CITY of ALBUQUERQUE TWENTY-FOURTH COUNCIL

со	UNCI	_ BILL NOO-20-16ENACTMENT NO
SP	ONSO	RED BY: Cynthia D. Borrego and Diane G. Gibson
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	1	ORDINANCE
	2	ADOPTING THE TEMPORARY OUTDOOR DINING ORDINANCE; AUTHORIZING
	3	TEMPORARY AMENDMENTS TO SITE PLANS FOR EXISTING RESTAURANTS
	4	TO ALLOW FOR OUTDOOR DINING FOR THE DURATION OF THE CURRENT
	5	OCCUPANCY AND GATHERING LIMITATIONS ASSOCIATED WITH THE
	6	COVID-19 PUBLIC HEALTH EMERGENCY; ESTABLISHING A PERMITTING
	7	FEE.
	8	BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
	9	ALBUQUERQUE:
] - New - Deletion	10	SECTION 1. The Temporary Outdoor Dining Ordinance is hereby adopted
	11	as follows:
	12	<u>"[Section 1 SHORT TITLE.</u>
	13	This ordinance shall be known and cited as the "Temporary Outdoor Dining
iteria iteria	14	Ordinance".
I Ma	15	Section 2 APPLICABILITY.
nderscored Material] (ethrough Material] -	16	This Article governs temporary permitting of outdoor dining areas for existing
Prou	17	restaurants in locations that would otherwise be required for parking,
	18	setbacks, or landscaping on a property. The permit and process in this article
ed/L	19	are for the duration of the COVID-19 Public Health Order limitations on
<u>eted</u>	20	building occupancies, gathering sizes, physical distancing requirements, and
[Bracketed/U [Bracketed/Stri	21	requirements for the use of personal protection equipment such as masks and
	22	gloves.
	23	Section 3 INTENT AND PURPOSES
	24	The intent of Article §13-19 et seq. is to establish a permitting process for

25 temporary outdoor dining areas while the COVID-19 Public Health Orders are

- 1 in effect, in order to help promote the health, safety, and general welfare of
- 2 restaurant staff and their customers.
- 3 <u>Section 4. DEFINITIONS.</u>
- 4 COVID-19 PUBLIC HEALTH ORDERS: Public Health Orders associated with
- 5 <u>COVID-19 that require social distancing measures, including limitations on</u>
- 6 the occupancy of indoor spaces, and limitations on gathering sizes as issued
- 7 by the State of New Mexico or City of Albuquerque.
- 8 Section 5. GENERAL PROVISIONS. A Temporary Outdoor Dining Area (TODA)
- 9 Permit is required for any temporary commercial outdoor dining areas in
- 10 locations otherwise required for parking, landscaping, or for outdoor dining
- 11 structures within the required setback.
- 12 Section 6. TEMPORARY OUTDOOR DINING AREA PERMITS.
- 13 A. Permit Required. No temporary outdoor dining areas located in areas
- 14 <u>otherwise required for parking, landscaping, or for outdoor dining structures</u>
- 15 within the required setback shall operate without first obtaining a TODA
- 16 Permit from the Planning Department. In addition to any other necessary
- 17 information, the Planning Department shall require submission of the
- 18 <u>following for each TODA Permit application:</u>

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<u>1. A physical address of the business premise where the TODA is</u>
 <u>proposed; and</u>

2. An existing site plan that shows the existing building(s) and
 structure(s), setbacks, parking and landscaping areas to scale, together with
 specific dimensions of the existing square footage for the dining area, the
 number of parking spaces currently provided, and the hours of operation for
 the restaurant; and

3. A scaled proposed site plan showing the area of the site to be temporarily dedicated to outdoor dining, and any alterations to traffic circulation, parking, landscape areas and enclosure per Section 7.

29 <u>4. A statement signed by the property owner authorizing the proposed</u>
30 <u>changes to the site; and</u>

315.A statement signed by the applicant that the TODA will be operated32in compliance with all applicable COVID-19 Public Health Orders, and all other

33 applicable city codes, including but not limited to the Food Sanitation

	1	Ordinance (Article 9-6-1), the Fire Code (Article 14-2) which includes the
	2	<u>"Temporary change of use permit " and the "Temporary membrane structures</u>
	3	and tents permit" and associated fees, with the exception of the sections of
	4	the Integrated Development Ordinance as they apply to parking requirements,
	5	landscape requirements and setbacks; and
	6	6. A remediation agreement and plan binding the applicant as a
	7	condition of approval of the TODA, to remediate the site to its pre-existing
	8	condition, including but not limited to the re-installment of landscaping and
	9	parking displaced by the TODA.
	10	B. Permit Duration; Inspection. Any TODA permit issued pursuant to
	11	this Article is valid for the duration of the relevant COVID 19 Public Health
	12	Orders unless sooner terminated by the applicant, or cancelled by the City.
	13	The Planning Department shall inspect each TODA to determine conformance
	14	with the requirements of this Article within sixty days of permit issuance.
	15	C. Permit Fee. The Planning Department shall collect a TODA Permit
	16	fee of \$20.00 for each permit.
	17	Section 7. TEMPORARY OUTDOOR DINING AREA PERMIT.
, u	18	A. Structures such as shade structures or decks associated with a
[] - New - Deletion	19	TODA may be located within the required setbacks or landscaped areas. Such
<u>Material]</u> - New aterial] - Deleti	20	structures shall not impede the clear sight triangle.
teria rial	21	B. TODA located within the parking area may use up to 25% of the
<u>Aate</u>	22	required parking.
ored gh A	23	i. TODA located within the parking area shall be enclosed with a
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hnde Kett	25	ii. TODA that use ADA accessible spaces shall provide new ADA
/Stri	26	spaces that meet ADA accessibility requirements.
ated steel	27	C. TODA are not considered a Temporary Use under the Integrated
<u>ack</u>	28	Development Ordinance (IDO).
<u> </u>	29	D. TODA shall meet the Use Specific Standards in the IDO Section 4-
	30	3(F)(14) Outdoor Dining.
	31	E. The TODA shall not increase the overall seating capacity of the
	32	restaurant beyond the general capacity limitations absent COVID-19 public
	33	health order limitations.]"

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SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
clause, word or phrase of this Ordinance is for any reason held to be invalid or
unenforceable by any court of competent jurisdiction, such decision shall not
affect the validity of the remaining provisions of this Ordinance. The Council
hereby declares that it would have passed this Ordinance and each section,
paragraph, sentence, clause, word or phrase thereof irrespective of any
provision being declared unconstitutional or otherwise invalid.

8 SECTION 3. CONFLICTS. In the event of any conflicts between this
9 ordinance and any provisions of the IDO or other applicable City regulations,
10 the provisions of this Ordinance shall prevail.

SECTION 4. COMPILATION. This Ordinance establishes temporaryprovisions only, and shall not be compiled.

SECTION 5. EFFECTIVE DATE. This ordinance is passed and approved as
an emergency measure and takes effect immediately upon publication by title
and general summary.

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