

ZCA18-0002 CITY OF CHANDLER / CODE AMENDMENT TO USE PERMITS

City initiative to amend Chapter 35, Land Use and Zoning, of the City of Chandler, Arizona, City Code regarding the transition from Liquor Use Permits to Entertainment Use Permits, as follows:

Revisions Key:

All edits are in bold text

~~Strikethrough~~ text indicates proposed text deletion

ALL CAPS text indicates proposed new text

Regular text (not bold, underlined or strikethrough) indicates existing/unchanged City Code text

ARTICLE II. DEFINITIONS are hereby amended by adding the following definition:

35-200. – Definitions.

ENTERTAINMENT ACTIVITY: LIVE MUSICAL PERFORMANCES, DISC JOCKEYS, KARAOKE, DANCING, AND SIMILAR ACTIVITY. THIS DEFINITION EXCLUDES ESTABLISHMENTS THAT PROVIDE OTHER TYPES OF ENTERTAINMENT ACTIVITY AS THE PRINCIPAL USE SUCH AS A CINEMA, A PERFORMING ARTS THEATER, AMUSEMENT ARCADE, BOWLING ALLEY, SKATING RINK, OR RECREATIONAL ASSEMBLY USES FOR FAMILIES AND/OR CHILDREN.

ARTICLE III. DISTRICTS GENERALLY is hereby amended to read as follows:

35-305. - Use permits.

(1) *General use permits*: Land uses permitted by use permit are identified under each zoning district established within this Code. Except as provided in subsections (2), ~~and~~ (3), **AND (4)** below, approval of use permits shall be subject to the following standards and procedures:

(a) *Application*: Application procedures for use permits shall be the same as applications for amendments to the Zoning Code as outlined in Article XXVI. The Planning and Zoning Commission shall make a recommendation to [the] City Council on applications after proper advertising of public notices and posting of property.

(b) *Review*: Review and approval of use permits shall include but not be limited to examination of the following factors, where applicable:

1. Consistency with ~~comprehensive plan~~ **GENERAL PLAN**.
2. Ingress and egress to property and proposed structures, pedestrian and vehicular circulation with particular reference to fire protection.
3. Off-street parking and loading.
4. General compatibility of use with adjacent property and property in the district.
5. Impact on public services, including schools, recreation and utilities.
6. Screening and buffering of uses.
7. Signage.
8. Exterior lighting with reference to adjacent properties.
9. Stormwater retention and landscaping.
10. Site and building design for conformance with the ~~comprehensive plan~~ **GENERAL PLAN** and policies and City standards.

(c) *Approval*: Use permits may be granted by the City Council upon a finding that the request:

1. Is in conformance with the ~~comprehensive plan~~ **GENERAL PLAN** and its policies.

2. Will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general, and that the use will be in full conformity with the conditions, requirements or standards prescribed by this Code or higher as may be deemed necessary by City Council in any one (1) situation.

Minor changes to the approved plan may be approved by the Zoning Administrator. Any major deviations may be approved by the City Council.

(d) *Timing condition:* Use permits granted by the City Council shall be void if the use is not commenced or substantial construction has not taken place within one (1) year of such Council action or within a time period stipulated by the Council.

Revocation or suspension:

In addition to any other penalties or remedies provided by this Zoning Code, the Zoning Administrator may suspend or revoke a use permit upon a finding of:

A material change in the permitted use or the conditions prescribed upon issuance of the use permit has occurred without an amendment to the use permit having been obtained; or

Material noncompliance with the conditions prescribed upon issuance of the use permit or with the representations made by the permit holder in connection with the application for the use permit as to the nature of the conditional use to be conducted; or

Operation of the permitted use in such a manner as to cause a substantial detrimental impact on neighboring persons or property.

To suspend or revoke a use permit, the Zoning Administrator shall deliver or mail by certified mail to the address indicated on the use permit application and, if different from application address, the address of the property subject to the use permit, a written notice that the use permit is suspended or revoked and which states the grounds therefore.

Upon written request received by the Zoning Administrator within ten (10) days of the date of the notice by the permit holder, or any person whose use of the permitted property will be adversely affected by the suspension or revocation, the matter will be referred to the Board of Adjustment on an appeal pursuant to the appeal procedures provided under section 2503 of this Zoning Code. If an appeal is not received within ten (10) days of the date of the notice, the suspension or revocation shall take effect on the eleventh day after the date of the notice.

The decision of the Board of Adjustment may be appealed as provided in section 2503 of this Zoning Code.

4) ENTERTAINMENT USE PERMITS: A USE PERMIT TO PROVIDE ENTERTAINMENT ACTIVITY, AS DEFINED IN SECTION 35-200 OF THIS CHAPTER, OR OUTDOOR SEATING WITH EXTERNAL SPEAKERS, SHALL BE OBTAINED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION. APPROVAL OF AN ENTERTAINMENT USE PERMIT SHALL BE SUBJECT TO THE FOLLOWING STANDARDS AND PROCEDURES:

(A) APPLICABILITY:

1. ENTERTAINMENT ACTIVITY SHALL REQUIRE A USE PERMIT, WHEN ALL OF THE FOLLOWING CRITERIA ARE MET:

- i. ENTERTAINMENT ACTIVITY, AS DEFINED IN SECTION 35-200, IS PROVIDED, OR OUTDOOR SEATING WITH EXTERNAL SPEAKERS; AND**
- ii. ALCOHOLIC BEVERAGES ARE SOLD OR SERVED; AND**

- iii. THE PROPERTY IS LOCATED SIX HUNDRED (600) FEET OR LESS, AS MEASURED FROM THE CLOSEST EXTERIOR WALL OF THE SPACE OCCUPIED BY SAID ESTABLISHMENT OR MEASURED FROM ANY OUTDOOR PATIO UTILIZED BY SAID ESTABLISHMENT TO THE CLOSEST PROPERTY LINE OF A RESIDENTIALLY ZONED PROPERTY.
2. A PROPERTY WITH A CURRENT LIQUOR USE PERMIT SHALL NOT BE REQUIRED TO OBTAIN AN ENTERTAINMENT USE PERMIT, UNLESS SUBJECT TO A CONDITION OF APPROVAL RELATED TO A TIME LIMIT. LIQUOR USE PERMIT CONDITIONS RELATED TO ENTERTAINMENT ACTIVITY SHALL REMAIN IN EFFECT.

(B) APPLICATION:

1. APPLICATION PROCEDURES FOR AN ENTERTAINMENT USE PERMIT SHALL BE THE SAME AS THE APPLICATION PROCEDURES FOR GENERAL USE PERMITS, AS SET FORTH IN SUBSECTION 305(1)(A) OF THIS CHAPTER.
2. THE APPLICATION SHALL BE ON A FORM PRESCRIBED AND PROVIDED BY THE ZONING ADMINISTRATOR AND SHALL BE SIGNED BY THE PROPERTY OWNER. IN THE EVENT THE APPLICATION INCLUDES PROPERTY OTHER THAN THAT OWNED BY THE APPLICANT FOR THE PERMIT, A LETTER OF AUTHORIZATION SHALL ACCOMPANY THE APPLICATION FROM THE PROPERTY OWNER AUTHORIZING THE APPLICANT TO INCLUDE THE PROPERTY IN THE APPLICATION.
3. THE APPLICATION SHALL INCLUDE AN ACCURATE FLOOR PLAN AND A SITE PLAN OF THE BUSINESS PREMISES, INCLUDING TOTAL FLOOR SPACE OCCUPIED BY THE BUSINESS, FLOOR SPACE OF INDOOR AND OUTDOOR ENTERTAINMENT AREA(S), INCLUDING OUTDOOR PATIO(S), DANCE FLOORS, AND/OR PERFORMANCE AREA(S).
4. THE APPLICATION SHALL BE DEEMED FILED WITH THE CITY WHEN THE REQUIRED APPLICATION FEE AND COMPLETED APPLICATION FORM IS RECEIVED BY THE ZONING ADMINISTRATOR.

(C) REVIEW STANDARDS: REVIEW FOR AN ENTERTAINMENT USE PERMIT SHALL CONSIDER ALL RELEVANT LAND USE FACTORS, INCLUDING THOSE STATED IN SUBSECTION 35-305(1)(B) OF THIS CHAPTER, AS WELL AS COMPLIANCE WITH THE FOLLOWING STANDARDS.

1. PERMITTED USES: THE PRIMARY USE REQUESTING AN ENTERTAINMENT USE PERMIT IS PERMITTED BY THE ZONING DISTRICT WITH OR WITHOUT A USE PERMIT PURSUANT TO ARTICLE XXI. TABLE OF PERMITTED USES FOR NONRESIDENTIAL DISTRICTS.
2. ADJACENCY TO RESIDENTIAL: POTENTIAL IMPACTS TO RESIDENTIAL PROPERTIES SHALL BE EVALUATED AND MITIGATED CONSIDERING THE FOLLOWING, WHERE APPLICABLE:
 - a) OUTDOOR AREAS, INCLUDING PATIOS AND/OR PERFORMANCE AREAS.
 - b) EXTERNAL SPEAKERS AND/OR TELEVISIONS UTILIZED TO AMPLIFY OR BROADCAST INDOOR ENTERTAINMENT, RECORDED MUSIC, AND/OR EVENTS.
 - c) ENTERTAINMENT HOURS.
 - d) WINDOWS, DOORS, AND OTHER BUILDING OPENINGS.

(D) **APPROVAL:** THE PLANNING AND ZONING COMMISSION SHALL HOLD A PUBLIC HEARING ON THE ENTERTAINMENT USE PERMIT APPLICATION IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2602 OF THIS ZONING CODE. THE CITY COUNCIL MAY APPROVE OR DENY SAID USE PERMIT BASED UPON FINDINGS OF COMPLIANCE OR NON-COMPLIANCE WITH THE REVIEW CRITERIA IDENTIFIED HEREIN.

(E) **ISSUANCE:**

1. THE CITY COUNCIL MAY GRANT APPROVAL OF AN ENTERTAINMENT USE PERMIT SUBJECT TO A SPECIFIED TIME LIMIT BASED ON THE CHARACTERISTICS OF THE APPLICATION AND THE SENSITIVITY OF NEIGHBORING RESIDENCES. IF SUCH A TIME LIMIT IS APPLIED AS A CONDITION OF APPROVAL, THE TIME LIMIT SHALL COMMENCE ON THE DATE ON WHICH THE CITY COUNCIL TAKES ACTION TO GRANT THE APPLICATION FOR AN ENTERTAINMENT USE PERMIT.
2. THE VALIDITY OF AN ENTERTAINMENT USE PERMIT IS DEPENDENT UPON THE USE PERMIT HOLDER AND THE PERMITTED PREMISES BEING AT ALL TIMES IN COMPLIANCE WITH APPLICABLE CITY BUILDING CODES, DEVELOPMENT STANDARDS AND OTHER LAND USE REGULATIONS STATED IN THE ZONING CODE OR ANY OTHER ORDINANCE OR CODE ADOPTED BY THE CITY OF CHANDLER.
3. AN ENTERTAINMENT USE PERMIT IS ONLY VALID WHEN OPERATED IN ACCORDANCE WITH THE FLOOR PLAN, SITE PLAN, AND NARRATIVE APPROVED BY THE CITY COUNCIL. ANY SIGNIFICANT MODIFICATION, CHANGE, OR ALTERATION IN THE FLOOR PLAN OR SIGNIFICANT EXPANSION OF THE FLOOR AREA OF THE ESTABLISHMENT SHALL REQUIRE THE REAPPLICATION AND ISSUANCE OF A NEW ENTERTAINMENT USE PERMIT.

(F) **NONTRANSFERABILITY:** AN ENTERTAINMENT USE PERMIT IS NOT TRANSFERABLE TO ANY OTHER BUSINESS LOCATION.

(G) **RENEWAL:** AN ENTERTAINMENT USE PERMIT APPROVED WITH A TIME LIMIT SHALL SUBMIT A NEW APPLICATION FOR RENEWAL OF THE ENTERTAINMENT USE PERMIT PRIOR TO THE EXPIRATION OF THE TIME LIMIT. THE APPLICATION SHALL BE CONSIDERED, REVIEWED, APPROVED OR DENIED FOLLOWING THE SAME PROCEDURES AND CRITERIA AS THE ORIGINAL APPLICATION.

(H) **REVOCAION OR SUSPENSION:** THE ZONING ADMINISTRATOR MAY SUSPEND OR REVOKE AN ENTERTAINMENT USE PERMIT PURSUANT TO THE CRITERIA AND PROCEDURES SPECIFIED IN SECTION 35-305.

Article XVII. PLANNED AREA DEVELOPMENTS is hereby amended to read as follows:

~~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.~~

ARTICLE XXI. - TABLE OF PERMITTED USES FOR NONRESIDENTIAL DISTRICTS is hereby amended to read as follows:

35-2100. - Purpose.

The following tables indicate uses permitted by zoning districts with an "X" and use permits with an "UP."

Uses	Districts				
	C-1	C-2	C-3	I-1	I-2
Alcoholic beverage package store		UP-X	UP-X	UP	UP
Assembly hall, coliseums and stadiums		X	X	UP	UP
Owned by nonprofit organizations or by the State, municipal or County government		X	X	UP	UP
ENTERTAINMENT ACTIVITY PURSUANT TO SECTION 35-305(4)		UP	UP	UP	UP
Bar, cocktail lounge, excluding adult service business (Ord. No. 2413, § 4.B, 11-18-93)		UP-X	UP-X	UP	UP
Excluding adult service business (Ord. No. 2413, § 4.B, 11-18-93)					
ENTERTAINMENT ACTIVITY PURSUANT TO SECTION 35-305(4)		UP	UP		
Cocktail lounge, bar, excluding adult service business (Ord. No. 2413, § 4.B, 11-18-93)		UP	UP	UP	UP
Dance hall, club, excluding adult service business (Ord. No. 2413, 4.B, 11-18-93)		X	X		
ENTERTAINMENT ACTIVITY PURSUANT TO SECTION 35-305(4)		UP	UP		
ENTERTAINMENT ACTIVITY, PURSUANT TO SECTION 35-305(4)	UP	UP	UP	UP	UP
Liquor, wine, beer sales	UP-X	UP-X	UP-X	UP	UP
Lodges, fraternal and social organizations, headquarters for scout and other youth organizations		X	X		
ENTERTAINMENT ACTIVITY PURSUANT TO SECTION 35-305(4)		UP	UP		
Wedding reception and event facilities		X	X	UP	
ENTERTAINMENT ACTIVITY PURSUANT TO SECTION 35-305(4)		UP	UP	UP	

ARTICLE XXXII. CITY CENTER DISTRICT (CCD) is hereby amended to read as follows:

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, dance halls, and nightclubs.~~
ENTERTAINMENT ACTIVITY AS DEFINED IN SECTION 35-200.
- 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.~~

FED. Ground floor offices, medical and dental offices and clinics, but excluding in all instances any veterinarian hospitals, veterinarian offices, or kennels.

GFE. 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.

HGF. Upper floor residential dwelling units, but excluding in all cases any single-room occupancies.

IHG. Any other use determined by City Council to be compatible with other uses in this district, and consistent with the Chandler General Plan.