

AMENDMENT #5 TO THE TOWN OF ORO VALLEY

MAYORAL PROCLAMATION OF EMERGENCY

WHEREAS, on March 17, 2020 Mayor Joseph C. Winfield issued a Mayoral Proclamation of Emergency; and

WHEREAS, on March 19, 2020 Mayor Joseph C. Winfield issued Amendment #1 to his original Proclamation of Emergency including the closure of most Oro Valley Businesses until further amended by Mayor Joseph C. Winfield; and

WHEREAS, Governor Ducey signed new Executive Order 2020-36 dated May 11, 2020, ending the stay at home order applicable to all Arizona residents, allowing the reopening of certain businesses and making those businesses that decide to reopen responsible for compliance with the 6 foot distancing and sanitization guidelines adopted by the CDC; and

WHEREAS, based on the Governor's recent actions, Mayor Joseph C. Winfield finds it necessary to amend the Town of Oro Valley Mayoral Proclamation of Emergency by allowing Oro Valley restaurants to have additional flexibility outside of current Town zoning ordinances to effectively and safely operate; and

WHEREAS, all other provisions of the Town of Oro Valley Mayoral Proclamation of Emergency and Amendments thereto that are not in conflict with this Amendment #5 will remain in force until the emergency previously declared abates and is withdrawn.

NOW, THEREFORE, pursuant to A.R.S. § 26-307, A.R.S. § 26-311, and Oro Valley Town Code 2-1-3, the elements of which are met under the circumstances.

IT IS PROCLAIMED AND ORDERED AS FOLLOWS:

- I. All deadlines stated in the Town of Oro Valley Mayoral Proclamation of Emergency and Amendments thereto are hereby extended until such time as the Governor of Arizona lifts the current state of emergency, or unless otherwise modified by proclamation; all restrictions as previously proclaimed by Mayor Joseph C. Winfield or enacted by the Town Manager in response to the current COVID-19 emergency shall remain in full force and effect unless superseded by a Gubernatorial measure.
- II. If any part of Mayor Joseph C. Winfield's original March 17, 2020 Proclamation of Emergency and/or any subsequent amendment thereto is found to contradict any of Governor Ducey's Executive Orders on the COVID-19 matter, only the specific part of the March 17, 2020 Proclamation of Emergency and/or subsequent amendment thereto shall be determined to be preempted and the remainder of the March 17, 2020 Proclamation of Emergency and/or any subsequent amendment thereto shall remain in full force and effect.
- III. Mayor Joseph C. Winfield hereby adopts the following temporary modifications to zoning requirements applicable to restaurants or other dine-in establishments to provide more usable seating area to maximize physical distancing:
 - A. With landlord or property owner consent, and subject to adherence to these outlined measures, restaurants may establish expanded seating areas in locations authorized by the landlord or property owner such as courtyards, promenades, sidewalks, parking

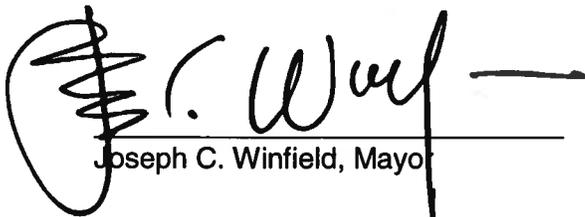
lots, loading bays, etc.

- B. Specific limits are not specified on seating area expansions to allow maximum flexibility to accommodate a wide variety of business sizes, locations and types. This would apply to restaurants in shopping centers, retail strips, stand-alone structures and multi-use buildings. Potential expansion areas could include vacant land, vacant building space, common areas, sidewalks, parking lots, etc. Restaurants have flexibility to work with the landlord/building owner to identify the best locations to establish expanded seating areas.
- C. The expanded seating area is not required to be immediately adjacent to the existing restaurant footprint. It is noted there may be certain state liquor license requirements, which Oro Valley does not have control over, that need to be adhered to and may affect the location of the expanded seating.
- D. Seating outdoors near an entrance or patio to a restaurant is currently permitted in commercial zones. Promenades and sidewalk areas have minimal criteria that must be maintained when expanding into these areas, such as providing 6 feet of distance for safe ingress/egress and no obstruction of Americans with Disabilities (ADA) compliance requirements. A minimum distance of 8 feet, or 5 feet if there are wheel stops, must be maintained from the seating area to the parking lot curb.
- E. Expanded seating areas should not block parking spaces designated for individuals with disabilities or emergency services access lanes without temporary relocation of said spaces and approval by the Town and Fire Department, where necessary.
- F. Wherever parking or loading spaces are used for expanded seating, adherence to the following criteria is required unless waived in writing by the Town:
 - Barriers with a minimum height and weight similar to curbs or wheel stops shall be provided on the Parking Area Access Lanes (PAAL) and along the sides of seating areas where adjacent parking spaces will remain in use.
 - A 5-foot clear zone shall exist between the parking area barriers and the expanded seating area. Tables and equipment must not be located in this five-foot clear zone.
- G. Restaurants must obtain approval of the Town's Traffic Engineering Division before using areas located in the public right-of-way for expanded seating.
- H. If a restaurant uses a temporary shade or tent structure in an expanded seating area, the restaurant must comply with applicable building codes and permitting requirements.
- I. If construction or erecting of a structure is proposed that involves electrical, grading/drainage, plumbing or other non-minor improvements, Town staff must evaluate the construction to determine if permits are needed.
- J. Expansions must adhere to applicable requirements of other agencies such as the Pima County Food Code and pandemic-related reopening measures and the Arizona Department of Liquor License and Control regulations.
- K. The Town of Oro Valley will provide 24 business-hour review and evaluation for proposed temporary outdoor expansion. A simple floor/plan, landlord/owner consent letter, and vehicle barrier diagram (when located in parking lot) can be submitted by email (permits@orovalleyaz.gov) for review. All permit fees for temporary expansions

erected under this emergency order, should they be necessary, are hereby waived.

- IV. Failure to comply with measures set forth in Sections III of this Proclamation, except for those that are solely recommendations, subjects an establishment to civil penalties as follows:
- A. First violation: a written warning whose primary purpose is to educate the establishment in order to obtain voluntary compliance.
 - B. Second violation of the same or a similar nature: a written warning whose primary purpose is to notify the establishment that future violations of the same or a similar nature as the first violation will constitute civil infractions.
 - C. Third and subsequent violations of the same or a similar nature: each constitutes a civil infraction, with a penalty of \$500.
 - D. Civil penalties shall be enforced by issuance of a written citation issued to the establishment's owner or operator, which shall be heard as a civil matter before a justice of the peace. Although written warnings may be issued by civilian Oro Valley staff, any citation alleging a civil infraction must be issued by a law enforcement officer.
- V. The Town Manager is hereby authorized to modify or clarify the requirements related to Section III herein or develop administrative procedures to implement this order, provided such changes are in keeping with the intent of the emergency order and are necessary to address conflicting issues or provide further clarity to restaurateurs. Any such changes shall be posted on the Town's website prior to enacting.
- VI. In accordance with A.R.S. §26-307(8), this proclamation shall be effective when a copy is filed in the office of the Town Clerk. All existing laws and rules in conflict of the same are hereby suspended during the time and to the extent that they conflict.

Dated this 15th day of May, 2020



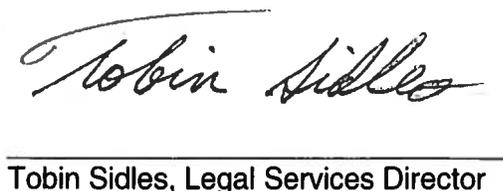
Joseph C. Winfield, Mayor

ATTEST:



Michael Standish, Town Clerk

APPROVED AS TO FORM:



Tobin Sidles, Legal Services Director

