



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: DECEMBER 8, 2020**

FROM: AL ZELINKA **WARDS: ALL**
DIRECTOR OF EMERGENCY SERVICES

**SUBJECT: RATIFY THE REVISED ORDER OF THE DIRECTOR OF EMERGENCY SERVICES
FOR OUTDOOR DINING, SERVICE USES AND RETAIL**

ISSUES:

Ratify the Revised Orders of the Director of Emergency Services for Outdoor Dining, Service Uses and Retail.

RECOMMENDATIONS:

That the City Council:

1. Ratify the Revised Order of the Director of Emergency Services for Outdoor Dining, Service Uses and Retail dated November 20, 2020; and
2. Authorize the City Manager, or his designee, to amend the Temporary Outdoor Flex Space Permit Program, including making minor and non-substantive changes.

LEGISLATIVE HISTORY:

The California Emergency Services Act (Government Code section 8550, et seq.), Government Code section 8630, and Riverside Municipal Code sections 2.68.010 and 9.20.060 empower the Director of Emergency Services and the Riverside City Council to proclaim a Local Emergency when the City Council is not in session when there exist conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of the City of Riverside which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City and require the combined forces of other political subdivisions to combat. Said proclamations must be ratified by the City Council within seven days.

BACKGROUND:

On March 4, 2020, Governor Newsom declared a state of emergency for the State of California as a result of the threat of COVID-19. On March 11, 2020, Governor Newsom issued his policy recommending the cancellation of public gatherings of 250 people or more and limitations on gatherings of people who are at higher risk for COVID-19 to 10 people or fewer, and delaying or

canceling meetings where attendees cannot observe at least six (6) feet of “social distance” from one another.

On March 8, 2020, the Riverside County’s Public Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in Riverside County. On March 10, 2020, the County of Riverside ratified the local emergency.

On March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic.

On March 12, 2020, the Governor issued Executive Order N-25-20 which orders in part that “all residents are to heed any orders and guidance of state and local public health officials, including, but not limited to the imposition of social distancing measures to control the spread of COVID-19.”

On March 13, 2020, President Trump declared the COVID-19 pandemic a national emergency.

On March 13, 2020, the Director of Emergency Services declared a local emergency to increase the City’s efforts to protect the public from COVID-19. The City’s proclamation of local emergency notes that “there exists conditions of a disaster or of extreme peril to the safety of persons or property within the territorial limits of the City of Riverside that are beyond the control of the services, personnel, equipment and facilities of the City for the reason of COVID-19.” The declaration of local emergency was ratified by the City Council on March 17, 2020.

On April 28, 2020, Governor Newsom announced California’s Pandemic Resilience Roadmap, which includes four different stages for easing California’s stay-at-home order. Stage 2 allowed the opening of certain low risk uses with adaptations and safety guidelines in place.

On May 20, 2020, the County of Riverside submitted an attestation application to Governor Newsom requesting approval for the County of Riverside to move into the later stages of Stage 2 of the Governor’s Resilience Roadmap. On May 22, 2020, the Governor approved the attestation application and allowed the County of Riverside to allow specific business sectors, including dine-in restaurants (i.e. brewpubs, craft distilleries, breweries, bars, pubs, restaurants and wineries) and shopping centers (malls, destination shopping centers, strip and outlet malls, and swap meets) to move into the later stages of Stage 2 of the Governor’s Resilience Roadmap.

On May 26, 2020, the Director of Emergency Services issued an Order regarding Temporary Outdoor Flex Space for Restaurants, which was ratified by the City Council on June 2, 2020, in order to provide for flexible, creative and innovative approaches to assist local dine-in restaurants to achieve normal occupancy levels given physical distancing requirements and other modifications deemed necessary for public health.

On July 1, 2020, Governor Newsom ordered all bars, wineries and breweries to be closed as well as all indoor dining due to an increase in positive cases, hospitalizations, ICU bed use and other concerns relative to COVID-19.

On July 2, 2020, the City revised its Temporary Outdoor Flex Space Permit Program to allow for easier outdoor dining and to allow for other service uses and retail to operate outdoors.

On July 13, 2020, Governor Newsom ordered the closure of indoor operations including gyms and fitness centers, places of worship, indoor protests, offices for non-critical infrastructure sectors, personal care services (including nail salons, massage parlors and tattoo parlors), hair salons and barbershops, and malls.

On August 24, 2020, the Director of Emergency Services issued an Order revising the Temporary Outdoor Restaurant Flex Space Order to allow for other service uses and retail to operate outdoors, including Special Purpose Commercial/Modular Mobile Food Facilities (SPCM/MFF).

On September 1, 2020, the City Council considered expanding opportunities for outdoor operations to allow them in City Parks and directed staff to expand the Temporary Outdoor Flex Space Program to provide these opportunities. In response to this request, the Director of Emergency Services issued an Order on September 9, 2020 to allow outdoor operations in City Parks.

On September 21, 2020, the Director of Emergency Services issued a Revised Order on the Temporary Outdoor Flex Space Permit Program, which established limits on occupant load for outdoor operations at City Parks. This Order supersedes the previous Orders issued by the Director of Emergency Services on August 24 and September 9, 2020, which have not been ratified.

On November 20, 2020, the Director of Emergency Services issued a Revised Order on the Temporary Outdoor Flex Space Permit Program to modify the hours of operation for non-essential businesses to adhere to the Governor's Limited Stay at Home Order, to allow approved heaters within outdoor flex spaces provided that safety requirements are followed, and to prohibit enclosed tent/membrane structures to ensure proper air flow.

DISCUSSION:

The Temporary Outdoor Flex Space Permit Program Guidelines have been revised to require all non-essential outdoor operations to close between the hours of 10:00 p.m. and 5:00 a.m. while the City is in the Purple Tier, in accordance with the Governor's Limited Stay at Home Order.

Additional revisions to the program guidelines provide for the use of heaters in outdoor flex space operations in accordance with fire and building code requirements. Gas and propane heaters are prohibited within any tent or membrane structure, and electric heaters may be permitted within tent or membrane structures provided their installation is in accordance with the adopted fire and building codes. Further, enclosed tent and membrane structures are prohibited to ensure proper air flow.

FISCAL IMPACT:

The total fiscal impact of the recommended actions of this report are unknown at this time.

Prepared by: Al Zelinka, Director of Emergency Services
Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer
Approved as to form: Kristi J. Smith, Interim City Attorney

Attachments:

1. Revised Order for Outdoor Dining, Service Uses and Retail – November 20, 2020
2. Temporary Outdoor Flex Space Permit Program Guidelines - Amended
3. Temporary Outdoor Flex Space Permit Application - Amended