MEMORANDUM

Date: June 30, 2020

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Governor Douglas Ducey's State of Arizona Executive Order 2020-43 – Pausing of Arizona's Reopening Slowing the Spread of COVID-19**

Executive Order 2020-43 limits the number of individuals who may congregate at a particular location. More importantly, it temporarily closes one of the potential significant vectors of COVID-19 - bars.

The Order requires the Department of Liquor License and Control (DLLC) to stop issuing Special Event Licenses and requires all establishments under the Liquor Law Licenses to cease operations effective 8:00 p.m. on Monday June 29, 2020.

One of our major concerns was regarding bars, not restaurants. Unfortunately, the Governor's prior Executive Orders did not clarify any of the distinctions between a bar and a restaurant and in fact, comingled the two and indicated that if a bar sold peanuts behind the bar, it was considered a restaurant or serving food. We have forwarded complaints to the DLLC Director. These complaints went unanswered.

We support Executive Order 2020-43 and will direct appropriate County Departments and agencies to assist in its enforcement, including the activities of the Pima County Sheriff as well as the County Attorney. It is important the Executive Order be vigorously enforced to eliminate the accelerating spread of COVID-19.

CHH/anc

Attachment

c: The Honorable Mark Napier, Pima County Sheriff
The Honorable Barbara LaWall, Pima County Attorney
Jan Lesher, Chief Deputy County Administrator
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer, Health and Community Services
Dr. Terry Cullen, Public Health Director, Pima County Health Department

GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2020-43

Pausing of Arizona's Reopening
Slowing the Spread of COVID-19

WHEREAS, on March 11, 2020, pursuant to A.R.S. §§ 26-303 and 36-787, I, as Governor of the State of Arizona, issued a declaration of a Public Health State of Emergency due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, on March 30, 2020, the Director of the Arizona Department of Health Services (ADHS), based on an epidemiological assessment of Arizona specific data and in alignment with the Centers for Disease Control and Prevention (CDC) guidance, recommended the State implement enhanced mitigation strategies which are continuing; and

WHEREAS, on May 12, 2020, Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger,* was issued outlining requirements for businesses to assist in mitigating the spread of COVID-19 as they reopened and mandated that businesses adopt policies consistent with guidance from the CDC and the ADHS; and

WHEREAS, as of June 28, 2020, there have been 73,908 diagnosed cases of COVID-19 in Arizona including 1,588 deaths, and the State is seeing an increase in the number of cases and hospitalizations; and

WHEREAS, the increased case numbers and hospitalizations also necessitate the need for an increased focus on precautionary measures by both businesses and individuals; and

WHEREAS, data has shown that community spread continues to grow at an exponential pace and is greatest among the demographic of 20-44 year olds; and

WHEREAS, there has not been sufficient time for mask mandates and limiting groups to have a demonstrable effect on containing the spread and additional measures need to be taken to ensure quicker containment; and

WHEREAS, it is necessary to impose additional measures to protect public health and safety and mitigate the strain on our health care providers by slowing the spread of COVID-19; and

WHEREAS, in taking such critical measures to protect public health there will be direct economic consequences for businesses across the State of Arizona that provide employment for many Arizonans, including bars and restaurants; and

WHEREAS, A.R.S. § 4-203, allows "[a] spirituous liquor license…[to] be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant and, with the exception of

wholesaler, producer, government or club licenses, that the public convenience requires and that the best interest of the community will be substantially served by the issuance." ; and

WHEREAS, due to community spread of COVID-19, the state will not be substantially served by the issuance of certain liquor licenses; and

WHEREAS, Arizona is committed to containing the spread of COVID-19.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of this state including A.R.S. §§ 26-303 and 36-787, hereby order as follows:

1. Effective June 29, 2020, organized public events of more than 50 people are prohibited unless the city, town or county in unincorporated areas has approved the event, and only if adequate safety precautions are implemented, including physical distancing measures. A city, town or county in unincorporated areas may deny a request for an organized event due to public health concerns related to COVID-19. Any approval may be subject to certain conditions or restrictions not inconsistent with this or any other executive order. Nothing in this order shall inhibit a person from engaging in constitutionally protected activities such as speech and religion, and any legal or court process provided that such is conducted in a manner that provides appropriate physical distancing to the extent feasible.

2. The Department of Liquor Licenses and Control shall cease issuing series 15, Special Event licenses and series 16, Festival/Fair licenses for the period of June 29, 2020 through July 27, 2020.

3. Notwithstanding any other law or executive order, effective at 8:00 pm on Monday, June 29, 2020, the following establishments shall pause operations until at least July 27, 2020, unless extended:

    a. Bars, meaning an entity who holds a series 6 or 7 liquor license from the Department of Liquor Licenses and Control and whose primary business is the sale or dispensing of alcoholic beverages. These entities may continue serving the public through pick up, delivery, and drive-thru operations as provided for series 12 liquor licenses in Executive Order 2020-09, *Limiting The Operations Of Certain Businesses To Slow The Spread Of COVID-19*.
    b. Indoor gyms and fitness clubs or centers.
    c. Indoor movie theaters.
    d. Water parks and tubing operators.

4. Pools may continue to operate as follows:
    a. Pools operated as part of a public accommodation, such as those at hotels but not those at multi-housing complexes, shall prohibit groups larger than 10 from congregating together in or near the pool.
    b. Privately owned pools located in public areas such as those at multi-housing complexes or other privately owned facilities may continue to be open provided that signage is included at all entrances to the pool reminding people to maintain physical distance and that groups larger than 10 should not congregate.

5. To receive authorization to reopen, entities shall complete and submit a form as prescribed by the Arizona Department of Health Services that attests the entity is in compliance with guidance issued by ADHS related to COVID-19 business operations. The form shall also be posted in an easily visible public place on the entity's premises. ADHS shall provide information to the public on those entities that have submitted such attestations on its website.

6. A local governmental jurisdiction shall have the authority to take immediate action against an entity that operates without submitting the prescribed attestation to the Arizona Department of Health Services.

7. Notwithstanding any other law or executive order, this executive order allows law enforcement and any regulatory agency, pursuant to their regulatory authority, to take immediate enforcement action against any business that fails to follow this Executive Order or any guidance issued by the Arizona Department of Health Services relating to COVID-19 for the protection of the public health, safety and welfare up to and including summary suspension for any license that the business holds.

8. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

9. This order shall remain in place until further notice, and shall be reconsidered for repeal or revision every two weeks after July 27, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

GOVERNOR

DONE at the Capitol in Phoenix on this twenty-ninth day of June in the year Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fourth.

ATTEST:

Secretary of State