

MEMORANDUM

To: Orlando City Council

From: Elisabeth Dang, Planning Official *Elisabeth Dang*

Date: May 4, 2020

Subject: Temporary Use Permit program for certain Temporary Signs, Outdoor Retail Sales & Restaurant Seating, and Small Tents (Citywide)
DET2020-10081 Planning Official Determination

BACKGROUND

The COVID-19 pandemic has caused an emerging need for additional signage and operational opportunities for business establishments that are operating in these difficult times. This includes everything from pick-up locations for restaurants to increase take-out operations, contactless delivery of groceries and other goods, and outdoor operations as businesses open in phases in line with the Governor's orders. This need is especially acute in our Downtown, Main Street Districts and other commercial shopping areas.

Therefore, the Planning Official has worked with our administration to create a temporary program authorizing - without a permit or other approval - temporary signage, outdoor retail sales & restaurant seating, and small tents which are otherwise prohibited by the City Code, or require approval by the City through a permit or other approval process.

City code section 58.831 allows the Planning Official to approve a temporary use permit that can apply for up to six months, with Council having the ability to approve longer durations. There are aspects of this program that require approval of the Council, specifically authorizing businesses to operate within City rights-of-way per section 54.27-1(f) of the City Code, and authorizing signs within City rights-of-way per section 61.203 of the City Code.

This Temporary Use Permit program includes:

PLANNING OFFICIAL APPROVAL AS OF THE DATE OF THIS MEMO:

1. Temporary Signage: A-Frame/Menu Board, Flag and Banner signs
2. Outdoor Retail Sales & Restaurant Seating
3. Small Tents to expand outdoor operations

CITY COUNCIL APPROVAL, PROPOSED FOR MAY 11, 2020 MEETING:

4. The above operations within City rights-of-way (i.e. on sidewalks), as long as activities are in compliance with this program.

The following guidelines implement the program, which is either effective immediately via the Planning Official Determination or on May 11, 2020 via approval by City Council, as applicable, until September 1, 2020.

TEMPORARY SIGNS

The City's Land Development Code prohibits temporary banners and limits A-Frame signs to businesses within the Downtown Sign Area and a few other specially planned areas. Wind operated devices (flags, etc.) are also limited or prohibited. This type of signage shall be allowed, without requiring a sign permit, for the duration of this program on private property, and may be authorized by the City Council within the City rights-of-way if approved at the May 11, 2020 City Council meeting. The following restrictions apply:

- No more than one of each type of temporary sign is allowed per commercial business or public benefit use, placed in front of the business (one each of A-Frame, Flag or Banner). Office and industrial uses are authorized one such sign of their choosing.
- A-Frame signs must not exceed 9 square feet in area within the Downtown DDB (map attached at end of document), and 6 square feet elsewhere throughout the City.
- Flags may be up to 12 feet in height.
- Banners are allowed a length of up to 50% of the storefront principal frontage up to a maximum of 20-ft in length, and may not exceed 5 feet in height.
- Banners are not allowed on City rights-of-way.
- "Snipe" style signs may be substituted for an A-Frame sign. When placed on rights-of-way, they must be placed directly in front of the business consistent with the below.
- Temporary signs shall not count toward maximum signage area.
- Temporary signs must not be secured to tree guards, tree grates or disturb the sidewalk pavement within rights-of-way (e.g. bolted into the sidewalk).
- A-Frame and Flag temporary signs must be removed at the end of the business day.
- On private property, the location of the temporary sign must provide a minimum 4 feet clear space for pedestrians on walkways.
- When placed in rights-of-way, temporary signs are only allowed within the streetscape area of a street, and not located within the roadway of a street (the area that vehicles may access), and located according to the following:
 - The location must provide a minimum of 5 feet continuous clear passage for pedestrians to traverse sidewalk areas.
 - The sign must be located 2 feet behind the face of curb of the roadway, placed in the landscaped "parkstrip" area of a streetscape, or the "furniture zone" area of a hardscape streetscape treatment.
 - When no parkstrip or furniture zone is present (the sidewalk is adjacent to the curb), signs shall be placed 6 feet from the back of curb.
 - The location is setback 6 feet from any street corner (where the curb curves to form a corner) or any ADA ramps located at the street corner or elsewhere within rights-of-way.
 - Care should be taken near curb cuts to provide proper sight lines for vehicle maneuvers consistent with the requirements of the City's Engineering Standards Manual (reference: <https://tinyurl.com/ybftt2ph>).
 - Signs cannot block ingress/egress into the business or an adjacent property.
 - Signs within rights-of-way are only authorized for the business directly adjacent to the right-of-way (sidewalk) used. No signs are authorized in medians.

Examples of these different types of temporary signs are provided toward the end of the document.

OUTDOOR RETAIL SALES & RESTAURANT SEATING

Outdoor retail sales (called “intensive retail”) are prohibited in many zoning districts. As many businesses are incrementally opening for operations during this pandemic, there is a need to increase the space allocated to outdoor retail sales and restaurant operations, since indoor capacities have been limited due to the social distancing requirements (e.g. 25% indoor capacity restrictions for retail and other businesses). Bars are not included in this temporary program.

Commercial establishments shall be allowed to provide outdoor retail sales and restaurant seating, without requiring a permit or other authorization, during the duration of this program on private property, and may be authorized by the City Council within City rights-of-way if approved at the May 11, 2020 Council Meeting. The following restrictions apply:

- Allowed in private parking lots, where the location does not conflict with the traffic circulation of the site (e.g. within parking spaces).
- On private walkways, where a minimum 4 feet clear space for pedestrians is maintained.
- Parking minimums shall not be impacted by outdoor retail sales and restaurant seating for the duration of this program (i.e. no additional parking requirement, and required parking spaces may be used for these activities).
- Impact fees are not applicable for such outdoor operations for the duration of this temporary program, as interior capacities are limited.
- Outdoor loudspeakers are prohibited for such outdoor operations.

Within the City’s rights-of-way (sidewalks), such outdoor retail sales and restaurant seating shall follow the required dimensions of sidewalk cafes in section 54.28 of the City Code, which are summarized in the attached diagram at the end of this document. Generally, these requirements include:

- The location must provide a minimum of 5-ft clear for pedestrians to traverse sidewalk areas, independent of the streetscape “furniture zone” or parkstrip areas where street-trees are typically found, where they exist.
- When no parkstrip or furniture zone is present (the sidewalk is adjacent to the curb), outdoor seating and sales shall be placed a minimum of 6-ft from the face of curb.
- The location is closest to the private property line, away from the street curb.
- Sales of Food and Merchandise within rights-of-way are only authorized for the business directly adjacent to the right-of-way (sidewalk) used.
- Consumption of alcoholic beverages within rights-of-way is allowed for restaurant operations that follow the required dimensions of sidewalk cafes found in Section 54.28 of the City Code, provided the establishment has a valid permit from the State for on-site consumption of alcohol.

SMALL TENTS

Section 58.833 of the Land Development Code requires the Zoning Official/Planning Official to approve the location of all tents. This section also limits the duration for the placement of tents to seven days in any six month period, requires the written consent of the property owner, and limits their duration on an annual basis. Additionally, this section of code also limits tents as they may not be erected to block access to any required parking space.

Small, farmer's market-style tents up to a maximum dimension of 12' x 12' shall be exempt from the above section of the Land Development Code, and may be placed on private property without a permit. In Downtown Orlando, such tents may be located in a sidewalk café area consistent with the location requirements of Section 54.28 of the City Code.

COUNCIL AUTHORIZATION

In accordance with the guidelines and provisions of this program as outlined above, City Council authorizes certain businesses to operate within the right-of-way and the placement of temporary signs within the right-of-way. Nothing contained herein is intended as, nor shall constitute, a waiver by the City of Orlando, of its grant of sovereign immunity under law.

By participating in this program, each business and property owner agrees to release the City from any liability that may arise due to the use of the right-of-way pursuant to this program, and further agrees to indemnify and hold harmless the City from and against any and all claims, damages, losses and expenses arising out of or resulting from the use of the right-of-way pursuant to this program.

The City reserves the right to require removal of any temporary sign or use within the right-of-way, at any time, as deemed necessary by the City.

GENERAL PROVISIONS

All activities, signs and temporary uses authorized by this program shall be removed should a tropical storm warning (or greater) be issued for Orange County. Additionally, all activities are only allowed for legal or legal non-conforming businesses located in the proper zoning district, which have obtained a valid business tax receipt from the City of Orlando.

Each business and property owner shall comply with all applicable federal, state and local laws, ordinances, rules and regulations, including the Americans with Disabilities Act. Violation of any federal, state or local law, or violation of any of the terms or conditions of this program, will result in the termination of all activities, signs and temporary uses authorized by this program.

The City reserves the right to end this program at any time. The Chief Administrative Officer is authorized to monitor, modify and implement this program. The Code Enforcement Division and Streets & Stormwater Division are authorized to enforce this program.

CONCLUSION

The City of Orlando appreciates our business community as they adapt to provide a safe environment that adheres to the guidance issued by our state officials. These temporary changes to regulations are proposed to provide an environment that can provide for social distancing in the phased openings of our businesses.

This program is part of a larger COVID-19 Economic Recovery Initiative of the City of Orlando and related items on the May 11 Council agenda. Additional items may come forward as part of this program in future City Council meetings as additional phases of business openings are implemented throughout the State of Florida.

REQUESTED ACTION

Acceptance of the Planning Official determination for temporary signs, outdoor sales and restaurant seating, and small tents, and Council authorization for the use of the City's rights-of-way consistent with the elements of this program.

EXAMPLES OF TEMPORARY SIGNS

A-Frame Signs



Typical 3' x 2' A-Frame Sign



Windmaster style sign



Sandwich Board Sign

Flags



"Feather" Flag



"Teardrop" Flag



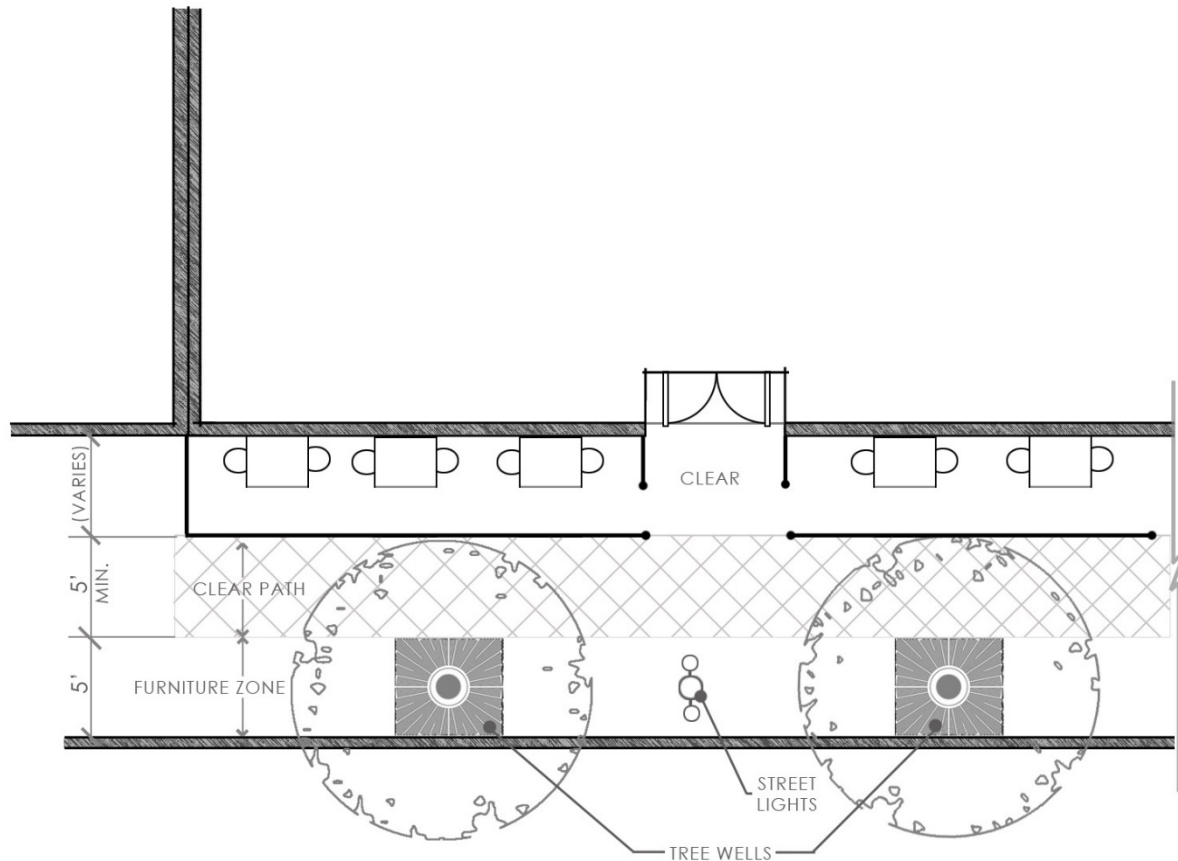
"Feather" Flag

Banners





SIDEWALK CAFÉ DIAGRAM



SUMMARY NOTES:

1. Place all outdoor sales and seating to allow a 5-ft clear path for pedestrians.
2. Tents, outdoor sales, etc. shall be placed in the sidewalk café areas as depicted when located within the right of way.
3. Place signs outside of the clear path, and 2-ft behind the curb in furniture zone, or within sidewalk café areas.
4. If no furniture zone or parkstrip exists, place items 6-ft from the back of curb.