



COUNCIL AGENDA ITEM MEMORANDUM

DEPT./DIVISION SUBMISSION & REVIEW:

Kathryn Davis, City Attorney
Amanda Rice, Deputy City Attorney

ITEM DESCRIPTION: FIRST READING & PUBLIC HEARING: Consider adopting an ordinance extending and amending City Ordinance No. 2020-5071, which established a pilot program for extended outdoor dining and seating and mobile food unit (MFU) operation within the City's Central Area (CA) Zoning District.

BACKGROUND: On November 19, 2020, the City Council passed City Ordinance No. 2020-5071, which established a pilot program for extended outdoor dining and seating and mobile food unit (MFU) operation within the City's Central Area (CA) Zoning District. This program was established to help downtown restaurant and bar operators recover from and/or cope with the state and local emergency orders issued in response to the COVID-19 pandemic. Ordinance No. 2020-5071 will expire on May 19, 2021.

Ordinance No. 2020-5071 directs the City Manager to place an item on the City Council's agenda to ask the City Council to consider extending the pilot program if the City Manager determines that the extension of the program is in the best interest of the City and the public, and, if so, bring forward with the proposed extension of the program any recommended program changes.

Under Ordinance No. 2020-5071, the City Manager determined that a pilot program extension is in the best interest of the City and the public and asked City Staff to draft an ordinance extending the pilot program and any Staff recommended changes to this program and to place this item on the City Council agenda for consideration.

The City Manager determined that the extension of this pilot program to respond to the continuing COVID-19 pandemic, as well as to test whether any of the activities required to be permitted under this temporary program would work on a permanent basis, would be in the best interest of the City and the public.

At the direction of the City Manager, City Staff drafted an ordinance extending the pilot program for another six months, as well as amending the pilot program ordinance's terms to make the ordinance simpler to read and understand and to make it easier for downtown business owners and mobile food unit operators to take advantage of this program.

ALIGNMENT WITH ADOPTED PLANS:

Plan	Comments
Strategic Plan	This item supports the City's Strategic Plan goal of "Beautiful spaces and unique experiences" and the Strategic Plan commitment to "Develop and showcase Temple as a unique place with amazing arts, culture, dining, and recreation experiences and amenities."

STAFF RECOMMENDATION: Staff recommends passing this proposed ordinance on first reading. A summary of amendments to the pilot program established under City Ord. No. 2020-5071 that are being proposed in this ordinance are as follows;

- Extending the pilot program for six months;
- Removing the City Manager's authority to terminate this ordinance without City Council's approval in compliance with the City Charter;
- Authorizing the City Manager to extend the pilot program for thirty days from the ordinance's expiration date without bringing this item to City Council for approval;
- Removing the requirement that both MFU operators and the restaurant or bar operators be required to obtain a permit under this pilot program;
 - Under the proposed amendments, only restaurant or bar operators will be required to have a permit under this program.
 - MFU operators must have a City mobile food unit permit issued under Chapter 14, Food and Food Establishments, of the City's Code of Ordinances to participate in this pilot program and comply with the provisions Chapter 14 unless otherwise provided by this pilot program ordinance.
- Simplifying the "Effect of other City codes and policies" section to clarify no pilot program permit is required to be obtained for an activity if the activity is authorized by another City authorization or permit;
 - e.g. No pilot program permits are required to be obtained by restaurant operators with tables on City sidewalks operating under a City street use license, MFU operators may operate on City streets outside of this program if authorized under a City outdoor special event permit, etc.
- Clarifying that the brick and mortar restaurant and bar operator requirements, including insurance requirements, listed in Subsection (g)(2)D of the proposed ordinance only apply to restaurant and bar operators permitted under this program to use City on-street parking spaces and sidewalks for outdoor seating and dining;
- Removing the workers' compensation insurance requirement for restaurant and bar operators;

- Removing the requirement that the copies of written agreements between MFU operators and restaurant or bar operators must be submitted to the City with permit applications and amendments and replacing this requirement with the requirement that proof of written agreements between MFU operators and restaurant and bar operators must be provided to the City upon request;
 - This change will allow restaurant or bar operators to substitute or alternate MFU operators coordinating with their business without having to submit information to the City or seek City approval.
- Amending the operational times for MFUs and use of areas permitted under this program to allow for the operation of MFUs and use of permitted areas at all times the MFUs' coordinating restaurant or bar operators are open for business; and
- Updating the criminal prosecution section to allow for strict liability offenses with a maximum fine of up to \$500 unless a culpable mental state is alleged in the State's complaint and the offense governs fire safety, zoning, or public health or sanitation, in which case there will be a maximum fine of up to \$2000.

BOARDS & COMMISSIONS RECOMMENDATION: On May 3, 2021 the Planning & Zoning Commission will meet and review this item.

FISCAL IMPACT: The City Manager is authorized to set the fees for the pilot program under the ordinance, which will include permit application and permit amendment application fees. The amount of revenue generated will depend on the number of applications submitted and will be deposited to 110-0000-412-0622.

ATTACHMENTS:

Ordinance No. 2020-5071

Ordinance (clean copy and redlined copy)