



City of Phoenix

**DECLARATION ESTABLISHING LOCAL EMERGENCY FOR
OUTDOOR DINING AND ALCOHOL CONSUMPTION
MEASURES**

WHEREAS, On March 11, 2020, the Governor of the State of Arizona, Douglas A. Ducey, determined that the COVID-19 outbreak presents conditions in Arizona that justified his declaration of a State of Emergency; and

WHEREAS, on March 20, 2020, the Mayor and the Council of the City of Phoenix declared local emergency to help stop the spread of COVID-19 in the City of Phoenix;

WHEREAS, the CDC has advised that outdoor seating with appropriate spacing may be less risky than indoor seating and has suggested that restaurants prioritize outdoor seating and increased ventilation to mitigate the risk of COVID-19 transmission; and

WHEREAS, as a result of the COVID-19 outbreak and the subsequent effort to prevent the spread of the virus, many commercial activities in the City of Phoenix have experienced significant slowdown; and

WHEREAS, restaurants are one of the commercial activities that have suffered significant slowdown; and

WHEREAS, restaurants within the City of Phoenix are critical for the economy health of the city, businesses, and the community.

NOW, THEREFORE, BE IT DECLARED BY THE CITY COUNCIL OF THE CITY OF PHOENIX as follow:

SECTION 1. The Planning and Development Director is authorized to create a process for restaurants to establish a new or expand an existing outdoor dining area and to allow alcohol consumption without a use permit hearing if the restaurant operator secures an Administrative Temporary Use Permit (ATUP) at no cost to the restaurant operator.


SECTION 2. The Planning and Development Director may issue an ATUP authorizing a new or expanded outdoor dining area if the ATUP applicant can meet certain criteria established by the Planning and Development Director, demonstrate compliance with all other applicable legal requirements such as Americans with Disabilities Act, preserve necessary fire lane access for emergency vehicles, and follow other stipulations attached to the ATUP.

PASSED by the Council of the City of Phoenix this 1st day of July, 2020.



Mayor of the City of Phoenix

ATTEST:



City Clerk

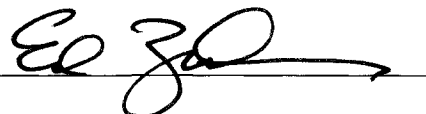


APPROVED AS TO FORM:



City Attorney

REVIEWED BY:



City Manager



Report

Agenda Date: 7/1/2020, Item No. 30

Emergency Declaration - Outdoor Dining and Alcohol Consumption Measures

Request the City Council adopt an emergency declaration under the declared local emergency to establish temporary guidelines for outdoor dining/alcohol consumption and commercial signs as described in the memo dated June 23, 2020, from the Planning and Development Director. By this declaration, the City of Phoenix would be providing relief regarding certain requirements associated with outdoor dining and commercial signs in an effort to support the vitality of the local business community through the unprecedented challenges triggered by the COVID-19 pandemic.

Summary

The guidelines create a process for restaurants to establish a new or expand an existing outdoor dining area and alcohol consumption without a use-permit hearing if the restaurant operator secures an Administrative Temporary Use Permit (ATUP) at no cost to the applicant. The ATUP submittal requires the applicant to meet certain criteria to qualify, demonstrate how applicable Zoning Ordinance and other applicable codes can still be met, such as Americans with Disabilities Act access requirements and fire lanes access for emergency vehicles. In addition, the applicant must operate the patio area pursuant to the stipulation attached to the ATUP and that the temporary approval may be revoked if an applicant does not comply with the requirements.

The guidelines also reinforce what has been implemented related to temporary signs for businesses since the City Council's Declaration of a Local Emergency. The guidelines outline requirements for temporary signs that can be secured without a permit for commercial properties during the period of the local emergency.

Additional details regarding the guidelines are outlined in **Attachment A** - Planning and Development Director Memo Dated June 23, 2020.

Responsible Department

This item is submitted by Deputy City Manager Mario Paniagua and the Planning and Development Department.



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT

To: Phoenix City Council

Date: June 23, 2020

From: Alan Stephenson
Planning and Development Director

Subject: Proposed Temporary Outdoor Dining and Signs Guidelines

TEMPORARY OUTDOOR DINING

During the COVID-19 Pandemic restaurants located within a zoning district that permits outdoor dining and alcohol consumption will be able to expand an existing outdoor dining area without a use-permit hearing if the restaurant operator secures an Administrative Temporary Use Permit (ATUP) with no fee. Restaurants that do not have an existing outdoor dining area shall only be permitted to establish one through the ATUP process, so long as they are not within 500-feet of a residential zoning district boundary. In addition to the 500-feet, restaurants within C-1 zoned property may only expand alcohol sales if they have an approved use permit for the overall restaurant for alcoholic beverage consumption. These provisions are necessary because of the potential for the outdoor activity to create nuisance issues to nearby residential uses and because the C-1 neighborhood retail zoning district requires that a use permit be approved for any alcoholic beverage consumption on the parcel.

An applicant requesting to utilize these allowances shall be required to submit an ATUP application and enclose a letter and attachments that demonstrate compliance with the following:

- Written authorization from the property owner authorizing the expanded area.
- A site or plot plan that depicts the location of buildings and the proposed outdoor dining area or expanded outdoor dining area.
- The Temporary Extension of Premises application submittal to the Arizona State Liquor Board.

The ATUP supplemental letter shall also address how the requested outdoor dining area will:

- Not occupy or impact the use of ADA facilities or public sidewalks.
- Not eliminate required parking spaces (excess parking spaces are permitted to be occupied).
- Not block existing private or public driveways/accessways or drive aisles.
- Not block fire lanes, loading or unloading zones or other designated public safety areas

- Abide by any zoning stipulations associated with the site from either the underlying zoning case or an approved use permit for the outdoor dining.
- Comply with other applicable City Ordinances (including Zoning Ordinance and Building Codes).

An allowance for the use of required parking spaces for an outdoor dining area will be considered if the restaurant is implementing social distancing measures resulting in a reduction in the amount of existing dining area and can demonstrate that the proposed outdoor dining area does not exceed the square footage of the existing dining area.

If alcohol will be provided in the proposed outdoor dining area the necessary approvals must be secured from the Arizona Department of Liquor Licenses and Control. The applicant must include the pertinent information about the extension of premises application in the letter a staff will evaluate that request concurrent with the request for outdoor dining and alcohol sales. Applicant must state in the ATUP application that they are submitting truthful information and acknowledge that misrepresentation or not maintaining the expanded area in conformance with the ATUP requirements is grounds for revocation of the approved ATUP.

Approval of the ATUP is due to the COVID-19 Pandemic and will not be granted unless the above criteria is met as approved by the Planning and Development Department Director or designee. The applicant must abide by the outlined conditions in the ATUP and/or other requirements placed on the area at the time of ATUP approval. The Planning and Development Director reserves the right to revoke the approval of the ATUP issued pursuant to this memo. The program may end earlier than the City Council rescinds the Local Emergency Declaration if circumstances warrant. If rescinded the Planning and Development Director will provide 60 days' notice in writing to any approved ATUP holder under this temporary program.

TEMPORARY SIGNS

The purpose of these guidelines is to keep pedestrians and motorists safe and prevent hazards from being created by blocking sidewalks and other pedestrian areas and preventing encroachment into sight visibility triangles at intersections for vehicular traffic.

These guidelines are intended as a temporary relief measure during the COVID-19 Pandemic for businesses and do not apply to non-business uses.

1. No temporary signs shall encroach into the public right-of-way or the traffic visibility zone (also known as visibility triangles) at corners or driveways.
2. Sign permits for temporary signs in non-residential zoned areas, Downtown Code area, and properties zoned Walkable Urban Code are not required during the COVID-19 Pandemic.

3. Banners shall be subject to the following safety standards:
 - a. Banners shall be attached to a solid structure in a secure manner.
 - b. Banners shall have a minimum clearance of eight feet above grade when placed above an area open for the common or general use of the public.
 - c. Banners shall be vented to ensure they will withstand wind pressure from any direction applied to the projected exposed area.
 - d. Banners shall not project above the roofline.

4. Balloons shall be subject to the following safety standards:
 - a. Balloons shall be securely fastened.
 - b. Balloons shall be set back from the property line at least one foot for each foot of the height of the balloon, including the tethering cord.
 - c. Balloons shall not project above the roofline.

5. Notwithstanding these guidelines, the City Planning and Development Department reserves the right to remove any temporary sign that poses imminent danger to the public health and welfare.