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1 in effect, in order to help promote the health, safety, and general welfare of
2 restaurant staff and their customers.

3 Section 4. DEFINITIONS.

4 COVID-19 PUBLIC HEALTH ORDERS: Public Health Orders associated with
5 COVID-19 that require social distancing measures, including limitations on
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 otherwise required for parking, landscaping, or for outdoor dining structures
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 following for each TODA Permit application:

19 1. A physical address of the business premise where the TODA is
20 proposed; and

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

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

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

31 5. A statement signed by the applicant that the TODA will be operated
32 in compliance with all applicable COVID-19 Public Health Orders, and all other
33 applicable city codes, including but not limited to the Food Sanitation

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1 Ordinance (Article 9-6-1), the Fire Code (Article 14-2) which includes the
2 “Temporary change of use permit “ and the “Temporary membrane structures
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.

18 A. Structures such as shade structures or decks associated with a
19 TODA may be located within the required setbacks or landscaped areas. Such
20 structures shall not impede the clear sight triangle.

21 B. TODA located within the parking area may use up to 25% of the
22 required parking.

23 i. TODA located within the parking area shall be enclosed with a
24 fence and/or barricaded from areas with moving vehicles.

25 ii. TODA that use ADA accessible spaces shall provide new ADA
26 spaces that meet ADA accessibility requirements.

27 C. TODA are not considered a Temporary Use under the Integrated
28 Development Ordinance (IDO).

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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1 **SECTION 2. SEVERABILITY CLAUSE.** If any section, paragraph, sentence,
2 clause, word or phrase of this Ordinance is for any reason held to be invalid or
3 unenforceable by any court of competent jurisdiction, such decision shall not
4 affect the validity of the remaining provisions of this Ordinance. The Council
5 hereby declares that it would have passed this Ordinance and each section,
6 paragraph, sentence, clause, word or phrase thereof irrespective of any
7 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.

11 **SECTION 4. COMPILATION.** This Ordinance establishes temporary
12 provisions only, and shall not be compiled.

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

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