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JUN 10 2010

ORDINANCE NO. 4206

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, ADDING SECTION 35-1708 OF ARTICLE XVII, CHAPTER 35, CODE OF THE CITY OF CHANDLER; RELATING TO EXTENSION OF LIQUOR PREMISES IN THE PLANNED AREA DEVELOPMENT DISTRICT (PAD).

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 May 5, 2010;

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

SECTION 1. Section 35-1708, Article XVII, Chapter 35, Chandler City Code, is hereby added to read as follows:

35-1708. Extension of premises to serve or consume liquor within a public right-of-way.

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) 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. 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.

- C. The area of the sidewalk within the public street right-of-way in which spirituous beverages are to be served shall be completely enclosed by a wrought iron fence measuring forty-two (42) inches in height from sidewalk grade, that cannot be removed, relocated, or otherwise altered by a patron or passerby. Materials other than wrought iron or a combination thereof may be considered provided that in any event the design of said fence is commensurate to the architectural style of the building from which the services to the extension of premises originate. All gates as may be provided shall be self-latching and self-closing.
- D. A minimum eight (8) foot clearance shall be maintained between the fence enclosure required in subsection 35-1708.C 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 public sidewalk. In cases where the extension of premises is not contiguous to the building from which services originate, a minimum eight (8) foot clearance shall be maintained between said fence enclosure and any portion of said building, and a minimum four (4) foot clearance shall be maintained between said fence enclosure and the edge of sidewalk curb. In cases where a right-of-way is being reconstructed or otherwise modified by City approval, the eight (8) foot minimum clearance may be reduced to six (6) feet. Compliance with the applicable provisions of the Americans with Disabilities Act (ADA) shall be maintained at all times within the public right-of-way adjoining the fence enclosure.
- E. 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.
- F. 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 wrought iron fence enclosure required in subsection 35-1708.C 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.
- G. The operator of the extended premises shall be responsible for maintaining the affected area of the sidewalk right-of-way, both within and immediately outside the fence enclosure, in a clean and orderly manner, free of any and all litter as may otherwise be generated from the serving area.

H. 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 wrought iron fence enclosure as required in subsection 35-1708.C above, 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.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this _____ day of _____, 2010.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this _____ day of _____, 2010.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4206 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2010, and that a quorum was present thereat.

CITY CLERK

Approved as to form:

CITY ATTORNEY GAB

Published:

CHANDLER CITY CODE SECTION 35-3203, ARTICLE XXXII. CITY CENTER DISTRICT (CCD)

35-3203. Uses requiring use permit approval.

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 or production of beer, wine, or spirituous liquors, whether offered for on-site or off-site consumption, including brewpubs and microbreweries. Any extension of such premises to serve or consume liquor outdoors on the sidewalk within an adjoining public street right-of-way shall be subject to the following requirements. Unless otherwise modified by the City, no portion of a public right-of-way devoted to use as an alley, parking lane or parking space(s), loading zone, bus stop, or moving lane of traffic, shall be considered eligible for such consideration:
 - 1. Such extension of premises shall be contiguous and accessory to the building in which food or spirituous beverages are sold or served, and all services to the extension of premises shall originate from such building.
 - 2. The area of the sidewalk within the public street right-of-way in which spirituous beverages are to be served shall be completely enclosed by a wrought iron fence measuring forty-two (42) inches in height from sidewalk grade, that cannot be removed, relocated, or otherwise altered by a patron or passerby. At least one (1) side of the enclosure shall consist of the exterior wall and door entry of the serving establishment, and such enclosure shall be continuous except for gates as may be necessary or required for pedestrian access. All gates as may be provided shall be self-latching and self-closing.
 - 3. A minimum six-foot clearance shall be maintained between the fence enclosure required in subsection 35-3203.D.2 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. In cases where a right-of-way is being reconstructed or otherwise modified by City approval, said minimum clearance may be reduced to 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 street right-of-way outside of the fence enclosure.

4. 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 wrought iron fence enclosure required in subsection 3203.D.2 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.

5. The operator of the extended premises shall be responsible for maintaining the affected area of the sidewalk right-of-way, both within and immediately outside the fence enclosure, in a clean and orderly manner, free of any and all litter as may otherwise be generated from the serving area.

6. In the event that Use Permit approval is granted by the Mayor and Council to allow an extension of liquor premises into the street 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 wrought iron fence enclosure as required in subsection 35-3203.D.2. above, 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.