

ORDINANCE NO. 1466

AN ORDINANCE OF THE DRAPER CITY COUNCIL ESTABLISHING A TEMPORARY LAND USE REGULATION PERMITTING THE USE OF TENTS AND CANOPIES FOR RESTAURANT DINING SPACE.

WHEREAS, the Land Use and Development Code of the Draper City Municipal Code has been established to provide regulations concerning general land uses within the City Boundaries; and

WHEREAS, Draper City recognizes a global pandemic caused by the spread of the COVID-19 virus; and

WHEREAS, Draper City finds that COVID-19 poses a continuing and immediate threat to the health, safety, and welfare of Draper City residents; and

WHEREAS, Draper City recognizes the science behind the practice of social distancing during the global pandemic; and

WHEREAS, following social distancing guidelines mitigates the spread of the COVID-19 virus; and

WHEREAS, social distancing guidelines and public health orders reduce the typical seating capacity for restaurants; and

WHEREAS, temporarily permitting outdoor, tented seating for restaurants will allow restaurants to serve the citizens of Draper while following recommended social distancing guidelines in compliance with state and local public health orders; and

WHEREAS, permitting temporary, tented outdoor seating for restaurants serves a compelling countervailing public interest that protects the health, safety, and welfare of the citizens of Draper as well as the economic viability of important Draper businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Findings. The City Council of Draper City hereby finds a compelling, countervailing public interest in enacting the temporary land use regulations contained in Exhibit A. The city council finds the proposed ordinance is in the best interest of the health, safety, and welfare of the citizens of Draper. The city council finds that the promulgated temporary land use regulations ensure compliance with local and state orders while simultaneously protecting the citizens of Draper and easing economic pressures on restaurants.

Section 2. Duration. Pursuant to Utah Code Ann. § 10-9a-504, this Ordinance shall last for the earlier of a period of six (6) months or until otherwise rescinded by the legislative body.

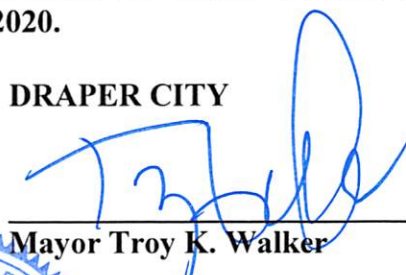
Section 3. Correction of Editing Errors. The City Attorney is authorized to correct any punctuation, spelling, formatting, clerical, or *de minimis* errors prior to submitting the Ordinance for publication.

Section 4. Severability. If any section, part, or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts, and provisions of this Ordinance shall be severable.

Section 5. Effective Date. This Ordinance shall become effective immediately upon publication or posting, or 30 days after final passage, whichever occurs first.

PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THE 17TH DAY OF NOVEMBER 2020.

DRAPER CITY



Mayor Troy K. Walker

ATTEST:



Laura Oscarson, CMC, City Recorder



VOTE TAKEN:

YES

NO

Councilmember Green

Councilmember T. Lowery

Councilmember F. Lowry

Councilmember Roberts

Councilmember Vawdrey

Mayor Walker

EXHIBIT A

TITLE: Temporary Land Use Regulation permitting the use of Tents or Canopies for Restaurant Dining Space.

PURPOSE: To set temporary ordinance standards to allow for the use of temporary tents or canopies as additional dining space for restaurants to alleviate detrimental health and economic effects created by the global Covid-19 pandemic.

SCOPE: Applicable to all legally operating restaurants within Draper City that have both an active Draper City business license and a permanent, approved indoor dining space.

DEFINITIONS:

Tent: A temporary structure as described in International Fire Code Chapter 31: A structure, enclosure, umbrella structure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported in any manner except by air or the contents it protects.

Canopy: A temporary structure as described in International Fire code Chapter 31: A structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity, or decoration, and may be structurally independent or supported by attachment to a building on one end and by not less than one stanchion on the outer end.

Adult staff member: A person 18 years of age or older who is an employee of the restaurant and capable of providing for the supervision and direction of others.

Construction Documents: Shall have the same meaning and definition as contained in Section 3103.6 of the International Fire Code.

LAND USE AND DEVELOPMENT REGULATIONS:

Provisions of Title 9 of the Draper City Municipal Code shall continue to apply except as specifically modified below with respects to the stated purpose and intent of this temporary ordinance:

A. Application:

1. Restaurant owners may apply to use a temporary tent or canopy as an extension of indoor dining space.
2. Each application must include:
 - a. A scaled site plan illustrating:
 1. The property lines, existing building(s) on the property(ies), existing paved parking locations, location of landscaping, location of the existing restaurant(s) on the site, location of the proposed tent(s) or canopy(ies);
 2. Distances between the permanent structures on site and the proposed temporary tent(s) or canopy(ies);

3. That the location will not impede emergency vehicle access to and from the property and that vehicular circulation on, off and through the property, including adjacent properties, is not unduly compromised or restricted;
 4. Adequate pedestrian mobility through all sidewalks and pedestrian walkways;
 5. That the location does not cause limited visibility for the public right of way or in parking lots; and
 6. Ingress and egress from any adjacent building.
 - b. A floor plan showing interior set up of the temporary tent or canopy including seating locations, electrical locations, and the location and type of heating.
 - c. An affidavit from the property owner for the location of the tent or canopy dated after the enactment of this ordinance providing permission for erection of the tent or canopy, if the applicant is not the property owner.
 - d. The address of the restaurant and the address of the property that the tent or canopy is erected on (if different).
3. The city has 15 days from submission to review the application.

B. Location:

1. Temporary tents or canopies shall be located on the same property or on property within 250 feet of the restaurant location.
2. Temporary tents or canopies allowed under this ordinance may only be installed on asphalt or concrete surfaced areas, including existing required parking for the site and existing approved outdoor dining spaces.
3. Temporary tents or canopies may not be located on or within a public right of way.
4. Temporary tents or canopies may not encroach into landscaped areas of the property.
5. All ADA parking stalls and other ADA facilities must remain accessible at all times.

C. Size:

1. No more than 2 tents or canopies may be erected per restaurant.
2. The total size and maximum occupancy of allowable dining space under tents and canopies shall not exceed the square footage of the existing approved restaurant dining space and maximum occupancy.
3. Tents or canopies may not cover more than 15% of the total required parking stalls for the restaurant(s). Where multiple restaurants share a site, each restaurant shall have a prorated amount of parking lot space calculated by proportionate share of the cumulative square footage of dining space of all restaurants on site.

D. Operational Requirements:

1. Interior seating space within the restaurant must continue to be used for seating in a manner consistent with state and county declarations and regulations.
2. Restaurants may not share the same tent or canopy with other restaurants.
3. Use of tents or canopies may be subject to other agreements and regulations, including, but not limited to, a lease agreement with a landlord and compliance with regulations of

the State Division of Alcoholic Beverage Control (DABC). Approval from the city under this ordinance does not absolve the owner or operator from any obligations under such agreements or regulations.

E. Anchoring and Setbacks:

1. All tents or canopies shall be property secured in case of wind (40 mph basic wind speed and 90 mph 3-second gust). Securing of the structures is the responsibility of the owner/operator.
2. Tents or canopies must be anchored by water, cement, or sand barrels and may not be anchored by staking.
3. Tents or canopies shall be set back from buildings and other tents or canopies as required by International Building Code and the International Fire Code.

F. Fire Safety:

1. Owners and operators of tents or canopies shall comply with International Fire Code. A permit from the Fire Marshal is required.
2. A full set of construction documents including structural calculations and detailed drawings of tent or canopy framing connections are required and must be approved by the Fire Marshal.
3. All tents or canopies must include portable fire extinguishers with a 4A40 BC rating in compliance with International Fire Code.
4. Exits must be marked and lighted.
5. Compressed gas bottles used for heating must be secured from tipping.
6. An emergency evacuation plan shall be posted in a conspicuous place near the entrance, and an adult staff member who is trained in the extinguishment of fires and evacuation of patrons must be present when the dining space is in use.
7. No combustible waste can be stored within 30 feet of the tent or canopy.
8. The California State Fire Marshal's flame retardant certification seal must be visibly displayed on the tent or canopy.
9. No smoking shall be permitted inside the tent and no smoking signs shall be posted.

G. Duration:

Use of tents or canopies permitted under this temporary ordinance must be removed from the property no later than six months from the date this ordinance is enacted or within five (5) days of the repeal of this temporary ordinance, whichever is sooner.

H. Inspections:

Authorized law enforcement officers, zoning enforcement officers, fire control officers, and other governmental personnel shall be permitted free access to the temporary tent or canopy to make inspections to ensure compliance with the provisions of this section and all other applicable laws.