use Permit (ATUP) before I extend dining outdoors?

Answer: Yes

How do I get an ATUP?

Answer: Submittal information and requirements are found at:

<https://www.phoenix.gov/pdd/temp-outdoor-dining>

How long does it take to get an Administrative Temporary Use Permit (ATUP)?

Answer: City of Phoenix Planning and Development's goal is to process an ATUP within (15) business days of receiving a complete application submittal. However, this is also dependent upon permitting from other departments, such as liquor (Arizona Liquor Licenses and Control) and public rights-of-way permits (Streets Department).

Here is a link to the Streets Department Local Emergency Revocable Permit Application:

<https://www.phoenix.gov/streetssite/Documents/Local%20Emergency%20RP%20Application-fillable.pdf>

Please contact the Arizona Liquor Licenses and Control for requirements. Here is a link to their webpage: Azliquor.gov

When does my temporary outdoor dining Administrative Temporary Use Permit (ATUP) expire?

Answer: The temporary outdoor dining ATUP will expire (90) days after the Phoenix City Council's Declaration Establishing a Local Emergency is rescinded. No date to rescind the Declaration Establishing a Local Emergency has been established at this time. The Planning and Development Director will provide a 60-day notice, in writing, to any approved ATUP holder under this temporary program.

Can I create a free temporary outdoor dining area without following social distancing requirements and recommendations?

Answer: No. The Phoenix City Council approved the creation of the temporary outdoor dining areas to support businesses who are following social distance requirements and recommendations.

Regarding the written description, due to the lower occupancy rate requirements, the required parking ratios should also be lowered for applicants granted an ATUP under this emergency declaration. COVID occupancy is at 50%, so perhaps the parking ratio could be temporarily lowered to 60% of the current levels, allowing for additional space to be used for outdoor dining.

Answer: Yes, but it depends. Parking ratios will be reflective of new occupancy loads, and it also depends upon whether the owner is using parking spaces to accommodate outdoor dining

What information is needed on the application?

Answer:

- Address of temporary use location
- Applicant and property owner address and contact information
- Description of temporary use
- Dates and hours of temporary use
- Number of attendees
- Square footage of temporary use area
- Parking spaces being taken up by temporary use area
- An indoor sketch – this is a confirmation that the occupant load is indeed being moved outdoors.
- Notarized letter of authorization from property owner of the temporary outdoor sales event
- Site plan / sketch illustrating location of event on subject property
- A current aerial of the subject property with the temporary area delineated
- ** Fee is waived during the Local Emergency Declaration **

Do I need hire an expensive architect or site planner for the floor plans?

Answer: A hand-drawn plan will suffice as long as it includes details like measurements, occupancy limits, and the location of exit doors. However, an architect may be required for more complicated exiting systems.

- Further information: Scaled or dimensioned plans are required for both interior and exterior areas for review of occupant loading, exiting, and parking requirements.

Can I place my tables and chairs outside and use the area for dining prior to confirmation of ATUP approval?

Answer: No

What if my expansion goes into the public right-of-way, such as a public sidewalk?

Answer: If the expanded area includes public right-of-way, a **Revocable Permit** will be needed from the Street Transportation Department for the portion of the dining area located in the public right-of-way. Information about the revocable permit process is available at <https://www.phoenix.gov/streets/special-permits>.

What is needed to place tables, chairs and fencing in the right-of-way (outside my property)?

Answer: The Street Transportation Department is offering free temporary revocable permits to assist restaurants with creating outdoor dining spaces to promote and accommodate social distancing requirements. These permits will expire after the City council rescinds the Local Emergency Declaration. Here is a link to the Local Emergency Revocable Permit Application: <https://www.phoenix.gov/streetsite/Documents/Local%20Emergency%20RP%20Application-fillable.pdf>

What is meant by right-of-way?

Answer: *Right-of-Way* is a strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, or similar exclusive public use. A common example of a right-of-way would be a sidewalk dedicated for public use.

If a business received a temporary revocable permit to allow use of public right-of-way for outdoor dining, when does the temporary revocable permit expire?

Answer: The temporary revocable permit will expire (90) days after the Phoenix City Council's Declaration Establishing a Local Emergency is rescinded. No date to rescind the Declaration Establishing a Local Emergency has been established.

I understand that there is a temporary revocable permit – is that temporary application the same as the standard application but just minus the \$1000 fee?

Answer: It does appear that way, but a business would need to confirm with the Street Transportation Department.

Extension of Premises to Serve Liquor

Do I need to renew my temporary liquor license once the temporary license is revoked?

Answer: Yes. Please contact the Arizona Department of Liquor Licenses & Control for requirements at Azliquor.gov or 602-542-5141.

Fencing Inquires

Must I fence my temporary outdoor dining area?

Answer: No. *However*, if the business intends to sell/serve alcohol to customers in the newly created temporary outdoor dining area, the business will need to comply with Arizona Liquor Licenses and Control requirements, which includes fencing. Here is a link to their webpage: Azliquor.gov

What kind of temporary fencing is allowed?

Owners should use low-cost, non-permanent items to fence in the outdoor dining area. Remember to provide an opening of at least 36 inches to allow a safe passageway for customers entering and exiting your outdoor dining space. See examples of temporary fencing on our [Temporary Fencing Page](#).

What type of fencing requires permitting?

Answer: Fencing that is attached to the ground, such as bolted fencing, or fencing that has footing.

How high can my fence be?

Answer: Fences should be between 36-40 inches high.

Can I use a planter as a fence?

Answer: Yes

Will a business need to remove the fencing when the State Emergency is over and the business is past the allowed time of (90) days?

Answer: Yes, the business must comply, or it will be cited.

What does the Arizona Department of Liquor Licenses and Control require for the extension of premises fencing?

Answer: City of Phoenix Planning and Development understands that the Arizona Department of Liquor Licenses and Control is trying to be flexible on requirements as restaurants pivot to provide outdoor dining opportunities in response to COVID-19 social distancing requirements. We understand that the temporary fencing examples included on our [Temporary Fencing Page](#) are being accepted by the Arizona Department of Liquor Licenses and Control when used in conjunction with approved temporary outdoor dining under the City’s Local Emergency declaration.

Enforcement Inquiries

What happens if I don’t follow the plan I submitted to the city?

Answer: Notice will be made to owner of business to come into compliance in accordance with the information approved on the application. Not complying, may result in the Administrative Temporary Use Permit (ATUP) being revoked by the Planning and Development Director.

How many days to come into compliance before revocation letter is sent?

Answer: Business owners will have (10) days to bring the improvements back into compliance. The next formal step is the sending of a letter that revokes the permit.

Can we move our business inside in the case of inclement weather and still comply?

Answer: If the total number of persons indoors, including those moving indoors due to weather conditions, is less than the COVID adjusted occupancy limit (currently 50% of restaurant capacity), this would be allowed. Exceeding the COVID adjusted number would create an unsafe condition.

What kinds of business missteps would cause the start of the enforcement and revocation process?

Answer:

- Blocking an accessible route - must maintain 3-ft clear access from accessible parking stall to business entrance
- Blocking the required means of ingress and egress from the building, per the building code requirements
- Blocking a fire lane – a Fire Department engine or ladder must have clear access through the parking area – 20’ wide and 14’ high
- Adding more tables/chairs than what was approved and therefore, not meeting minimum social distance requirements

- Outdoor amplified loudspeaker / music

What if neighbors complain about the activity or noise?

Answer: A **Use Permit** is the best way to avoid this type of complaint. Do your best to be considerate. Hours of outdoor dining must match indoor dining hours. If the business currently does not have a **Use Permit** to allow an outdoor amplification system, see the 2nd bullet point below, as approval for this type of permit is required before an ATUP can be issued.

- If your business already has a **Use Permit** to allow an outdoor amplification (speaker) system, follow the stipulated requirements for the outdoor dining area, too.
- For businesses that do not have a **Use Permit** for an outdoor amplification system, in order to avoid noise disturbance complaints, determine the patio is 500' or more away from residential areas and then apply for a **Use Permit**. Once a **Use Permit** has been issued, then the business can apply for an ATUP.