

ORDINANCE NO. _____

1 **AN ORDINANCE ESTABLISHING A PILOT PROGRAM APPLICABLE TO**
2 **RETAIL STORES, RESTAURANTS, OR COCKTAIL LOUNGES THAT WANT**
3 **TO SELL OR PROVIDE GOODS, FOOD, AND BEVERAGES OUTDOORS AND**
4 **MODIFYING CHAPTER 4-20 (*SPECIAL EVENTS*) TO FACILITATE THE SALE**
5 **OR PROVISION OF GOODS, FOOD, AND BEVERAGES OUTDOORS ON**
6 **PRIVATE PARKING LOTS AND PUBLIC RIGHT-OF-WAY BY THESE**
7 **BUSINESSES.**

8 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

9 **PART 1. FINDINGS.**

10 The council finds the following:

- 11 (1) The COVID-19 pandemic is causing unparalleled economic damage to Austin’s
12 local small business community beginning with the necessary cancellation of
13 SXSW and other special events that occur during the spring festival season.
- 14 (2) In response to the pandemic, Governor Greg Abbott, the City of Austin and Travis
15 County issued a series of orders (collectively “Orders”) that combined to
16 temporarily close non-essential businesses, including dine-in restaurants, bars,
17 salons, gyms, retail shops and which established social distancing guidelines and
18 limited public gatherings to fewer than ten people.
- 19 (3) These necessary Orders were designed to protect the public’s health and were
20 intended to keep infection rates in Austin and Travis County from spiking and
21 overwhelming area hospitals and the health care system. However, the Orders have
22 also resulted in alarming rates of unemployment and imperiled the survival of
23 Austin’s local small business.
- 24 (4) While the City, the State, and the federal government have provided funding and
25 programs to help businesses withstand the shock of sudden and prolonged closures,
26 a combination of innovative measures may be needed to help Austin’s small
27 business. Moreover, the Council did not anticipate the need for this pilot program
28 until the economic crisis resulting from the pandemic.
- 29 (5) Austin’s restaurants, bars, and retail businesses have taken an enormous economic
30 hit from the pandemic crisis, and for most of the City, these types of businesses
31 represent often iconic community gathering spots to gather to drink, dine, listen to

1 music, or shop. Many employees have been laid off, and several of these iconic
2 places are on the brink of permanent closure.

3 (6) The pilot program will improve access to available outdoor spaces for Austin's
4 local, small business community. This improved access will allow these businesses
5 to open at greater capacity and operate safely with adequate social distancing
6 measures to protect customers. Additionally, increased use of available outdoor
7 space for dining and shopping will serve to attract more business activity, boost the
8 local economy, and match best practices by urban planners for placemaking
9 strategies to create pedestrian-friendly activity.

10 (7) The pilot program will provide an opportunity for businesses that were required to
11 close or significantly modify operations as a result of the Orders and the public
12 health emergency to address the secondary-effects of COVID-19. Small businesses
13 eligible for this pilot program may need small grants to assist with the safe
14 reopening of the business.

15 (8) The Council determines that the use of a City sidewalk or on-street parking space
16 provides a public benefit to the City because it will allow businesses to operate
17 safely with adequate social distancing measures that protect the customers,
18 employees, and the general public.

19 (9) The Council recognizes that Austin's small business community includes a variety
20 of industries that are not restaurants, bars, and retail businesses but are also
21 suffering the impact of economic downturn resulting from the pandemic. This is
22 particularly true for small business that provide personal services such as hair and
23 manicure salons, or massage therapy. Because many personal services are subject
24 to state health regulations, operating outdoors may be challenging or may not
25 provide the benefit that would make such operations financially rewarding.

26 (10) The purpose of a pilot program is to learn the positives and negatives of the
27 program, to figure out what works and does not work, and better understand the
28 level of community interest in the program. Because special events that include
29 food, beverages, and goods are already common, starting the pilot program with
30 these three types of businesses will serve the purpose of a pilot program.

31 (11) Thriving local businesses are vital to Austin's economic and community well-
32 being, and the Council is committed to employing innovative measures that
33 increase resiliency for small business owners and their employees. As the pilot
34 program moves forward, Council can consider expanding the types of businesses
35 that may participate in the pilot program.

1 **PART 2. Pilot Program.**

2 (A) This ordinance creates a pilot program applicable to a retail store, restaurant, or
3 cocktail lounge that wants to sell or provide goods, food, and beverages on
4 adjacent private parking lots, City streets, sidewalks, or rights-of-way, including
5 city on-street parking spaces.

6 (B) Eligibility

7 (1) A Tier 2 event, as defined in Chapter 4-20 (*Special Events*), is eligible for
8 the pilot program if it meets the following criteria:

9 (a) the event must occur on private parking lot or a City street, sidewalk,
10 or right-of-way that is adjacent to a:

11 (i) retail store,

12 (ii) restaurant,

13 (iii) cocktail lounge, or

14 (iv) a group of retail stores, restaurants, or cocktail lounges that
15 share a private parking lot or are located on the same two
16 blocks of a street, sidewalk, or city right-of-way; and

17 (b) the event will not include the use of sound equipment;

18 (c) the anticipated number of attendees will not exceed the occupancy
19 limit for the retail store, restaurant, cocktail lounge, or group of retail
20 stores, restaurants, or cocktail lounges; and

21 (d) if the event will impact a City street or other right-of-way that is not a
22 sidewalk or city on-street parking space, the impact to the City street
23 or other right-of-way will not exceed 48 hours.

24 (2) A Tier 2 event described in (B)(1) that is held primarily on private property
25 remains eligible for the pilot program even if the event will exceed the four-
26 day limit in Section 4-20-21(B)(2) because of participation in the pilot
27 program.

28 (C) The pilot program will begin on June 15, 2020. Unless the City Council or City
29 Manager determines it is necessary to terminate the program earlier, the program
30 will end on December 15, 2020.

1 (D) The City Council authorizes the City Manager to terminate this pilot program
2 without further Council action.

3 (E) The City Council directs the City Manager to place an item on its December 3,
4 2020, agenda to consider extending the pilot program.

5 **PART 3. Definitions.**

6 (A) A term defined by Chapter 4-20 (*Special Events*) has the same meaning in
7 this ordinance.

8 (B) In this ordinance, the following definitions apply:

9 (1) COCKTAIL LOUNGE means a business that sells alcoholic
10 beverages for consumption on the premises, including taverns, bars,
11 and similar uses, other than a restaurant.

12 (2) RESTAURANT means a business that prepares and sells food or
13 beverages and may include the sale and on-premises consumption of
14 alcoholic beverages.

15 (3) RETAIL STORE means a business that sells or rents commonly used
16 goods and merchandise for personal or household use.

17 **PART 4. Requirements.** A Tier 2 event participating in the pilot program is subject
18 to Chapter 4-20 (*Special Events*) except as modified in this part.

19 (A) The application deadline in Section 4-20-30 (*Special Event Application Fees*
20 *and Deadlines*) does not apply.

21 (B) ACE will take final action to approve or deny an application no later than 10
22 business days after the application is deemed complete.

23 (C) Except as provided in Subsections (D) and (E), a special event permit
24 expires 30 days from the date the permit is issued.

25 (D) A special event permit that includes a City street or other right-of-way that is
26 not a sidewalk or city on-street parking space expires after the event occurs
27 and is not eligible for a renewal described in Subsection (G).

28 (E) ACE may issue a special event permit that expires in less than 30 days from
29 the date it is issued if another regulated activity is already approved to occur
30 at the same right-of-way closure area.

31 (F) An event organizer shall:

1 (1) allow attendees to use the bathroom facilities located within the retail
2 store, restaurant, cocktail lounge; or

3 (2) provide portable toilets based on the estimated number of attendees at
4 the special event.

5 (G) Renewals. An event organizer may renew its special event permit as set forth
6 in this subsection.

7 (1) To renew a special event permit, an event organizer must submit a
8 special event application at least five business days before the permit
9 expires.

10 (2) Except as provided as Subsection (G)(3), ACE will take final action to
11 approve or deny an application no later than five days after the
12 application is deemed complete.

13 (3) ACE will take final action to approve or deny an application no later
14 than 10 business days after the application is deemed complete if:

15 (a) the application is substantially different from the application for
16 the active special event permit; or

17 (b) the special event permit expires before the application to renew
18 is submitted.

19 **PART 5. Fees.**

20 (A) Except as otherwise provided in this part, an event organizer shall pay the
21 fees, including application fees, applicable to a Tier 2 special event.

22 (B) The use of a sidewalk or City on-street parking space. An event organizer
23 shall pay the fee established for the daily safety closure fee applicable for
24 one block once every 30 days

25 **PART 6. Updates, Evaluations, and Recommendations.**

26 (A) The City Council directs the City Manager to provide an update on the
27 numbers of permits requested and approved, the effect of the program on
28 parking and right-of-way availability, and a measurement of the
29 effectiveness of the program to facilitate stronger and safer reopening of
30 local businesses after the first 60 days of the pilot program.

31 (B) Using the information generated by the pilot program, the City Council
32 directs the City Manager to include any recommended changes to the pilot

1 program when the City Manager brings forward an ordinance to extend the
2 pilot program on December 3, 2020.

3 **PART 7.** This ordinance takes effect on _____, 2020.

4 **PASSED AND APPROVED**

5
6 § _____
7 § _____
8 § _____, 2020

9 Steve Adler
10 Mayor

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13 **APPROVED:** _____
14 Anne L. Morgan
15 City Attorney

16
ATTEST: _____
Jannette S. Goodall
City Clerk