

# CITY COUNCIL REPORT



Meeting Date: June 16, 2020  
General Plan Element: *Economic Vitality*  
General Plan Goal: *Encourage high quality retail and entertainment*

## **ACTION**

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1. Adopt Ordinance No. 4455 amending Chapter 10 of the Scottsdale Revised Code, Emergency Management, to permit the Council by Resolution to (1) suspend the provisions of any ordinance, resolution or City regulation necessary to promote an economic recovery from a state of emergency so long as such suspension is not inconsistent with state statutes or emergency regulations promulgated by the Governor, and (2) temporarily suspend contractual obligations due the City, so long as such suspension is consistent with state and federal law.
2. Adopt Resolution No. 11862 authorizing the City Manager to take specified actions to promote economic recovery from the effects of the state of emergency caused by the Coronavirus (COVID-19) pandemic.

## **BACKGROUND**

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On the 18<sup>th</sup> day of March, 2020, Mayor W. J. "Jim" Lane issued a Proclamation Declaring a State of Emergency within the City of Scottsdale in response to the spread of COVID-19, which Proclamation was later approved by the Council on the 24th day of March, 2020.

The COVID-19 pandemic and its associated social distancing imperatives has created a significant hardship on many of Scottsdale's businesses. State of Arizona Executive Orders 2020-09 and 2020-34 directed the closure of all restaurant on-site dining from March 21, 2020 to May 10, 2020 (51 days) and the closure of bars. State of Arizona Executive Order 2020-21 (Section 2) states that landlords shall consider deferring or adjustment payments for commercial tenants that are unable to pay rent due to financial hardship caused by the pandemic.

This action is amending the provisions of Chapter 10 of the Scottsdale Revised Code to address measures necessary to promote economic recovery from a state of emergency. Secondly, this action will authorize the City Manager to take specified actions to promote economic recovery from the effects of the state of emergency caused by COVID-19.

The City's Recovery Team has identified active City programs, ordinances, and contracts applicable to businesses that have been substantially impacted by the pandemic. Temporary modifications or

suspensions of the requirements associated with these programs would help a variety of struggling businesses as they begin to re-open and become part of the new economic arena. Resolution No. 11862 proposes temporary modifications or suspensions to the following programs:

- Outdoor Patio License Agreements
- In-Lieu Parking Agreements (Leases only)
- Special Events & Business Extensions
- Temporary Signage

## **ANALYSIS & ASSESSMENT**

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### **Outdoor Patio License Agreements**

This action will authorize a license fee waiver applicable to outdoor patio licensees, in the form of an offset to upcoming license use fees for the next payment period beginning July 1, 2020. The Covid-19 pandemic and its associated social distancing imperatives has created a significant hardship for outdoor patio licensees. This action will provide such licensees relief as they begin to welcome patrons to their facilities in accordance with the State of Arizona Executive Order 2020-34 effective May 11, 2020. Whereas some licensees have reached out to request relief, this action proposes to provide consistent relief to all of the city's patio licensees who paid full licensee fees during the closure period.

The City's outdoor patio license agreement licensees have previously paid the license use fees for the period within which the state-ordered closure applied. Accordingly, this license use fee waiver will be expressed as a credit to the upcoming payment period commencing July 1, 2020. The City desires to extend this use fee waiver to all outdoor patio licensees who were required to respect the State of Arizona ordered closures from March 21, 2020 to May 10, 2020. Because these invoices have already been sent for payment by June 25, 2020 for the period commencing July 1, 2020, Real Estate and Financial Services will work together to notify Licensees of this credit when authorized by City Council.

### **Resource Impacts**

This fee waiver, expressed as a credit for the upcoming payment period, affects twenty license agreements. The total impact of this waiver is \$14,988.

### **In-Lieu Parking Agreements (Leases)**

This action will authorize a contract fee waiver applicable to in-lieu parking lease fees, in the form of a retroactive credit for the previous closure period from March 21, 2020 to May 10, 2020. The existing active in-lieu parking lease accounts are all associated with bars or restaurants, for which the Covid-19 pandemic and its associated social distancing imperatives has created a significant hardship. The leased parking spaces were not needed, nor in use while the businesses were closed. This action will provide these business owners relief as they begin to welcome patrons to their facilities in accordance with the State of Arizona Executive Order 2020-34 effective May 11, 2020. Whereas some owners

have reached out to request relief, this action proposes to provide consistent relief to all the city's in-lieu parking leases during the specified period.

#### Resource Impacts

This fee waiver, expressed as a retroactive credit, affects nine (9) in-lieu parking agreements. The total impact of this waiver is \$6,861.

#### **Special Events & Business Extensions**

This action will authorize a temporary suspension for the frequency and duration of special events, allow for business extensions by suspending the element criteria for special events, and suspend the frequency for sidewalk sales through December 31, 2020. In March 2020, the Governor issued Executive Orders as a result of the COVID-19 national pandemic, requiring the closure of non-essential businesses and services in order to protect public health and safety. This occurred at the height of the tourist and event season. Recent Executive Orders allow most businesses to re-open, including those with dine-in services, with public health requirements for social distancing and compliance with CDC and ADHS regulations. The social distancing requirements stirred the desire to expand outside for added space as a result of decreased operational areas. This desired outside activation triggers the requirement for a special event permit. The ability to temporarily suspend ordinance provisions would help a variety of struggling businesses as they begin to re-open and become part of the new economic arena. These include:

- **Business Extensions.** Suspend Sec. 22-4 (a)1. Special event criteria. The special event provides a unique organized, civic, cultural, educational, entertainment or recreational activity or experience.
  - The exemption would not require a special event to provide one of the five listed elements, thus allowing a business extension for retail sales, added dining areas, or added service areas through December 31, 2020.
- **Frequency & Duration for Special Events.** Suspend Sec. 22-7 (a). Special event limits. A special event shall not occur more than 10 consecutive or 24 total days during the calendar year and, of the 24 calendar days per year, no more than 10 total days in any calendar quarter, unless otherwise provided by this Chapter.
  - The exemption would not require a special event to be limited to frequency or duration through December 31, 2020.
- **Frequency for Sidewalk Sales.** Suspend the frequency limits of Sec. 22-8 (d) 4.b. Sidewalk sales, subject to the following limitations: A retail establishment shall not hold more than two sidewalk sales lasting no more than ten consecutive days per sale in a calendar year.
  - The exemption would not require a sidewalk sale to be limited to twice in a calendar year through December 31, 2020.

### Resource Impacts

No additional funding is needed. The workload associated with these changes can be covered by the existing employees assigned to administer special events.

### **Temporary Signage**

This action will authorize a temporary suspension for the Temporary Sign requirements of Zoning Ordinance Section 8.600.E., relaxing the banner requirements for businesses. During the COVID-19 state of emergency the City Planning Department has already implemented some flexibility for signage by relaxing its temporary banner requirements to help businesses. Signage can be crucial for businesses that are open and may have modified customer service policies due to the social distancing imperatives. Here are some of the changes the Planning Department has already made to the temporary sign requirements:

1. Allowing a business the ability to obtain a banner approval more than once in a calendar year,
2. Providing an opportunity for a business to request an extension to the 35-day banner display limit until the COVID-19 situation is resolved, as determined by the City of Scottsdale, and
3. Waiving the \$30.00 Banner Permit Fee.
4. The City of Scottsdale has offered businesses the option to use a City-approved banner design called the 'Scottsdale Good To-Go Banner.

This action includes provisions to allow the City Manager to direct the Planning Department to continue with the temporary signage flexibility that has already been implemented, through December 31, 2020, as well as the potential for additional changes as necessary.

### Resource Impacts

This fee waiver for the \$30.00 banner permit has an estimated impact of \$15,000 if implemented through December 31, 2020.

## **OPTIONS & STAFF RECOMMENDATION**

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### **Recommended Approach:**

1. Adopt Ordinance No. 4455 amending Chapter 10 of the Scottsdale Revised Code, Emergency Management, to permit the Council by Resolution to (1) suspend the provisions of any ordinance, resolution or City regulation necessary to promote an economic recovery from a state of emergency so long as such suspension is not inconsistent with state statutes or emergency regulations promulgated by the Governor, and (2) temporarily suspend contractual obligations due the City, so long as such suspension is consistent with state and federal law.

2. Adopt Resolution No. 11862 authorizing the City Manager to take specified actions to promote economic recovery from the effects of the state of emergency caused by the Coronavirus (COVID-19) pandemic.

## **RESPONSIBLE DEPARTMENTS**

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Planning & Economic Development  
Public Works Division, CPM/Real Estate

## **STAFF CONTACTS**

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## APPROVED BY

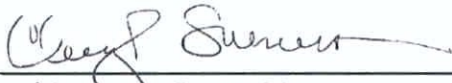
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6/9/2020

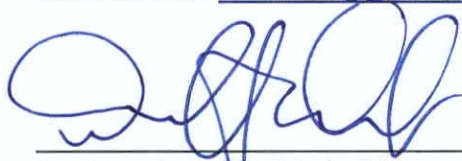
Date



Cheryl Sumners, Events Manager  
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June 9, 2020

Date



Dan Worth, Public Works Director  
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6-9-20

Date



Randy Grant, Planning and Economic Development  
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6/9/20

Date

## ATTACHMENTS

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1. Ordinance No. 4455
2. Resolution No. 11862

ORDINANCE NO. 4455

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, TO APPROVE AMENDMENTS TO CHAPTER 10 "EMERGENCY MANAGEMENT" OF THE SCOTTSDALE REVISED CODE BY AMENDING CHAPTER 10, SECTIONS 10-1, 10-3 AND 10-4.

WHEREAS, the City of Scottsdale desires to amend the provisions of Chapter 10 of the Scottsdale Revised Code to address measures necessary to promote economic recovery from a state of emergency.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale, as follows:

Section 1. Chapter 10 of the Scottsdale Revised Code, relating to Emergency Management, Sections 10-1, 10-3 and 10-4 are amended to read as follows, with additional text highlighted:

Sec. 10-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City Manager* means the City Manager as appointed pursuant to the City Charter and includes the City Manager's designee.

*Economic Recovery from State of Emergency* means the recovery of community economic activity damaged by a state of emergency.

*Emergency functions* include warning and communications services, relocation of persons from stricken areas, radiological defense, temporary restoration of utilities, plant protection, transportation, welfare, engineering, search, rescue, health, law enforcement, fire fighting and other activities necessary or incidental thereto.

*Emergency preparedness* means the organization, administration, trained personnel, facilities, equipment, material, supplies, programs, emergency plans, ability to execute emergency plans, and all other measures necessary and incidental thereto relating to emergency prevention, preparedness, response and recovery by all governmental and private sector agencies to protect or save life or property.

*Emergency Operations Center (EOC)* means a centralized location where city officials monitor, coordinate and direct city-wide response efforts during an emergency.

*Emergency Management* means the preparedness, response, recovery and mitigation activities necessary to respond to and recover from any disasters or emergencies.

*Emergency Management Program* means the development and coordination of plans, procedures, training and exercising for emergency preparedness, response, recovery and mitigation.

*Emergency Manager* means the person who has the day-to-day responsibility for the City's Emergency Management Program and activities, and manages the coordination of emergency resources. The Emergency Manager is the liaison between the Emergency Operations Center and the Policy Group.

*Local Emergency* means the existence of conditions of disaster or of extreme peril to the safety of persons or property within the territorial limits of a county, city or town, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of such political subdivision as determined by its governing body and which require the combined efforts of other political subdivisions.

*National Incident Management System (NIMS)* means a systematic, proactive approach to guide departments and agencies at all levels of government, nongovernmental organizations, and the private sector to work together seamlessly and manage incidents involving all threats and hazards—regardless of cause, size, location, or complexity—in order to reduce loss of life, property and harm to the environment.

*Policy Group* means the executive level oversight and strategic decision making body for the City during an emergency, and includes the Mayor, Vice Mayor, City Manager, City Attorney, City Treasurer, Communications and Public Affairs Director, Police Chief, Fire Chief and other city employees needed for this role as designated by the Emergency Manager.

*State of emergency* means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons or property within the state caused by air pollution, fire, flood or floodwater, storm, epidemic, riot, earthquake or other causes, except those resulting in a state of war emergency, which are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county, city or town, and which require the combined efforts of the state and the political subdivision.

*State of war emergency* means the condition which exists immediately whenever this nation is attacked or upon receipt by this state of a warning from the federal government indicating that such an attack is imminent.

#### Sec. 10-3. - Powers and duties of Mayor and City Council.

(a) The City Council:

- (1) Shall have the power to make, amend and rescind regulations necessary for emergency preparedness, but such regulations shall not be inconsistent with regulations promulgated by the Governor. Any regulation issued by the Council is effective when a copy is filed in the Office of the City Clerk.



- (2) In a state of war emergency, may have, by resolution, such powers as are granted under Arizona Revised Statutes section 26-307C.
  - (3) In the absence of specific authority in state emergency plans and programs, shall take emergency measures as deemed necessary to carry out the provisions of Arizona Revised Statutes title 26, chapter 2 [A.R.S. § 26-301 et seq.].
  - (4) May appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for emergency preparedness purposes.
  - (5) Shall have the power to suspend the provisions of any ordinance, resolution, or city regulation necessary to promote an economic recovery from a state of emergency so long as such suspension is not inconsistent with state statutes or emergency regulations promulgated by the Governor.
  - (6) Shall have the power, consistent with state and federal law to temporarily suspend contractual obligations due the city to promote economic recovery from a state of emergency.
- (b) In addition to the powers granted by other provisions of the law or city charter, the Mayor may declare an emergency or local emergency to exist by proclamation. Any emergency or local emergency so declared by proclamation shall continue until the next meeting of the City Council. The Council may convene a special meeting to initiate, renew, continue or revoke any emergency or local emergency for such period as it deems fit by majority vote. In no event shall any emergency so declared by proclamation continue for more than seven (7) days from first issuance. During an emergency or local emergency, the Mayor shall govern the city by proclamation and shall have the authority to impose all necessary regulations to preserve the peace and order of the city until the next immediate meeting of the City Council at which time the City Council may by majority vote determine whether an emergency continues to exist or should be terminated.
- (c) During the periods of a declared emergency or local emergency the Mayor or Council may provide mutual aid to other political subdivisions when required; and may request the state or a political subdivision to provide mutual aid to the city.

Sec. 10-4. - The power and duties of the City Manager.

- (a) The City Manager shall supervise and direct the Emergency Management Program.
- (b) The City Manager is responsible in nonemergency periods to act on behalf of the Mayor and Council to develop an effective Emergency Management Program.
- (c) The City Manager may accept for purposes of emergency preparedness an offer of the federal government or any agency or officer thereof or an offer of any person of services, equipment, supplies, materials or funds, whether by gift, grant or loan subject to the terms, if any, of the offeror.
- (d) The City Manager shall supervise the development of plans and recommendations to the Mayor and Council for any economic recovery from a state of emergency, as necessary.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Council of the City of Scottsdale this \_\_\_\_ of \_\_\_\_\_, 2020.

ATTEST:

CITY OF SCOTTSDALE, an Arizona  
municipal corporation

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

By: \_\_\_\_\_  
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By: Michael Hamblin  
Sherry R. Scott, City Attorney  
By: Michael Hamblin, Assistant City Attorney

RESOLUTION NO. 11862

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER, IN HIS DISCRETION, TO TEMPORARILY SUSPEND ENFORCEMENT OF SPECIFIED REGULATIONS AND CONTRACT PROVISIONS TO PROMOTE ECONOMIC RECOVERY FROM THE EFFECTS OF THE STATE OF EMERGENCY CAUSED BY THE CORONAVIRUS (COVID-19) PANDEMIC.

WHEREAS, on the 18<sup>th</sup> day of March, 2020, Mayor W. J. "Jim" Lane issued a Proclamation Declaring a State of Emergency within the City of Scottsdale (the "City") in response to the spread of the coronavirus disease (COVID-19), which Proclamation was later approved by the Council on the 24<sup>th</sup> day of March, 2020; and

WHEREAS, on the 15<sup>th</sup> of May, 2020, Mayor W. J. "Jim" Lane issued Amendment No. 1 to the Proclamation and Declaration of Emergency addressing the initiation of the structured, incremental reopening of City park amenities as well as City buildings and facilities; and

WHEREAS, the Council has this date approved Ordinance 4455, amending Chapter 10 of the Scottsdale Revised Code, Emergency Management, to permit the Council by Resolution to (1) suspend the provisions of any ordinance, resolution or City regulation necessary to promote an economic recovery from a state of emergency so long as such suspension is not inconsistent with state statutes or emergency regulations promulgated by the Governor, and (2) temporarily suspend contractual obligations due the City, so long as such suspension is consistent with state and federal law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the City Manager is hereby authorized, in his discretion, to suspend the enforcement of the following ordinances, resolutions, and regulations until December 31, 2020:

A. Section 22-4(a)(1) of the Scottsdale Revised Code to suspend the requirement that a special event provide a unique cultural, educational or entertainment experience.

B. Section 22-7(a) of the Scottsdale Revised Code to suspend frequency and duration limits of special events.

C. Section 22-8(d)(4)(b) of the Scottsdale Revised Code to suspend frequency limits of sidewalk sales.

D. Section 8.600.E of the Zoning Ordinance of the City of Scottsdale regarding Banners.

Section 2. That the City Manager is hereby authorized, in his discretion, to make adjustments to the following contractual obligations due the City to grant fee relief for a period of fifty-one (51) days, representing March 21, 2020 through May 10, 2020 inclusive, by way of fee waiver or credit:

A. The reduction or suspension of the fee due the City in agreements for Monthly Term In-Lieu Parking Credits authorized by Section 9.108.D of the Zoning Ordinance of the Scottsdale Revised Code.

B. The reduction or suspension of the fee due the City in agreements for Evening Use Term In-Lieu Parking Credits authorized by Section 9.108.D of the Zoning Ordinance of the Scottsdale Revised Code

C. The reduction or suspension of the fee due the City in Outdoor Patio License Agreements authorized by Section 2-221(b)(5) of the Scottsdale Revised Code.

Section 3. This resolution expires on December 31, 2020, and does so automatically without further action by the Council. At the time of its expiration, all the ordinances, resolutions, regulations, contracts listed above shall be enforced as presently enacted or drafted.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

CITY OF SCOTTSDALE,  
an Arizona municipal corporation

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

By: \_\_\_\_\_  
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

  
Sherry R. Scott, City Attorney  
By: Michael Hamblin, Assistant City Attorney