



Legislation Details (With Text)

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**File created:** 5/21/2020      **In control:** City Council

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**Title:** AN EMERGENCY ORDINANCE AUTHORIZING TEMPORARY OUTDOOR SERVICE AREAS FOR RESTAURANTS AND BARS IN THE CITY OF COMMERCE CITY, COLORADO

**Sponsors:** City Council

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance - Passed on May 28, 2020, 2. Ordinance - Draft, 3. CDPHE COVID-19 Guidance for Restaurants 052420, 4. Presentation

Date	Ver.	Action By	Action	Result
5/28/2020	1	City Council	approved on second & final reading	Pass

AN EMERGENCY ORDINANCE AUTHORIZING TEMPORARY OUTDOOR SERVICE AREAS FOR RESTAURANTS AND BARS IN THE CITY OF COMMERCE CITY, COLORADO

**Summary and Background Information:**

This emergency ordinance (2282) provides an immediate and streamlined solution for restaurants and bars in Commerce City to expand their seating capacity to provide on-site dining for customers. The ordinance also takes steps to ensure the safety of the community and its neighborhoods from these expanded operations while ensuring compliance with state laws.

Restaurants and bars have been limited to providing on-premises dining options due to the COVID-19 public health crisis and related state and regional public health orders. In anticipation of permitting on-premises dining to re-open, the State of Colorado has taken steps in recent days to allow restaurants and bars to contemplate reopening by:

- Issuing guidance for restaurants, which include standards for operating at reduced capacity and spacing of tables and suggestions for outdoor service.
- Issuing emergency rules to allow for a temporary modification of liquor-licensed premises to expand operations to outdoor and other areas.
- Stating that other facilities will be evaluated for re-opening in June.

The Governor has called upon local governments to modify their regulations to allow restaurants to establish outdoor dining options.

Rather than amend every applicable law, this ordinance establishes a minimal, separate program that will be supplemented by other laws and go along with any special liquor law that might apply. The City regulates the use of land and businesses through various provisions of the Commerce City Revised Municipal Code, including building codes, nuisance provisions, and the Land Development Code. The City also concurrently licenses the sale of alcohol for on-premises consumption with the

State of Colorado, Department of Revenue, Liquor Enforcement Division (“LED”).

**Ordinance:**

The emergency ordinance authorizes restaurants and bars to establish “outdoor service areas” for on-premises service with no fee payable to the City. These areas can operate from 6 a.m. to 10 p.m. The ordinance excludes food preparation and storage and amplified sound as the purpose is to expand seating capacity in a safe manner that will not present potential nuisances or occupy space unnecessarily. State liquor licensing laws may require a fee to modify the licensed premises.

Outdoor service areas can be established adjacent to the existing business and must be on private property (including open areas and parking lots, except for drive lanes) with owner approval or on public property if the city issues a separate temporary license. This separate process is needed for liability, control, and liquor licensing purposes. The city does not currently have a sidewalk permitting process.

The ordinance allows outdoor service areas without a permit for 30 days and then requires a simple, no cost permit from July 1-October 31. The permit has a minimal approval standard and will include a minimal online application, including a simple site diagram. This permit is needed to ensure responsibility, safety, and tracking of activities. Liquor licensing follows a separate process through the City Clerk and State’s LED.

In addition to the various waivers, the ordinance contains other provisions to expedite and simplify processes. A “Permit Manager” is designated to ensure timely action on permits and to be a resource for coordinating city reviews and any inspection and compliance issues. The City Manager is authorized to temporarily suspend or modify code requirements that would otherwise interfere with the permissions granted by the ordinance. Signs permit requirements are waived for the outdoor service area and the premises.

The ordinance addresses safety from the aspect of property use, potential nuisances, accessibility and pedestrian safety, and building and life safety measures. Public health orders will separately govern how these businesses operate. For fire safety, drive lanes, fire hydrants, and other areas cannot be blocked. Tents may be used, subject to fire code standards. While Operators are responsible for sanitation, safety, and security, the city retains inspection authority and the power to suspend or revoke permissions.

**Staff Responsible (Department Head):** Robert Sheesley, City Attorney/Jason Rogers, Community Development Director

**Staff Member Presenting:** Robert Sheesley, City Attorney/Jason Rogers, Community Development Director

**Financial Impact:** Inspection and issuance of permits and licenses will impact staff work.

**Funding Source:** Funded through existing staff.

**Staff Recommendation:** Staff recommends approval of Ordinance 2282 as an emergency ordinance.

**Suggested Motion:** I move to introduce and approve on final reading Ordinance 2282 as an emergency ordinance.

