

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA  
RATIFYING THE FIFTH SUPPLEMENT TO DECLARATION  
OF LOCAL EMERGENCY AUTHORIZING CERTAIN ACTIONS  
RELATED TO RESTAURANTS AND RETAIL BUSINESSES**

**WHEREAS**, on May 28, 2020, the City Manager issued a Fifth Supplement to the Declaration of a Local Emergency, a signed version of which is attached to this resolution as Exhibit A, and the City Council has received a report on the conditions described therein; and

**WHEREAS**, Pasadena Municipal Code Section 2.370.080 requires the City Council to ratify the proclamation within seven days thereafter, or the proclamation shall have no further force or effect.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Pasadena as follows:

1. That the Fifth Supplement to the Declaration of a Local Emergency is hereby ratified and confirmed by the City Council; and
2. That said local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Pasadena.

Adopted at the special meeting of the City Council on the \_\_\_\_ day of June,  
2020, by the following vote:

AYES:

NOES:


ABSENT:

ABSTAIN:

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Mark Jomsky, CMC  
City Clerk

APPROVED AS TO FORM:



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Javan N. Rad  
Chief Assistant City Attorney

0000161708C031

# Exhibit A

FIFTH SUPPLEMENT TO DECLARATION OF LOCAL EMERGENCY  
AUTHORIZING CERTAIN ACTIONS  
RELATED TO RESTAURANTS AND RETAIL BUSINESSES

By virtue of the authority vested in me as Director of Disaster Emergency Services, and pursuant to Chapter 2.370 of the Pasadena Municipal Code, specifically Section 2.370.080, I hereby find that:

International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named “SARS-CoV-2,” and the disease it causes has been named “coronavirus disease 2019,” abbreviated COVID-19, (“COVID-19”);

On March 4, 2020, the Health Officer declared the existence of a local health emergency in Pasadena, and on March 9, 2020, the City Council adopted a resolution ratifying the Health Officer’s declaration;

On March 4, 2020, the Los Angeles County Board of Supervisors and Department of Public Health declared a local emergency and local public health emergency to aid the regional healthcare and governmental community in responding to COVID-19;

On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for broader spread of COVID-19;

On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19;

On March 17, 2020, the City Council ratified the declaration of a local emergency to allow the City of Pasadena to address the COVID-19 pandemic;

On March 19, 2020, the Governor issued Executive Order N-33-20, directing all California residents to stay at home indefinitely except for workings in the 16 critical infrastructure sectors identified by the Department of Homeland Security Cybersecurity and Infrastructure Security (CISA) who are required to maintain continuity of operations for these vital systems and facilities;

On March 19, 2020, the Health Officer issued a Safer at Home Order for Control of COVID-19, which has since been revised from time to time, most recently, on May 26, 2020;

The Centers for Disease Control and Prevention, the California Department of Health, and the Los Angeles County Department of Public Health have all issued recommendations including but not limited to social distancing, staying home if sick,

canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus;

The California Public Health Officer has articulated a four-stage framework for re-opening – which includes provisions for the re-opening of lower-risk businesses and spaces (“Stage Two”), to be followed by the re-opening of higher-risk businesses and spaces (“Stage Three”) – to allow Californians to gradually resume various activities while continuing to preserve public health in the face of COVID-19;

The threat posed by COVID-19 is dynamic and ever-changing, and the City of Pasadena’s response to COVID-19 should likewise retain the ability to be dynamic and flexible;

It is essential that the spread of COVID-19 be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health and safety;

As restaurants and retail businesses seek to expand, re-open, or open for the first time, they face challenges of complying with a variety of new health precautions and constraints, such as social distancing, in order to prevent the spread of COVID-19;

Government Code Section 8634 empowers the City to promulgate orders and regulations necessary to provide for the protection of life and property during a local emergency;

In the interest of public health and safety, as affected by the emergency caused by the COVID-19 pandemic, it is necessary to exercise my authority to issue this regulation related to the protection of life and property;

NOW THEREFORE, I HEREBY ISSUE the following Fifth Supplement to the declaration of a local emergency to become effective immediately, subject to ratification as soon as practicable by the City Council.

IT IS HEREBY ORDERED THAT:

1. **Sidewalk/Alley Dining**
  - a. Pasadena Municipal Code Section 12.13.055 (Notice and public hearing), subdivisions (A) through (E) are suspended, such that the director's decision as described in subdivision (F) shall issue within 10 working days of receipt of a complete application.
  - b. Pasadena Municipal Code Section 12.13.065 (Sidewalk dining occupancy permit standards), subdivisions (I), (M), (P), and (R) are suspended.
    - i. In lieu of subdivision (M), the following regulation is imposed:  
"There shall be no covering over any part of the sidewalk dining area except for awnings attached to the abutting property, and approved pursuant to all city requirements, including, but without limitation, all requirements of Title 17

- of this code, and except for individual table umbrellas with a minimum seven-foot vertical clearance."
- c. Pasadena Municipal Code Section 12.13.065 (Additional standards for serving alcohol), subdivisions (A), (E), (F), (G), and (H) are suspended.
    - i. In lieu of subdivision (A), the following regulation is imposed: "Prior to serving alcohol in a sidewalk dining area, the abutting property must possess both a valid on-sale alcoholic beverage license pursuant to Division 9, commencing with Section 23000, of the California Business and Professions Code of Type 41 (on-sale beer and wine eating place) or of Type 47 (on-sale general eating place), or of their successor types. Alcohol service shall be in compliance with all applicable regulations and guidance issued by the California Department of Alcoholic Beverage Control at all times."
  - d. Any kind of outdoor dining, where permitted, shall not be considered an obstruction of public alleys pursuant to all applicable provisions of the Pasadena Municipal Code, including, but not limited to, Pasadena Municipal Code, Chapter 12.12 (Obstructing Streets and Sidewalks).
2. **Parking Requirements for Restaurants.** The minimum off-street parking requirements for restaurants of Pasadena Municipal Code Section 17.46.040 are suspended, so long as such existing parking spaces (to comply with the Municipal Code) are converted to dining areas.
  3. **Alcohol Service**
    - a. **Restaurants with Approved CUPs:** For restaurants with approved conditional use permits, any restrictions and/or conditions of approval that limit expansion of the area where alcohol may be served to include new sidewalk, private, or alley dining are suspended, so long as the use in those areas complies with applicable relief measures provided by the California Department of Alcoholic Beverage Control, including, but not limited to, the Fourth Notice of Regulatory Relief.
    - b. **Tolling of Limitation Period for Discontinuance of CUPs.** The running of the 12-month limitation period for discontinuance of conditional use permits for the on-site sale and consumption of alcohol pursuant to Pasadena Municipal Code Section 17.64.080 (Discontinuance) is tolled from March 16, 2020, the date of the City Manager's declaration of local emergency, until the City Council's termination of the COVID-19 local emergency.
    - c. **Restaurants Seeking New CUPs.** For restaurants seeking a new conditional use permit to serve alcohol, any requirements to (a) have an application first considered by a Hearing Officer; and/or (b) impose pre-hearing notice requirements are suspended. In its place, the City Manager may establish a process to allow for administrative approval of conditional use permits for alcohol sales, with such decisions appealable to the Board of Zoning Appeals, as provided in Paragraph 8, below.
    - d. **Expansion of ABC-Licensed Footprint.** Pasadena Municipal Code Sections 12.13.066 (Additional standards for serving alcohol),

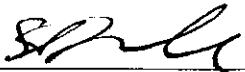
subdivision (A) and 12.13.061 (No serving of alcohol without expanded license) are suspended, so long as the use complies with applicable relief measures provided by the California Department of Alcoholic Beverage Control, including, but not limited to, the Fourth Notice of Regulatory Relief.

4. **Restaurants with Walk-Up Windows.** The notation for any and all Zoning Districts that list Restaurants with Walk-Up Window as any type of a Conditional use, including, but not limited to, Pasadena Municipal Code Sections 17.30.030, Table 3-1 (Allowed Uses for CD Zoning District), 17.31.040, Table 3-3 (Allowed Uses for ECSP Zoning District), 17.32.050, Table 3-5 (Allowed Uses for EPSP Zoning District), 17.33.040, Table 3-13 (Allowed Uses for FGSP Zoning District), 17.36.050, Table 3-16 (WGSP Zoning Districts) (for WGSP-1C only), and 17.37.040, Table 3-18 (Allowed Uses LASP Zoning Districts), is suspended, and the following regulation is imposed: Where Restaurants with Walk-Up Window are a listed as a conditional use, they shall, instead, be a temporary Permitted use, Code Compliance Certificate required, following Pasadena Municipal Code Section 17.61.020, and any permit for such temporary Permitted use shall expire no later than six months following the City Council's termination of the COVID-19 local emergency.
5. **Signage.** The requirements of Pasadena Municipal Code Section 17.48.120 (Standards for Temporary Signs), as it applies to restaurants, is suspended. In its place, the following regulation is imposed for restaurants: For any folding, A-frame, sidewalk, and/or similar signs, restaurants shall ensure compliance with applicable access rules, including, but not limited to the Americans with Disabilities Act.
6. **Design Review.** In lieu of any existing design review requirements in the Pasadena Municipal Code, the City Manager may establish a process to allow for administrative approval and/or expedited design review for qualified and retail and restaurant land use permit applications, as provided in Paragraph 8, below.
7. **Fee Waivers.** The City Manager may waive certain City-imposed fees imposed on such businesses, including, but not limited to, fees for sidewalk dining, business license, banners/temporary sign permits, fire inspection, food sanitation inspections and other restaurant permits, environmental health plan check and inspection fees for restaurants, zoning parking credit program fee (Old Pasadena and South Lake), as provided in Paragraph 8, below.
8. Each action by the City Manager to grant relief under the Municipal Code and/or to establish an order or regulation under this Fifth Supplement (new restaurant CUPs, design review, and fee waivers), where authorized above, shall be in writing, shall explicitly state the relief granted or order or regulation established, including appeal process, if applicable, and shall become effective when filed with the City Clerk. Such actions shall be posted within five (5) business days on the City's webpage where all actions under this Fifth Supplement can be found, to the extent feasible.
9. This Fifth Supplement shall become effective immediately.

10. If any provision of this Fifth Supplement is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions, and to this end, the provisions of this chapter are declared to be severable. This declaration would have been adopted and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.
11. This supplements and does not supersede any prior local emergencies or local public health emergencies related to COVID-19.

I FURTHER DIRECT that this Fifth Supplement shall take effect immediately and that widespread publicity and notice shall be given of said declaration through the most feasible and adequate means of disseminating such notice throughout the City.

Dated: May 28, 2020, at Pasadena, California.

By:   
\_\_\_\_\_  
Steve Mermell  
City Manager  
Director of Disaster Emergency Services

Attest:

  
\_\_\_\_\_  
Mark Jomsky, CMC  
City Clerk



Topic	Barriers/Issues	Goal/Solution
<p><b>Sidewalk/Alley Dining</b></p>	<p>The <a href="#">Municipal Code provisions governing sidewalk dining on public walkways</a> requires a public hearing on each application for a sidewalk dining permit if any concern is registered, as well as posted and mailed notice no less than 21 days prior to the date of the public hearing. The code also lists a number of operating standards for sidewalk dining and additional standards when alcohol is being served. The length of time for noticing, requirement for public hearing, and certain operating standards will result in significant delays and operating barriers for restaurants seeking to expand to sidewalk dining in order to comply with social distancing requirements.</p>	<p>Temporarily suspend <a href="#">requirement for a public hearing and public noticing</a> for sidewalk dining.</p> <p>Temporarily waive the following standards from <a href="#">PMC 12.13.065</a>:</p> <ul style="list-style-type: none"> <li>• I, P, and R</li> </ul> <p>Temporarily amend <a href="#">12.13.065.M</a> to add the following language to the end of the last sentence: "...with a minimum seven-foot vertical clearance."</p> <p>Temporarily amend <a href="#">PMC 12.13.066.A</a> as follows:</p> <ul style="list-style-type: none"> <li>• Prior to serving alcohol in a sidewalk dining area, the abutting property must possess both a valid on-sale alcoholic beverage license pursuant to Division 9, commencing with Section 23000, of the California Business and Professions Code of Type 41 (on-sale beer and wine eating place) or of Type 47 (on-sale general eating place), or of their successor types <del>and an expansion of the licensed premises to include the dimensions of the sidewalk dining area.</del> <a href="#">Alcohol service shall be in compliance with all applicable regulations and guidance issued by the California Department of Alcoholic Beverage Control at all times.</a></li> </ul> <p>Temporarily waive the following standards from PMC 12.13.066:</p> <ul style="list-style-type: none"> <li>• E, F, G, and H</li> </ul>
	<p>There may be code sections that prohibit use of alleys for outdoor dining. These would limit our ability to allow restaurants to use specific pedestrian-only alleys for expanding their dining areas.</p>	<p>Temporarily waive any code sections that would prohibit obstruction of public alleys, even if they are pedestrian-only. The only code section I was able to find relating to this is <a href="#">Chapter 12.12</a>.</p>

<p><b>Parking Requirements</b></p>	<p><a href="#">17.46.040</a> requires 10 parking spaces per 1,000 sf of gross restaurant floor area, including any outdoor dining not located in the public right-of-way (e.g. sidewalks). This means that if an existing restaurant were to convert privately owned space (interior or exterior, such as parking lot), they would be required to provide additional off-street parking spaces to offset any spaces lost and to account for the net new square footage of dining area.</p>	<p>Allow temporary loss of existing parking spaces in order to facilitate conversion to dining areas on private property and waive parking requirements for the additional dining area.</p>
<p><b>Alcohol Service</b></p>	<p>For all Zoning Districts and Specific Plan Areas that allow them, <a href="#">Alcohol Sales – Beer and Wine and Alcohol Sales – Full Alcohol Sales</a> require a Conditional Use Permit (CUP). <a href="#">Procedures for CUP approval</a> identify the Hearing Officer as the reviewing authority, and require mailed and posted public notice as well as a public hearing. Furthermore, CUP approvals have standard conditions and sometimes project-specific conditions imposed on the approval, and typically approval is associated with a specified footprint where alcohol may be served. There are three anticipated scenarios that need to be addressed before temporary expansions of restaurants that serve alcohol can occur:</p> <ol style="list-style-type: none"> <li>1. <b>Restaurants with Existing, Approved CUPs:</b> Conditions of approval may prohibit restaurants with existing CUP's from expanding the footprint of their alcohol service to new areas such as sidewalk and private outdoor dining.</li> <li>2. <b>Extensions of Discontinued CUPs:</b> If a use with an approved CUP is <a href="#">discontinued for no more than 12 months (17.64.040.C)</a>, that CUP maybe utilized again by the same business or a new business to sell alcohol within the guidelines/conditions of the original approval at the same site/footprint. The 12 month discontinuance limit may be a barrier to closed restaurants or new ones trying to open in place of closed ones.</li> <li>3. <b>Restaurants Seeking New Alcohol CUPs:</b> New restaurants wanting to serve alcohol, or existing restaurants wanting to begin serving alcohol that weren't before, would need to apply for and obtain approval of a new CUP. This</li> </ol>	<ol style="list-style-type: none"> <li>1. <b>Restaurants with Approved CUPs:</b> Temporarily suspend footprint restrictions and any other conditions of approval that would prevent the expansion of the area where alcohol may be served to include new sidewalk, private, or alley dining.</li> <li>2. <b>Extensions of Discontinued CUPs:</b> Temporarily extend the 12 month limit. Can be a defined term (6 additional months) or run with the Supplemental Order.</li> <li>3. <b>Restaurants Seeking New Alcohol CUPs:</b> Continue to require a CUP entitlement, but temporarily eliminate the Hearing Officer approval process and create a Director-level approval process that would not require a public hearing, and public notice would be limited to notification of Council District representatives, similar to Tree Removal Permit Decision Letters. Decision Letters for these types of approvals would include a list of standard conditions that if violated could result in revocation of the approval and other enforcement actions. These decisions would be subject to appeal to the Board of Zoning Appeals. There would also be a 10-day period between the decision and the effective date of the decision.</li> </ol>

	<p>requires public notice, Hearing Officer review at a public hearing, and will take anywhere from 3-6 months.</p> <p>Other relevant PMC sections:</p> <ul style="list-style-type: none"> <li>• <a href="#">8.18 - Deemed approved alcoholic beverage retail sale ordinance</a></li> <li>• <a href="#">12.13.066 - Additional standards for serving alcohol</a></li> <li>• <a href="#">17.50.040 - Alcohol Sales</a></li> <li>• <a href="#">17.60.020 - Authority for Land Use and Zoning Decisions</a></li> <li>• <a href="#">Chapter 17.61 - Permit Approval or Disapproval</a></li> <li>• <a href="#">17.61.050 - Conditional Use Permits and Master Plans</a></li> <li>• <a href="#">Chapter 17.64 - Permit Implementation, Time Limits, and Extensions</a></li> </ul>	
	<p>The municipal code imposes a number of <a href="#">standards on serving alcohol in sidewalk dining areas</a>, including a requirement that the business possess a valid on-sale alcoholic beverage license from ABC, <a href="#">and that the premises of that license include the dimensions of the sidewalk area</a>. If a business expands their dining area such that it no longer matches the approved footprint in their ABC license, they would be in violation of the municipal code.</p>	<p>Temporarily suspend provisions in <a href="#">PMC 12.13.066.A</a> and <a href="#">PMC 12.13.061</a>, which requires that “an expansion of the licensed premises to include the dimensions of the sidewalk dining area”. This is consistent with ABC’s <a href="#">Fourth Notice of Regulatory Relief</a>.</p>

<p><b>Walk-Up Window CUP</b></p>	<p>The Zoning Code has a land use type called Restaurants with Walk-Up Window. This land use type requires a Conditional Use Permit in all Zoning Districts where it is allowed. The CUP process requires public notice, a public hearing before a Hearing Officer, and could take anywhere from 3-6 months to process.</p> <p>Relevant Zoning Code Sections:</p> <ul style="list-style-type: none"> <li>• <a href="#">Section 17.30.030 Table 3-1 (Allowed Uses for CD Zoning District)</a></li> <li>• <a href="#">Section 17.31.040 Table 3-3 (Allowed Uses for ECSP Zoning District)</a></li> <li>• <a href="#">Section 17.32.050 Table 3-5 (Allowed Uses for EPSP Zoning District)</a></li> <li>• <a href="#">Section 17.33.040 Table 3-13 (Allowed Uses for FGSP Zoning District)</a></li> <li>• <a href="#">Section 17.36.050 Table 3-16 (WGSP Zoning Districts)</a> <i>Only WGSP-1C requires CUP all other zoning districts in this specific plan prohibit restaurants w/ walk up windows</i></li> <li>• <a href="#">Section 17.37.040 Table 3-18 (Allowed Uses LASP Zoning Districts)</a></li> </ul>	<p>Temporarily eliminate the requirement for a CUP for this use in Zoning Districts where it is currently conditionally permitted, and allow it as a permitted use (by-right) in those Zoning Districts.</p>
<p><b>Signage</b></p>	<p>The Sign Code <a href="#">places restrictions on</a> the number, area, height, and duration of temporary banner signs in commercial zoning districts and in the Central District. The Sign Code also <a href="#">prohibits the use of portable, folding, or similar signs</a>. These regulations would likely limit the ability of restaurants to advertise the fact that they have re-opened or display information related to COVID-19 protocols.</p>	<p>Temporarily waive restrictions on the maximum number, area, height, and duration of banner signs, as well as the prohibition on folding signs. The easing of these restrictions should only apply to restaurants, and the allowance for folding/A-frame signs should have a requirement that they never impede pedestrian access consistent with ADA requirements.</p>

<p><b>Design Review</b></p>	<p>The Zoning Code <a href="#">requires design review</a> for various types of alterations to existing structures. The review authority varies between the Director and Design Commission, depending on the location, size, and historic status of the building as well as the scope (major vs. minor) of the proposed project. This includes review for any new signage. It is anticipated that most outdoor dining expansions would be subject to Director level design review, if at all. If design review is required, the process will take resources for the applicants in order to prepare an application with adequate plans, elevations, and specifications, as well as time for staff to process the applications.</p>	<p>Temporarily exempt the expansion of dining area for existing restaurants, including sidewalk dining, from design review requirements and allow those projects by-right. Also temporarily exempt the addition of up to one banner sign and one folding sign for each restaurant from design review. Any proposal that exceeds those limits would be required to comply with the existing design review process. These relief provisions would not apply to designated historic resources, including contributors to designated historic districts.</p>
<p><b>Fees</b></p>	<p>There are various fees that would apply to restaurants and other businesses as they try to expand, re-open, or open for the first time as a new business. These include the following:</p> <ul style="list-style-type: none"> <li>• Sidewalk Dining Fee (Public Works)</li> <li>• Business License Tax</li> <li>• Banners/Temporary Sign Permit Fee</li> <li>• Fire Inspection</li> <li>• Food Sanitation Inspections &amp; Permits for Restaurants</li> <li>• Environmental Health Plan Check &amp; Inspection Fees for Restaurants</li> <li>• Zoning Parking Credit Program Fee (Old Pasadena and South Lake)</li> </ul>	<p>Waive these and any other business related fees as may be determined by the City Manager.</p>