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FEB 24 2011

ORDINANCE NO. 4280

AN ORDINANCE OF THE CITY OF CHANDLER, ARIZONA, AMENDING THE ZONING CODE OF THE CITY OF CHANDLER, CHAPTER 35, CODE OF THE CITY OF CHANDLER; RELATING TO EXTENSION OF LIQUOR PREMISES IN THE PLANNED AREA DEVELOPMENT DISTRICT (PAD) AND CITY CENTER DISTRICT (CCD).

WHEREAS, in accordance with A.R.S. 9-462, the legislative body may adopt by ordinance, any change or amendment to the regulations and provisions as set forth in the Chandler Zoning Code; and,

WHEREAS, this amendment, including the draft text, has been published as an 1/8-page display ad in a local newspaper with general circulation in the City of Chandler, giving fifteen (15) days notice of time, date and place of public hearing; and,

WHEREAS, a public hearing was held by the Planning and Zoning Commission as required by the Zoning Code, on January 19, 2011;

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

SECTION 1. Sections 35-200, 35-1708, and 35-3203 of Chapter 35 of the Chandler Zoning Code are hereby amended to read as follows:

Section 35-200. Definitions. Add the following additional definition:

Spirituos beverage: Any beer, wine, or spirituous liquor, as each of those terms is defined in A.R.S. § 4-101.

Section 35-1708 Extension of premises to serve or consume liquor within a public right-of-way. (Planned Area Development zoning district)

Any extension of premises to serve or consume liquor outdoors within an adjoining public right-of-way shall require approval of a use permit by the City Council as provided for in Section 35-305(1). **The use permit required for this purpose shall be known herein as an “extension of premises permit”** and shall be subject to the following requirements:

- A. Such requests shall be consistent with the Chandler General Plan and located within the boundaries of a specific area plan adopted by the City Council that expressly encourages

outdoor dining within the public sidewalk to create or maintain pedestrian activity and aid in the revitalization of the area.

- B. The use allowed under an extension of premises permit shall be an accessory use to the building or suite in which food or spirituous beverages are lawfully sold or served, and all services to the designated sidewalk area identified in the extension of premises permit shall originate from such building or suite. If such sidewalk area is detached from said building or suite, then the sidewalk area shall be located directly in front of the said building or suite frontage unless otherwise approved by City Council, and in no event shall the sidewalk area be separated by more than thirty (30) feet from the building or suite.**
- C. No portion of a public right-of-way devoted to use as a parking lane or parking space(s), loading zone, bus stop, or moving lane of traffic, shall be considered eligible for such consideration.
- D. The area of the sidewalk within the public right-of-way in which spirituous beverages are to be served shall be enclosed **on all sides** by a **barrier** measuring at least **thirty-two (32)** inches in height from sidewalk grade, that cannot be removed, relocated, or otherwise altered by a patron or passerby. **The quality and design of the barrier's materials shall be commensurate to that** of the building from which the services to the extension of premises originate.
- E. A minimum eight (8) foot clearance shall be maintained **within an arterial street right-of-way** between the enclosure required in subsection 35-1708.D herein, and the inside face of any column, street light, street sign, traffic signal pole, curb line, utility equipment box, or other street fixture, to allow unobstructed pedestrian use of the remaining public sidewalk. **Said clearance may be reduced within an arterial street right-of-way to a minimum of six (6) feet by City Council only upon finding that such reduction is necessary to accommodate a special circumstance that is not self-imposed by the applicant and the length of such reduction along the building frontage constitutes a minimal portion of the building frontage or is not extended more than necessary to address said special circumstance. A minimum six (6) foot clearance shall be maintained within all other rights-of-way.** In cases where a right-of-way is being reconstructed or otherwise modified by City approval, said minimum clearance may be reduced to **as little as five (5) feet**. Compliance with the applicable provisions of the Americans with Disabilities Act (ADA) shall be maintained at all times within the adjoining public right-of-way outside of the enclosure.
- F. Except for signs hanging from or otherwise attached to a colonnade, canopy, awning, or the exterior wall off the building, no signage is allowed in the public right-of-way,

including those portions of the right-of-way affected by an extension of premises use permit.

- G. Site plan details including but not necessarily limited to such items as vehicular parking; signage; colors and materials of all elements to be placed in the right-of-way; the location, style, and construction method for the enclosure required in Subsection 35-1708.D above; and any requirements as may be necessary to insure compatibility with adjoining buildings and uses, whether public or private, shall be addressed as part of the use permit approval process in accordance with the requirements set forth in Section 35-305(1) of the City Code. Issues pertaining to light, noise, music, live entertainment, amusement devices, hours of operation, and any other characteristics related to the particular application being considered shall be addressed as part of the use permit process and stipulated as necessary.
- H. The operator **for which an extension of premises permit is granted** shall be responsible for maintaining the **enclosure barrier required in subsection 35-1708.D and the** affected area of the sidewalk right-of-way, both within and immediately outside the enclosure, in a clean and orderly manner, free of any and all litter **and stains** as may otherwise be generated from the serving area.
- I. After receiving use permit approval by the Mayor and Council to allow an extension of liquor premises into the right-of-way, the operator shall then be required to obtain an encroachment permit in accordance with the requirements of Chapter 46 of the City Code. The method of constructing the enclosure as required in Subsection 35-1708.D above, **the method of affixing the enclosure to the ground**, and the means of restoring the affected right-of-way to its previous condition at such time as the extension of premises ceases operation, shall also be subject to review and approval in obtaining the encroachment permit.
- J. **The sidewalk area designated in an extension of premises permit shall not be separated or detached from its associated building or suite by any part of a public right-of-way devoted to use as an alley, parking lane or parking space, loading zone, bus stop, or moving lane of traffic.**

Section 35-3203. Uses requiring use permit approval. (CCD zoning district)

The following uses shall require approval of a use permit by City Council, upon recommendation by the Planning and Zoning Commission, subject to the review and approval criteria set forth in Section 35-305 of the Zoning Code:

- A. Public assembly such as meeting halls, lodges, conference facilities, theaters, cinemas, auditoriums, places of worship, and schools.

- B. Commercial recreation such as health clubs, gyms, fitness centers, racquet clubs, teen clubs, youth centers, bowling alleys, billiards, ice skating, rock-climbing, and amusement arcades.
- C. Live entertainment such as concerts, stage plays, live music, karaoke, dance halls, nightclubs.
- D. Sales, **service** or production of **any spirituous beverage from any premises**, including **without limitation** brewpubs and microbreweries, **and regardless of** whether the **spirituous beverage** is offered for on-site or off-site consumption.
- E. **An extension of a premises in which any spirituous beverage is lawfully sold, served or produced for the purpose of allowing the service or consumption of any spirituous beverage outdoors on the sidewalk within an adjoining public right-of-way. The use permit required for this purpose shall be known herein as an “extension of premises permit” and shall be subject to the following requirements:**
 - 1. **The use allowed under an extension of premises permit shall be an accessory use to the building or suite in which food or spirituous beverages are lawfully sold or served, and all services to the designated sidewalk area identified in the extension of premises permit shall originate from such building or suite. If the sidewalk area designated in the extension of premises permit is located under the city-owned colonnade, then the sidewalk area shall be contiguous to said building or suite. If such sidewalk area is not located under the city-owned colonnade and is detached from said building or suite, then the sidewalk area shall be located directly in front of the said building or suite frontage unless otherwise approved by City Council, and in no event shall the sidewalk area be separated by more than thirty (30) feet from the building or suite.**
 - 2. **No extension of premises permit shall allow the service or consumption of a spirituous beverage on any portion of a public right-of-way devoted to use as an alley, parking lane or parking space, loading zone, bus stop, or moving lane of traffic.**
 - 3. **The sidewalk area designated in an extension of premises permit shall not be separated or detached from its associated building or suite by any part of a public right-of-way devoted to use as an alley, parking lane or parking space, loading zone, bus stop, or moving lane of traffic.**

4. The area of the sidewalk within the public right-of-way in which spirituous beverages are to be served shall be enclosed **on all sides** by a **barrier** measuring **at least thirty-two (32)** inches in height from sidewalk grade, that cannot be removed, relocated, or otherwise altered by a patron or passerby. **The quality and design of the barrier's materials shall be commensurate to that of the building or suite from which the services to the extension of premises originate.**

5. A minimum **eight (8)** foot clearance shall be maintained **within an arterial street right-of-way** between the enclosure required in subsection 35-3203.E.4 herein, and the inside face of any column, street light, street sign, traffic signal pole, curb line, utility equipment box, or other street fixture, to allow unobstructed pedestrian use of the remaining public sidewalk. **Said clearance may be reduced within an arterial street right-of-way to a minimum of six (6) feet by City Council only upon finding that such reduction is necessary to accommodate a special circumstance that is not self-imposed by the applicant and the length of such reduction along the building frontage constitutes a minimal portion of the building frontage or is not extended more than necessary to address said special circumstance. A minimum six (6) foot clearance shall be maintained within all other rights-of-way.** In cases where a right-of-way is being reconstructed or otherwise modified by City approval, said minimum clearance may be reduced to **as little as** five (5) feet. Compliance with the applicable provisions of the Americans with Disabilities Act (ADA) shall be maintained at all times within the adjoining public right-of-way outside of the enclosure.

6. Site plan details including but not necessarily limited to such items as vehicular parking; signage; colors and materials of all elements to be placed in the right-of-way; the location, style, and construction method for the enclosure required in subsection 3203.E.4 above; and any requirements as may be necessary to insure compatibility with adjoining buildings and uses, whether public or private, shall be addressed as part of the Use Permit approval process in accordance with the requirements set forth in Section 35-305(1) of the City Code. Issues pertaining to light, noise, music, live entertainment, amusement devices, hours of operation, and any other characteristics related to the particular application being considered shall be addressed as part of the Use Permit process and stipulated as necessary.

7. The operator of the premises **for which an extension of premises permit is issued** shall be responsible for maintaining the **enclosure barrier required in subsection 35-3203.E.4 and the** affected area of the sidewalk right-of-way, both within and immediately outside the enclosure, in a clean and orderly manner, free of any and all **litter and stains** as may otherwise be generated from the serving area.

- 8. In the event that Use Permit approval is granted by the Mayor and Council to allow an extension of liquor premises into the right-of-way, the operator shall then be required to obtain a Class 2 encroachment permit in accordance with the requirements of Chapter 46-4 of the City Code. The method of constructing the enclosure as required in subsection 35-3203.E.4 above, **the method of affixing the enclosure to the ground**, and the means of restoring the affected right-of-way to its previous condition at such time as the extension of premises ceases operation, shall also be subject to review and approval in obtaining the encroachment permit.
- F. Ground floor offices, medical and dental offices and clinics, but excluding in all instances any veterinarian hospitals, veterinarian offices, or kennels.
- G. Transient service facilities, subject to the policy guidelines set forth in Resolution No. 2379, adopted by Council on July 13, 1995, and as may subsequently be amended.
- H. Upper floor residential dwelling units, but excluding in all cases any single-room occupancies.
- I. Any other use determined by City Council to be compatible with other uses in this district, and consistent with the Chandler General Plan.

INTRODUCED AND TENTATIVELY APPROVED by the City Council this _____ day of _____, 2011.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council this _____ day of _____, 2011.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I, HEREBY CERTIFY, that the above and foregoing Ordinance No. 4280 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2011, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY *GAB*

PUBLISHED: