

PROCLAMATION OF EMERGENCY

Amendment No. 4 to Proclamation of Local Emergency Dated March 15, 2020
(Expansion of Premises to allow outdoor seating)

WHEREAS, on March 15, 2020, I, Douglas J. Nicholls, pursuant to the authority vested in me as Mayor of the City of Yuma, declared a state of local emergency in the City of Yuma due to the threat of a possible outbreak of the COVID-19 virus into the City of Yuma community; and,

WHEREAS, since the outbreak of COVID-19, the City of Yuma has responded to this public health emergency in coordination with and consistent with the Executive Orders of Arizona Governor Douglas A. Ducey; and,

WHEREAS, relying on medical advice and guidances from the federal Centers for Disease Control and Prevention (CDC) and the Arizona Department of Health Services (AZDHS) to slow the spread of COVID-19, the Governor's Executive Orders closed or limited many businesses in Arizona, chiefly among them: bars, restaurants, movie theaters, and indoor gyms/fitness facilities; and,

WHEREAS, community spread of COVID-19 has generally decreased statewide and as of September 10, 2020, of the fifteen Arizona counties, there are two (2) Arizona counties considered to be "minimal" spread, ten (10) Arizona counties considered to be "moderate" spread, and the remaining three (3) Arizona counties, including Yuma County considered to be "substantial" spread; and,

WHEREAS, pursuant to the Governor's Executive Orders, certain business sectors located in Arizona counties considered to be "substantial" spread are only able to operate on a limited capacity and other business sectors are unable to open without first gaining AZDHS approval via an application and an attestation confirming the business has the ability to safely reopen consistent with CDC and AZDHS directives and guidances; and,

WHEREAS, CDC guidances consistently cite outdoor activities and fresh air as less dangerous for spread of COVID-19 than indoor activities and where social distancing can be maintained, outdoor activities should be prioritized; and,

WHEREAS, on a national basis, many jurisdictions have found success in expanding the premises of COVID-19 affected businesses by allowing operations of the business in outdoor areas such as private parking spaces, rights of way and public parking immediately adjacent to the business; and,

WHEREAS, allowing businesses to expand their premises to outdoor areas is consistent with CDC and AZDHS directives and guidelines and also achieves CDC guidance on prioritizing outdoor activities over indoor activities as a means of mitigating the spread of COVID-19; and,

WHEREAS, allowing businesses to expand premises to outdoor locations starts a path for the business to recover from the economic impacts of the COVID-19 closures in a safe manner for public and employees; and,

WHEREAS, pursuant to, and consistent with, the direction in Governor Ducey's Executive Orders, I, Douglas J. Nicholls, Mayor of the City of Yuma, Arizona, have found it necessary as a matter of public safety, health and welfare to issue this Amendment No. 4 to the Proclamation of Emergency and issue an order permitting all businesses closed or limited by the Governor's Executive Orders to apply for expansion of premises to operate outdoors, where feasible, so long as the operations continue to meet all other existing CDC and AZDHS directives and guidelines; and,

WHEREAS, all other provisions of the Proclamation of Emergency dated March 15, 2020, as amended, not in conflict with this Amendment No. 4 will remain in force until the declared emergency abates and the Proclamation of Emergency is withdrawn.

NOW, THEREFORE, pursuant to A.R.S. §§ 26-307, 26-311 and the Yuma City Charter, the elements of which are met under the circumstances described in the Proclamation of Emergency dated March 15, 2020, as amended, and Executive Orders issued by Governor Ducey, I, Douglas J. Nicholls, Mayor of the City of Yuma, Arizona hereby **PROCLAIM AND ORDER AS FOLLOWS**:

1. Effective immediately, businesses within the jurisdictional limits of the City of Yuma that have been closed or limited by the Governor's Executive Orders may apply for a temporary extension of premises to operate outdoors in areas immediately adjacent to the business such as private parking lots and rights of way so long as public access through the rights of way are not affected, or in public street parking spaces next to the business.
2. Applications for temporary extension of premises shall be reviewed and granted administratively through the City Administrator or the City Administrator's designee.
3. All applicants must have ability to operate either through the Governor's Executive Orders, or have received permission through the AZDHS Official Reopening Attestation portal found on the AZDHS website:
<https://medsisprod.azdhs.gov/EO2020-43AttestationFormSubmission/>
4. Applications for extension of the premises are public records and at a minimum must include the following:
 - A. An exhibit depicting the existing business operations and the area to be extended pursuant to this Proclamation and Order.

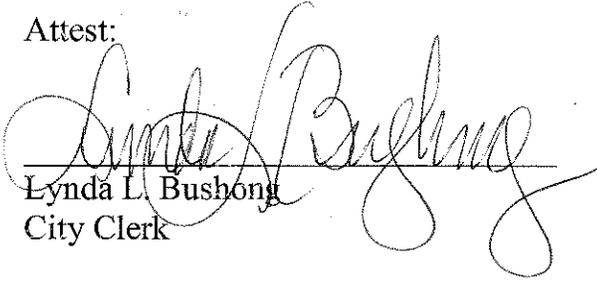
- B. A schematic showing operations within the extension area, including seating and maximum occupancy, to confirm compliance with social distancing and other CDC or AZDHS health directives.
 - C. A description of the design and positive barriers to delineate the boundaries of the extended premises and to prioritize occupant safety within the extension area.
 - D. If the desired extension of premises is on to public rights-of-way or public parking, a writing confirming that the applicant has adequate insurance for the extended premises.
5. Neighboring businesses seeking to utilize the same space will split the available space 50/50.
 6. This City of Yuma Proclamation and Order cannot grant authority to extend premises to serve alcohol. Businesses desiring to serve alcohol in the extended premises must apply and obtain permission to extend alcohol premises with the State of Arizona and are encouraged to do so in a timely manner.
 7. All businesses must operate in full compliance of the health orders and AZDHS directives and guidelines and in accordance with the Governor's Executive Orders. Nothing in this Proclamation and Order waives or supersedes any of the existing federal, state or local laws or related COVID-19 health orders. This Proclamation and Order shall be read consistently to give full effect to the Governor's Executive Orders. Businesses applying for extension of premises are encouraged to exceed CDC and AZDHS directives and guidelines wherever possible for the safety of their guests and their employees.
 8. Pursuant to A.R.S. § 26-317 and the Yuma City Charter, any person who violates any of the above prohibitions shall be guilty of a Class 1 misdemeanor. Any violation that is continuing in nature shall constitute a separate offense on each successive date the violation continues, unless otherwise provided.
 9. This emergency Proclamation and Order shall remain in full force and effect until such time as the declared emergency is withdrawn, or a subsequent Proclamation is issued with amendments.
 10. In accordance with A.R.S. § 26-307(B), this Proclamation shall be effective when a copy is filed in the office of the City Clerk. All existing laws and rules in conflict with this Order are hereby suspended during the time and to the extent of the conflict.

PROCLAIMED AND ORDERED this 11th day of September, 2020, at 4:23 o'clock, a.m. / (p.m.) in the City of Yuma, Arizona.



Douglas J. Nicholls
Mayor

Attest:



Lynda L. Bushong
City Clerk

Approved as to form
and found to be within the powers granted to the Mayor of the City of Yuma:



Richard W. Files
City Attorney